50

SCSL-2004-14-PT

(979 - 3213)

979

SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

FREETOWN – SIERRA LEONE

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

Registrar: Robin Vincent

Date filed: 1 April 2004

THE PROSECUTOR

Against

SAMUEL HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA
(Case No. SCSL-2004-14-PT)

PROSECUTION'S MOTION FOR JUDICIAL NOTICE AND ADMISSION OF EVIDENCE

Office of the Prosecutor:
Mr. Luc Côté
Mr. James C. Johnson
Mr. Charles Caruso

Defence Counsel for Samuel Hinga Norman
Mr. Jenkins-Johnston

Defence Counsel for Moinina Fofana
Mr. Michiel Pestman

Defence Counsel for Allieu Kondewa
Mr. Charles Margai

SPECIAL COURT FOR SIERRA LEONE
RECEIVED
COURT RECORDS
- 2 APR 2004
NAME NEIL GIBSON
SIGN
TIME 11:30

SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

FREETOWN – SIERRA LEONE

THE PROSECUTOR

Against

SAMUEL HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA
(Case No. SCSL-2004-14-PT)

PROSECUTION'S MOTION FOR JUDICIAL NOTICE AND ADMISSION OF EVIDENCE

I. INTRODUCTION

1. Pursuant to Rules 73, 89, 92*bis* and 94 of the Special Court's Rules of Procedure and Evidence, the Prosecution hereby moves that the Trial Chamber take judicial notice of the facts set out in **Annex A** attached to this motion; and secondly, that the Chamber take judicial notice of the facts contained in the documents listed in **Annex B** attached to this motion or alternatively admit the said documents into evidence.

II. PROCEDURAL HISTORY

2. On 3 March 2004, the Prosecution filed a "Request to Admit" in the case of the *Prosecutor v Samuel Hinga Norman et al,* requesting the Defence to admit, deny, refuse, or admit/deny in part the statements contained in the said request.
3. The facts stated in the "Request to Admit" are similar in nature to the facts sought to be judicially noticed or admitted in evidence. Statements 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12-14, 15, 16, 17 & 19, 20, 21, and 24 of the Request to Admit are similar, if not exactly the same, as statements A, C, D and E, F, G, H, I, P and Q, R, J, T, V, S, X, K, L, N, and M respectively of **Annex A**. Statement O of Annex A is similar in nature to the facts set out in Part III of the Request to Admit. The facts set out in statements U, W and Y of **Annex A** are not referred to in the Request to Admit.
4. The Prosecution states that although the documents listed in **Annex A** and **Annex B** are open

source materials, all of these documents have been disclosed to the Defence. The following documents numbered 21, 32, 45, 59, 61, 64, and 67 in **Annex B** were disclosed to the following Accused on the following dates: *Norman* on 17 April 2003; *Fofana* and *Kondewa* on 30 July 2003. The documents numbered 1-20, 22-31, 34-37, 41-44, 46-51, 54-68 in **Annex B** were disclosed to the Defence on March 31, 2004. The remaining documents numbered 33, 38-40, 52, 53, and 69 were disclosed to the Defence on 2 April 2004. All of the documents, including additional ones, referred to in **Annex A** are listed in **Annex B**.

5. To date, the Defence have not made any legal or factual admissions. On 15 March 2004, Counsel for Accused *Fofana* indicated that they were unable to accede or respond to the request until the Prosecution satisfied its full disclosure obligations and while there were still outstanding decisions on preliminary motions raised by the Defence. On 17 March 2004, Counsel for *Kondewa* similarly stated that he cannot comply with the Request for the same reasons as provided for by Counsel for Accused *Fofana*. On 18 March 2004, Counsel for Accused *Norman*, indicated that the Request was rejected and that none of the facts were admitted or conceded. Counsel for Accused *Norman* further stated that *Norman* has not been formally arraigned on the consolidated indictment and that the Prosecution has not provided full and frank disclosure. It is in this context that the Prosecution makes this Application.

III. ARGUMENTS

6. The Prosecution requests the Chamber to take judicial notice of the facts set out in **Annex A** and the facts contained in the documents listed in **Annex B**, in accordance with Rule 94(A), as they constitute 'facts of common knowledge'.
7. The Prosecution emphasizes that the documents listed in **Annex B** include official and internationally recognised United Nations documents and various humanitarian reports from reliable sources, hence warranting the characterization of facts contained in these documents as 'facts of common knowledge'.
8. Alternatively, the Prosecution requests the Chamber, in the event it finds that any of the facts set out in **Annex A** or the facts contained in the documents listed in **Annex B**, do not amount to 'facts of common knowledge', to admit these facts in evidence under Rule 89(B) and (C) and 92 *bis*, to promote a fair determination of the matter before it, in accordance with the spirit of the Statute and the general principles of law and that the same is relevant for the purpose for which it is submitted and its reliability is susceptible to confirmation.

Nature of the Court

9. The doctrine of judicial notice serves to expedite proceedings and to promote judicial economy, by allowing the court to take in advance judicial notice of certain facts.[1] The Prosecution submits that, unlike other Tribunals, the Special Court has a very limited time frame with a very limited budget as such time is of the essence in all its proceedings. It submits that in consequence the Court should avail itself of time saving devices, such as taking judicial notice of the facts and documents herein requested.

10. The Appellate Chamber of the Special Court has opined that the United Nations deliberately chose a Special Court, a different model to existing tribunals, as it was concerned to avoid undue delay in holding and conducting trials.[2] Other decisions of the Special Court thus far have also supported this conclusion.[3] The *travaux prepartoire* of the Special Court accentuate the need to have a strong and credible court to expedite the proceedings.[4] It is the Prosecution's argument that taking judicial notice of the facts and documents contained in the Annexes is in line with these conclusions.

11. The Prosecution submits that considering the object and purpose of the Special Court and in the light of its limited temporal existence and resources, it was necessary to promulgate rules which effectuate expedited proceedings to ascertain the truth, while at the same time safeguard the rights of the accused. This unique need, prescribed by a given reality, is manifested in the pragmatic approach adopted by the Plenary in its first meeting, where the

---

[1] *Prosecutor v. Semanaza* ICTR-97-20-T, Decision on the Prosecutor's Motion for Judicial Notice and Presumption of Facts Pursuant to Rules 94 and 54, 3 Nov. 2000 para 20. See also *Prosecutor v. Simic et al.,* IT-95-9-PT, Decision on the Pre-trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the International Character of the Conflict in Bosnia-Herzegovina, 25 Mar. 1999 ("*Simic* Decision on Judicial Notice, 25 Mar. 1999"), para. 17; *Prosecutor v. Sikirica et al.*, IT-95-8-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 27 Sept. 2000 ("*Sikirica* Decision on Judicial Notice, 27 Sept. 2000").

[2] *Prosecutor v Sam Hinga Norman, Morris Kallon and Augustine Gbao*, (SCSL-2003-08-PT, SCSL-2003-07-PT and SCSL-2003-09-PT) Decision on the Application for a Stay of Proceedings and Denial of Right of Appeal, 4 November 2003 paras 7-11.

[3] *Prosecutor v. Morris Kallon* SCSL-2003-07-PT Decision on the Defence Motion for an Extension of Time to File Preliminary Motion 14 June 2003 para. 9 the Trial Chamber mentioned the need to maintain and ensure a fair and expeditious trial. Similarly, i*n Prosecutor v Issa Hassan Sesay*, SCSL-2003-05-PT "Decision on the Defence Motion Requesting the Suspension of Delays for filing Preliminary Motions or new Request for an Extension of Delays" 7 November 2003 the Trial Chamber noted the rules were amended to ensure that the proceedings were fair and expeditious. See also *Prosecutor v. Sam Hinga Norman* SCSL-2003-08-PT Decision on Appeal by Truth and Reconciliation Commission of Sierra Leone ("TRC" or "The Commission") and Chief Samuel Hinga Norman JP against the Decision of His Lordship, Mr Justice Bankole Thompson delivered on 30 October 2003 to deny the TRC's request to hold a Public Hearing with Chief Samuel Hinga Norman 28 November 2003 para 43.

[4] Security Council Resolution 1315 recognised the need to have a Special Court to expedite the process of bringing justice and reconciliation to Sierra Leone and the Report of the Secretary General of the United Nations the need for everything to be done to expedite the functioning of the Court was stressed.

Judges of the Special Court exercised the authority bestowed upon them by Rule 14 of the Statute to amend the ICTR Rules which were applicable at the time to proceedings before the Special Court. For instance, the Judges decided to discard the elaborate ICTR Rule 92*bis*, in favour of a simplified version which widens the scope of written material which may be admitted as evidence instead of oral testimony.[5]

12. In addition to the above, unlike the other tribunals, the Special Court is located in the country where the atrocities were committed and this is the first time a court and a truth commission with related jurisdiction has been established with the assistance of the United Nations both with the object of finding the truth and assisting in the restoration of peace and justice. Based on these facts, the Prosecution submits that it will be in concordance with the fair determination of the matter before the Court and in accordance with the spirit of the Statute to judicially notice the facts contained in **Annex A** and in the documents listed in **Annex B.**

13. Although national courts will traditionally not take judicial notice of the documents and facts in the Annexes, it is firmly established practice for international courts to take judicial notice of certain facts, as well as of documents from certain sources.[6] In accordance with international jurisprudence, in taking judicial notice of facts and/or documents, the Court must find the balance between the principle of judicial economy and the right of the Accused to a fair trial.[7]

Judicial Notice Pursuant to Rule 94(A)

14. Pursuant to Rule 94(A), the Chamber *must* take judicial notice of 'facts of common

---

[5] In the first SCSL Plenary, it was first proposed to keep the language of ICTR Rule 92 *bis*. This proposal, however, was rejected following a comment made by Judge Robertson that "this proposed Rule, while well-intentioned, will in practice prove counterproductive." As an alternative, OTP proposed the version that was finally adopted and still remains at present. See minutes of First plenary as appear in SCSL Registry.

[6] The ICTR and ICTY have taken judicial notice in the following cases: ("*Semanza* Decision on Judicial Notice, 3 Nov. 2000"), para. 23; also see *Prosecutor v. Nyiramasuhuko and Ntahobali* (ICTR-97-21-T), *Prosecutor v. Nsabimana and Nteziryayo* (ICTR-97-29A and B-T), *Prosecutor v. Kanyabashi* (ICTR-96-15-T), *Prosecutor v. Ndayambaje* (ICTR-96-8-T), 98-42-T, Decision on the Prosecutor's Motion for Judicial Notice and Admission of Evidence, 15 May 2002 ("*Nyiramasuhuko* Decision on Judicial Notice, 15 May 2002"); *Prosecutor v Akayesu*, ICTR-96-4-T, Judgment, 2 Sept. 1998 ("*Akayesu* Judgement, 2 Sept. 1998"), para 157, 164 and 627, *Prosecutor v. Mirloslav Kvocka, Milojica Kos, Mlado Radic, Zoran Zigic, Dragoljub Prcac*, Decision on Judicial Notice, 8 June 2000 ("*Kvocka* Decision on Judicial Notice, 8 June 2000"), para. 27, *Prosecutor v. Kovacevic*, IT-97-24-PT (Order on Prosecution Request for Judicial Notice), 12 May 1998.

[7] *Sikirica* Decision on Judicial Notice, 27 Sept. 2000, para. 14; *Simic* Decision on Judicial Notice, 25 Mar. 1999, para. 17; *Nyiramasuhuko* Decision on Judicial Notice, 15 May 2002, para. 36.

knowledge'.[8] This Rule provides that:

> (A) A Chamber shall not require proof of facts of common knowledge but shall take judicial notice thereof.

15. The ICTR in *Semanza* interpreted 'facts of common knowledge' as "those facts which are not subject to reasonable dispute including, common or universally known facts, such as general facts of history, generally known geographical facts and the law of nature".[9] It further held that, "for the present purposes, common knowledge encompasses those facts that are generally known within a tribunal's territorial jurisdiction" and that "there is no requirement that a matter be universally accepted in order to qualify for judicial notice".[10]
16. Furthermore, it is the established practice of the international criminal tribunals to take judicial notice of facts contained in authoritative documents, such as those of the U.N. and affiliated bodies. The ICTR in *Semanza*, citing scholarly writings, specified that historical facts qualify as facts of common knowledge, if they are "so notorious, or clearly established or susceptible to determination by reference to readily obtainable and authoritative sources that evidence of their existence is unnecessary".[11] Based on this interpretation, the Tribunal took judicial notice of facts contained in various U.N. documents including the UN Secretary-General, "Report on the situation of Human Rights in Rwanda".[12] The Tribunal also took judicial notice of the fact that between 6 April 1994 to 17 July 1994 there were throughout Rwanda widespread or systematic attacks against a civilian population based on Tutsi ethnic identification and that between 1 January 1994 and 17 July 1994 in Rwanda there was an armed conflict not of an international character.
17. In *Kanyabashi*, the ICTR also took judicial notice of facts stipulated in a range of U.N. reports, including those submitted by the Special Rapporteur for Rwanda, the Commission of

---

[8] *Simic* Decision on Judicial Notice, 25 Mar. 1999, para. 17; *Sikirica* Decision on Judicial Notice, 27 Sept. 2000.
[9] *Semanza* Decision on Judicial Notice, 3 Nov. 2000, para. 23; also see *Nyiramasuhuko* Decision on Judicial Notice, 15 May 2002, para. 38.
[10] *Semanza* Decision on Judicial Notice, 3 Nov. 2000, para. 31
[11] *Semanza* Decision on Judicial Notice, 3 Nov. 2000, para. 25. The Tribunal cited from Archibold Criminal Pleading, Evidence & Practice § 10-71 (England, 2000) and also relies on Phipson on Evidence, at § 2-06; United States of America Federal Rule of Civil Procedure § 201(B). The ICTR found further support to this interpretation in the language of Article 21 of the Charter of the International Military Tribunal at Nuremberg, which provides that: The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes, and of records and findings of military or other Tribunals of any of the United Nations. Charter of the International Military Tribunal at Nuremberg, Article 21.
[12] *Semanza* Decision on Judicial Notice, 3 Nov. 2000, para. 29.

Experts on Rwanda and the Security Council.[13] Consequently, the Tribunal took judicial notice of the fact that "the conflict in Rwanda created a massive wave of refugees, many of who were armed, into the neighbouring countries which by itself entailed a considerable risk of serious destabilization of the local areas in the host countries where the refugees are settled." In deciding so, the Tribunal relied on various United Nations reports, including those submitted by the Special Rapporteur for Rwanda, the Commission of Experts on Rwanda and the Security Council.

18. In *Akayesu*, the ICTR took judicial notice of numerous United Nations reports documenting the 1994 massacres in Rwanda notably, the Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 935 (1994), and concluded that the material conditions relevant to Additional Protocol II had been fulfilled.[14]
19. The ICTR in *Nyiramasuhuko*, took judicial notice under Sub-rule 94(A) of certain U.N. Security Council documents, but only of their "existence and authenticity", thereby relieving the Prosecution from its duty to establish the authenticity and existence of these documents.
20. The Prosecution submits that judicial notice may be taken not only of *factual* findings but also of *legal* conclusions.[15] Accordingly, the definition of 'common knowledge' may extend to 'legal conclusions'. In *Kvocka* the ICTY held that "even if Rule 94 is concerned only with judicial notice of facts and documentary evidence, no provision in the Statute or the Rules forbids the Trial Chamber, having taken account of the rights of the accused, from drawing legal conclusions based on facts thereby established beyond a reasonable doubt."[16] The Tribunal consequently took judicial notice of the existence of an armed conflict, the existence of a widespread and systematic attack, and of the nexus between these two phenomena.[17]
21. Following the reasoning in *Kvocka*, the Prosecution submits that when such legal conclusions are drawn from facts of common knowledge, and so long as they do not prejudice the

---

[13] *Prosecutor v. Kanyabashi*, ICTR-96-15-T, Decision on Jurisdiction, 18 June 1997, para. 21
[14] *Akayesu* Judgement, 2 Sept. 1998, para. 165.
[15] The Trial Chamber in *Prosecutor v Simic* took a different view and held that judicial notice under Rule 94 can only be taken of factual findings and not legal conclusions. The Chamber refused to take judicial notice of the international nature of the conflict. *Simic* Decision on Judicial Notice, 25 Mar. 1999, para. 22. The ICTR in *Semanza* concurred with *Simic*, holding that "the Chamber cannot take judicial notice of matters, which are unadorned legal conclusions." *Semanza* Decision on Judicial Notice, 3 Nov. 2000, para. 35.
[16] *Kvocka* Decision on Judicial Notice, 8 June 2000, para. 27.
[17] *Kvocka* Decision on Judicial Notice, 8 June 2000, para. 33. The Tribunal took judicial notice of the facts that there was an armed conflict at the times and places alleged in the indictment; that the conflict included a widespread and systematic attack largely against the Muslim and Croatian population; and, that there was a nexus between this armed conflict and the widespread and systematic attack on the civilian population and the existence of the Omarska, Keraterm and Trnopolje camps and the mistreatment of prisoners therein.

Accused individuals, the Chamber must judicially notice these conclusions. Furthermore, since any such facts which may be deemed 'legal conclusions' do not go to prove the guilt of the individuals Accused, the Prosecution reasserts that taking judicial notice of them will not prejudice the Accused but rather is in the overall interest of justice.

22. The Prosecution submits that Rule 94(A) is of a mandatory nature, *requiring* the Court to take judicial notice of 'facts of common knowledge'. The Prosecution submits that the facts stipulated in **Annex A** attached to this motion, as well as those recited in the documents contained in **Annex B** attached hereto, constitute 'facts of common knowledge', and that therefore the Chamber must take judicial notice of these fact.
23. The Prosecution further submits that these facts are relevant to the present proceedings, as they refer to the factual allegations as stipulated in the Indictments. The Prosecution does not request that the Court takes judicial notice of facts which directly attest to the alleged guilt of any of the Accused. The facts and documents contained in the Annexes do not directly implicate any of the Accused in the commission of criminal acts.[18] Hence, it is submitted that taking judicial notice of these facts will expedite the trial without adversely affecting the right of the Accused to a fair trial or prejudicing any party to these proceedings.
24. In accordance with the view held by the ICTY Appeals Chamber in *Tadic*, the Prosecution submits that it is in the interests of fairness to take judicial notice of these notorious facts.[19] The Prosecution stresses that judicial economy and efficiency should particularly be promoted in this case, given the fact that a number of Accused persons are tried jointly.
25. The Prosecution submits the Trial Chamber may only take judicial notice of notorious facts which cannot be reasonably disputed, "or capable of immediate and accurate demonstration by resorting to readily accessible sources of indispensable accuracy".[20] It respectfully submits that the facts and documents contained in the said Annexes satisfy this standard.[21]

---

[18] *Prosecutor v. Kayishema & Ruzindana*, ICTR-95-1-T, Judgement, 21 May 1999, para. 273.
[19] *Prosecutor v. Tadic*, IT-94-1-AR72 (Transcript of Hearing on Interlocutory Appeal on Jurisdictional Challenge) 7th September 1995 p 108.
[20] *Simic* Decision on Judicial Notice, 25 Mar. 1999, para. 17;
[21] The Prosecution submits that the facts and documents sought to be judicially noticed are "facts of common knowledge". A clear example is the Lomé Peace Agreement. The Defence has in various motions relied on the provisions of the Lomé Peace Agreement. The Prosecution submits that the Defence relied on this agreement and sought to benefit from the provisions of this agreement. Having done so and the Court having pronounced a decision on the validity of certain provisions of the agreement, the Defence cannot now argue against taking judicial notice of, or admitting, the same. *Prosecutor v. Morris Kallon* SCSL-2004-15-AR72(E) *Prosecutor v. Brima Bazzy Kamara* SCSL-2004-15-AR72(E) Decision on challenge to Jurisdiction: Lome Accord Amnesty 13 March 2004. In addition, Counsel for Accused *Gbao* intervened in this matter.

Admission of Evidence Pursuant to Rule 89 and 92bis

26. The Prosecution submits that, in accordance with the jurisprudence and practice of the international criminal tribunals, the facts stipulated in **Annex A** as well as those contained in the authoritative documents listed in **Annex B,** ought to be judicially noticed by the Chamber under Rule 94(A), as they constitute 'facts of common knowledge'. However, should the Chamber find otherwise, the Prosecution urges the Chamber to judicially notice or admit the same in evidence pursuant to Rules 89 and 92*bis*.

27. Rule 89(B) allows the Special Court to apply any rule of evidence that is consistent with the Statute and with general principles of law. This rule provides that:

> (B) In cases not otherwise provided for in this Section, a Chamber shall apply rules of evidence which will best favour a fair determination of the matter before it and are consonant with the spirit of the Statute and the general principles of law.

28. Rule 89(B) grants discretion to the Court to apply any rule of evidence that best favours a fair determination of the matter before it, so long as it is consistent with the Statute and with general principles of law. Accordingly, Rule 89(B) provides a legal basis for the Chamber to take judicial notice of, or admit in evidence, certain facts when the interest of justice so requires.

29. According to Rule 89(C), any relevant evidence is admissible. This rule provides that: "A Chamber may admit any relevant evidence." In deciding which evidence is "relevant", wide discretion is granted to the Trial Chamber.[22] International jurisprudence embodies the principle of "extensive admissibility of evidence."[23] Underlying this principle is the competence of the professional judges to hear evidence and to evaluate it according to its contents, credibility, the manner in which it was obtained, and in light of all other evidence.[24]

30. Under Rule 92*bis*, "information in lieu of oral testimony" may be admitted as evidence "if, in the view of the Trial Chamber, it is relevant to the purpose for which it is submitted and if its

---

[22] *Prosecutor v. Bagosora et al.*, ICTR-98-41-T, Decision on Admissibility of Proposed Testimony of Witness DBY, 18 Sept. 2003, para. 18.

[23] *Prosecutor v. Blaškić*, IT-95-14-T, Judgement, 3 Mar. 2000 ("*Blaškić* Trial Judgement, 3 Mar. 2000"), para. 34; The ICTY tends to admit most evidence while leaving its assessment to a later stage, when all the evidence is being considered. See discussion in R. May, 'Evidence before the International Criminal Tribunal for the Former Yugoslavia', International Law Forum, Volume 1, No. 4, November 1999, 197 - 201, at p. 199. See also Rule 95.

[24] *Blaškić* Trial Judgement, 3 Mar. 2000, para. 35; *Prosecutor v. Delalić et al.*, IT-96-21-T, Decision on the Motion of the Prosecutor for the Admissibility of Evidence, 19 Jan. 1998, para. 20.

reliability is susceptible of confirmation." The language of the parallel ICTY and ICTR Rule significantly differs from Rule 92*bis*, consequently the jurisprudence of those Tribunals is not beneficial to the Special Court in interpreting its Rule.

31. The Prosecution submits that the adoption of Rule 92*bis* by the ICTY and ICTR was intended to achieve the facilitation of speedy trials.[25] However, subsequent to its adoption, some of the problematic aspects of this Rule's application demonstrate that its restrictive provisions often defeat its purpose of expediting proceedings.[26] The Prosecution argues that the Special Court adopted a rule under which the admission of written statement instead of oral testimony will be encouraged, to facilitate an expeditious - yet fair - trial. Hence, as long as the two prong test of *relevance* and the existence of a *possibility of confirming its reliability* is satisfied, any information may be admitted instead of oral testimony.

32. The Prosecution submits that the documents mentioned in **Annex B** are relevant for the purpose for which they are submitted as they refer to the factual allegations as stipulated in the Indictments. Since the sources of these materials are authoritative sources such as the United Nations and reputable international organisations, the Prosecution submits that the reliability of the information provided in these documents could easily be confirmed by the documents themselves or by oral testimony.

33. The Prosecution submits that unlike Judicial Notice under Rule 94 which is mandatory in nature, admitting evidence pursuant to Rule 89 and 92bis is discretionary. Accordingly, and in conformity with the language of Rule 89 and 92*bis*, since the documents listed in **Annex B** are relevant to the present proceedings, the Prosecution urges the Chamber to exercise its discretion in favour of admitting the said documents as evidence.

34. The Prosecution notes that these provisions are not only applicable to the Prosecution but the Defence will similarly be able to avail itself of these provisions if it so desires.

---

[25] See ICTR Press Release ICTR/INFO-9-13-22.EN dated 8 July 2002, p. 3: "New Rule 92 *bis* is an important judicial reform measure. It has the potential to further speed up proceedings before the ICTR by significantly reducing as much as possible the consideration of time-consuming evidence inside the courtroom."

[26] For example ICTY Rule 92 *bis* – unlike SCSL Rule 92 *bis* – limits the scope of written material which may be admitted as evidence only to such statements which purport to prove "a matter other than the acts and conduct of the accused as charged in the indictment." See ICTY Rule 92 *bis* (A).

IV. CONCLUSION

35. It is the Prosecution's submission, that taking judicial notice of the facts contained in **Annex A** and in the documents listed in **Annex B** is consistent with a fair determination of the matter before the Court, as well as the spirit of the Statute and general principles of law, as it will operate to promote the right of the individuals Accused to an expeditious trial. Furthermore, the Prosecution submits that taking judicial notice of these facts or admitting the same into evidence is consistent with the spirit of the Statute and general principles of law and with a fair determination of the matter before the Court, as it would promote judicial economy without adversely affecting the rights of the individuals Accused to a fair trial.
36. Considering the nature, object and purpose of the Special Court, the Prosecution respectfully submits that taking judicial notice of the facts contained in the Annexes attached to this Motion provide the benefit of judicial economy, is consistent with the rights of the Accused and would significantly expedite the trial. Taking judicial notice or admitting the same into evidence in the manner sought by the Prosecution is also consistent with a fair determination of the matter and is consonant with the spirit of the Statute and general principles of law and the general nature of the Court.
37. For the foregoing reasons, the Prosecution prays that the Trial Chamber take judicial notice of the facts recited in **Annex A** as well as those enumerated in the documents listed in **Annex B,** as facts of common knowledge, pursuant to Rule 94(A), or admit the same in evidence pursuant to Rules 89 and 92*bis* and in accordance with the spirit of the Statute and the principle of fairness.

Done in Freetown, on this 1 day of April 2004.

For the Prosecution,

Luc Côté, Chief of Prosecution

Charles Caruso, Trial Counsel

PROSECUTOR'S MOTION FOR JUDICIAL NOTICE AND ADMISSION OF EVIDENCE:

ANNEX A

A. The armed conflict in Sierra Leone occurred from March 1991 until January 2002.

Report of the Secretary-General on the Situation in Sierra Leone, 21 November 1995, S/1995/975, para 2.
International Crisis Group, "Sierra Leone, Time for a New Military and Political Strategy," ICG Africa Report N 28, 11 April 2001, Appendix A.
No Peace Without Justice, "Sierra Leone Conflict Mapping Program" Draft Copy, 9 March 2004, pages 22-43.
Speech by the President of Sierra Leone His Excellency Alhaj Dr. Ahmd Tejan Kabbah at the ceremony marking the conclusion and disarmament and the destruction of weapons Lungi, 18 January 2002. Available at http://www.sierra-leone.org/kabbah011802.html.

B. The city of Freetown, the Western Area, and the following districts are located in the country of Sierra Leone: Kenema, Bo, Bonthe, Moyamba.

Map of Sierra Leone, Scale 1:350,000 UNAMSIL Geographic Information Service, 6 May 2002.

C. A nexus existed between the armed conflict and all acts or omissions charged in the Amended Indictment as Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II and as Other Serious Violations of International Humanitarian Law.

Sierra Leone Humanitarian Situation Report 23 June 1997, UN Office for the Coordination of Humanitarian Affairs, section 1.
Sierra Leone Humanitarian Situation Report 31 March 1998, UN Office for the Coordination of Humanitarian Affairs, section 1.
Second Report of the Secretary-General on the Situation in Sierra Leone, 5 December 1997 (S/1997/958), para 16.
First Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 12 August 1998 (S/1998/750), paras 15, 16.
Sixth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 4 June 1999 (S/1999/645), paras 34-36.
UNOMSIL – Human Rights Assessment Mission to Freetown 25 January and 1 to 4 February 1999, Findings and Recommendations, pages 3-9.
Human Rights Watch, "Getting Away with Murder, Mutilation and Rape" Vol. 11, No. 3 (A) June 1999, pages 45-54.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, pages 24, 25.

Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 33, 34.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 22-43 (General Overview of the Conflict), and pages reference to Districts Alleged in the Indictment: Bo 393-425, Bonthe 450-464, Moyamba 483-496, Kenema 323-340, Western Area (incl. Freetown) 538-564.
Report on Unacceptable Behaviour of CDF in the Southern Region, August 2000 by the Regional Reconciliation Committee (RRC) Southern Region.

D. The Accused and all members of the organized armed factions engaged in fighting within Sierra Leone were required to comply with International Humanitarian Law and the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 12 August 1949, and Additional Protocol II to the Geneva Conventions.

Article 3(1) of the Convention (IV) to the Protection of Civilian Persons in the Time of War Geneva 12 August 1949.
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

E. Sierra Leone acceded to the Geneva Conventions of 12 August 1949 and Additional Protocol II to the Geneva Conventions on 21 October 1986.

ICRC, States party to the Geneva Conventions and their Additional Protocols Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977.

F. All acts and omissions charged in the Indictment as Crimes Against Humanity were committed as part of a widespread and systematic attack directed against the civilian population of Sierra Leone.

Fifth Report of the Secretary General on the Situation in Sierra Leone, 9 June 1998 (S/1998/486), paras 38, 39.
First Progress Report of the Secretary – General on the United Nations Observer Mission in Sierra Leone, 12 August 1998 (S/1998/750), paras 16, 43.
Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 16 December 1998 (S/1998/1176), para 38.
Sixth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 4 June 1999 (S/1999/645), para 35.
UNOMSIL – Human Rights Assessment Mission to Freetown 25 January and 1 to 4 February 1999, Findings and Recommendations, pages 3-9.
Human Rights Watch, "Getting Away with Murder, Mutilation and Rape" Vol. 11, No. 3 (A) June 1999, pages 45-54.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, pages 24, 25.

Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 33, 34.
International Crisis Group Sierra Leone Project, "Sierra Leone Situation Analysis," 9 February 1998.
Report on Unacceptable Behaviour of CDF in the Southern Region, August 2000 by the Regional Reconciliation Committee (RRC) Southern Region.

G. The civilian or civilian population referred to in the Indictment were persons who took no active part in the hostilities, or who were no longer taking an active part in the hostilities.

Article 3(1) of the Convention (IV) to the Protection of Civilian Persons in the Time of War Geneva 12 August 1949.
Article 4 (1) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

H. The organized armed factions involved in the armed conflict included the Revolutionary Armed Front (RUF), the Civil Defence Forces (CDF) and the Armed Forces Revolutionary Council (AFRC).

Resolution 1270 (1999), Adopted by the Security Council at its 4054th meeting on 22 October 1999 (S/RES/12702).
Fourth Report of the Secretary General on the Situation in Sierra Leone, 18 March 1998 (S/1998/249), para 6.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, pages 4, 5.
"Sierra Leone: Time for a New Military and Political Strategy", 11 April 2001, International Crisis Group Africa Report No. 28, Appendix A.
United States Department of State, "Human Rights Practices for 1998 Report", Sierra Leone Country Report, February 1999, page 1.
Amnesty International, "Sierra Leone: Childhood – a casualty of conflict", AI Index: AFR 51/69/00, 31 August 2000, page 1.

I. The CDF was an organized armed force comprising various tribally-based traditional hunters. The Kamajors were comprised mainly of persons from the Mende tribe resident in the South and East of Sierra Leone, and were the predominant group with the CDF. Other groups playing a less dominant role were the Gbethis and Kapras, both comprising mainly of Temnes from the north; the Tamaboros comprising mainly of Korankos also from the north; and the Donsos, comprising mainly of Konos from the east.

Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 9 June 1998 (S/1998/2486), para 16.
Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 33, 34.
"Sierra Leone: Time for a New Military and Political Strategy", 11 April 2001, International Crisis Group Africa Report No. 28, Appendix A.
Mazurana, Dyan and Khristopher Carlson, "From Combat to Community: Women and Girls of Sierra Leone" January, 2004, page 11.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 31, 54-57.
Summary of Conversations Held with Civil Defence Force Leader Sam Hinga Norman, 10 January 1998 by Alfred Sam Foray, available online at http://www.sierra-leone.org/cdu2.html.

J. The plan purpose or design of the CDF was to defeat the RUF/AFRC forces and to gain and exercise control over the territory of Sierra Leone and the complete elimination of the RUF/AFRC.

International Crisis Group Africa Report No. 28 "Sierra Leone: Time for a New Military & Political Strategy," 11 April 2001, pages 8, 9.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 54-57.
CDF Calendar 2001.

K. The Accused, SAMUEL HINGA NORMAN, was the National Coordinator of the CDF. He was also the leader and Commander of the Kamajors.

Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 16 October 1998 (S/1998/960), para 5.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, page 25.
International Crisis Group Africa Report No. 28 "Sierra Leone: Time for a New Military & Political Strategy," 11 April 2001, pages 8, 9.
Mazurana, Dyan and Khristopher Carlson, "From Combat to Community: Women and Girls of Sierra Leone" January, 2004, page 11.

No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 54-57.
Summary of Conversations Held with Civil Defence Force Leader Sam Hinga Norman, 10 January 1998 by Alfred Sam Foray, available online at http://www.sierra-leone.org/cdu2.html.
CDF Calendar 2001.

L. The Accused, MOININA FOFANA was the National Director of War of the CDF.

No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 54-57.
CDF Calendar 2001.

M. The Accused, ALLIEU KONDEWA was the High Priest of the CDF. In this capacity, ALLIEU KONDEWA was responsible for all initiations within the CDF.

No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 54-57.
Report on Unacceptable Behaviour of CDF in the Southern Region, August 2000 by the Regional Reconciliation Committee (RRC) Southern Region.
CDF Calendar 2001.

N. The Accused, SAMUEL HINGA NORMAN, MOININA FOFANA and ALLIEU KONDEWA were seen and known as the top leaders of the CDF.

International Crisis Group Africa Report No. 28 "Sierra Leone: Time for a New Military & Political Strategy," 11 April 2001, pages 8, 9.
CDF Calendar 2001.

O. The Accused, SAMUEL HINGA NORMAN, MOININA FOFANA and ALLIEU KONDEWA individually or in concert, exercised authority, command and control over all subordinate members of the CDF.

International Crisis Group Africa Report No. 28 "Sierra Leone: Time for a New Military & Political Strategy," 11 April 2001, pages 8, 9.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see page 56.
Summary of Conversations Held with Civil Defence Force Leader Sam Hinga Norman, 10 January 1998 by Alfred Sam Foray, available online at http://www.sierra-leone.org/cdu2.html.

CDF Calendar 2001.

P. The organized armed group that became known as the RUF was founded in about 1988 or 1989 in Libya. The RUF began organized armed operations in Sierra Leone in or about March 1991.

Report of the Secretary-General on the Situation in Sierra Leone, 21 November 1995, S/1995/975, para 2.
"Sierra Leone: Time for a New Military and Political Strategy", 11 April 2001, International Crisis Group Africa Report No. 28, Appendix A.
"Getting Away with Murder, Mutilation, and Rape: New Testimony from Sierra Leone", Human Rights Watch, Vol. 11, No. 3(A), June 1999, page 7.

Q. The AFRC was founded by members of the Armed Forces of Sierra Leone who seized power from the elected government of the Republic of Sierra Leone via a coup d'état on 25 May 1997. Shortly after the AFRC seized power, the RUF joined with the AFRC.

Resolution 1132 (1997), Adopted by the Security Council at its 3822nd meeting on 8 October 1997 (S/RES/1132).
"Sierra Leone: Time for a New Military and Political Strategy", 11 April 2001, International Crisis Group Africa Report No. 28, Appendix A.
Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians", available online at www.amnestyusa.org/countries/sierra_leone/index.do, pages 1, 2.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, p 11, fn 1.
Human Rights Watch, "Getting Away with Murder, Mutilation and Rape" Vol. 11, No. 3 (A) June 1999, page 5.
Address by Major Johnny Paul Koroma, Head of State and Chairman of the Armed Forces Revolutionary Council, Freetown, 1 June 1997, para 7. Available at http://www.sierra-leone.org/index.html.

R. At all times relevant to the Amended Indictment, members of the CDF, including Kamajors, conducted armed attacks in various parts of the territory of the Republic of Sierra Leone, including the Districts of Kenema, Bo, Bonthe and Moyamba and the city of Freetown and the Western Area.

Sierra Leone Humanitarian Situation Report 30 April 1999, UN Office for the Coordination of Humanitarian Affairs, section 2.

Sierra Leone Humanitarian Situation Report 17 May 1999, UN Office for the Coordination of Humanitarian Affairs, section 2.
Second Report of the Secretary-General on the Situation in Sierra Leone, 5 December 1997 (S/1997/958) para 16.
Third Report of the Secretary-General on the Situation in Sierra Leone, 5 February 1998 (S/1998/103) paras 10-11.
Fourth Report of the Secretary General on the Situation in Sierra Leone, 18 March 1998 (S/1998/249), paras. 6, 23.
Fifth Report of the Secretary General on the Situation in Sierra Leone, 9 June 1998 (S/1998/486), para 38.
First Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 12 August 1998 (S/1998/750), paras 15, 16.
Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 16 October 1998 (S/1998/960), paras 11, 12.
Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 4 March 1999 (S/1999/237), para 28.
Sixth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 June 1999 (S/1999/645), para 35.
Seventh Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 30 July 1999 (S/1999/836), para 26.
UNOMSIL – Human Rights Assessment Mission to Freetown 25 January and 1 to 4 February 1999, Findings and Recommendations, pages 3-9.
Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 33, 34.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, Pages Reference to Districts Alleged in the Indictment: Bo 393-425, Bonthe 425-464, Moyamba 464-496, Kailahun 259-297, Kenema 298-340, Western Area (incl. Freetown) 529-564.
Summary of Conversations Held with Civil Defence Force Leader Sam Hinga Norman, 10 January 1998 by Alfred Sam Foray, available online at http://www.sierra-leone.org/cdu2.html.

S. These attacks were carried out to terrorize the civilian population and to punish the population for allegedly supporting, sympathizing, failing to actively resist, and/or collaborating with the AFRC/RUF.

Sierra Leone Humanitarian Situation Report 9 October 1999, UN Office for the Coordination of Humanitarian Affairs, section 2.
Sierra Leone Humanitarian Situation Report 20 November 1999, UN Office for the Coordination of Humanitarian Affairs, section 5.
Sierra Leone Humanitarian Situation Report 7 August 2000, UN Office for the Coordination of Humanitarian Affairs, sections A & F.
Fifth Report of the Secretary General on the Situation in Sierra Leone, 9 June 1998 (S/1998/486) paras 38-39.
Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone (S/1998/960) 16 October 1998 at para. 24.

Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone (S/1998/1176) 16 December 1998 at paras 38, 47.
Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 March 1999 (S/1999/237), para 28.
Sixth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone 4 June 1999 (S/1999/645) para 35.
UNOMSIL – Human Rights Assessment Mission to Freetown 25 January and 1 to 4 February 1999, Findings and Recommendations, pages 3-9.
Human Rights Watch, "Getting Away with Murder, Mutilation and Rape" Vol. 11, No. 3 (A) June 1999, pages 45-54.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, pages 24, 25.
Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 33, 34.
Amnesty International Annual Report 1999, "AI Report 1999: Sierra Leone".
Human Rights Practices for 1998, "Sierra Leone Country Report", released by the Bureau of Democracy, Human Rights, and Labor US Dept of State Bureau of Democracy, February 1999, introduction and section 1.
Human Rights Watch: "World Report 1999: Sierra Leone, Human Rights Developments".
Human Rights Watch Report 2001: Sierra Leone, "Sierra Leone: Most Serious Attacks in Months. Human Rights Watch Interviews: Victims and Witnesses," 24 July 2001.
International Crisis Group Sierra Leone Project, "Sierra Leone Situation Analysis," 9 February 1998.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, Pages Reference to Districts Alleged in the Indictment: Bo 393-425, Bonthe 425-464, Moyamba 464-496, Kailahun 259-297, Kenema 298-340, Western Area (incl. Freetown) 529-564. Also see pages 33, 35.

T. Civilians, including women and children, who were suspected to have supported, sympathized with, or simply failed to actively resist the combined RUF/AFRC forces were termed collaborators and specifically targeted by the CDF.

Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 9 June 1998 (S/1998/2486), para 38.
Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 16 December 1998 (S/1998/1176), paras 38, 47.
Sixth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 June 1999 (S/1999/645), para 35.
Human Rights Watch, "Getting Away with Murder, Mutilation and Rape" Vol. 11, No. 3 (A) June 1999, page 54.

Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, pages 24, 25.
Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 33, 34.
Amnesty International Annual Report 1999, "AI Report 1999: Sierra Leone".
Human Rights Practices for 1998, "Sierra Leone Country Report", released by the Bureau of Democracy, Human Rights, and Labor US Dept of State Bureau of Democracy, February 1999, introduction and section 1.
Human Rights Watch: "World Report 1999: Sierra Leone, Human Rights Developments".
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 33, 35.
Kamajor Press Release, 23 December 1997, available online at http://www.sierra-leone.org/kamajor1.html.

U. In or about November and/or December 1997, the CDF, including Kamajors, launched an operation called "Black December" intended to block off the movements of people and food on the highways so as to starve the junta of supplies and support in towns under their control.

Third Report on the Secretary-General on the Situation in Sierra Leone, 5 February 1998 (S/1998/103), para 10.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 35 and pages reference to districts alleged in the Indictment: Bo 393-425, Kenema 323-340.
CDF Statement of FM 98.1, 22 December 1997, available online at http://www.sierra-leone.org.
Kamajor Press Release, 23 December 1997, available online at http://www.sierra-leone.org/kamajor1.html.
Summary of Conversations Held with Civil Defence Force Leader Sam Hinga Norman, 10 January 1998 by Alfred Sam Foray, available online at http://www.sierra-leone.org/cdu2.html.

V. Actions by the CDF and Kamajors, included looting, destruction of private property, personal injury, sexual violence, extorting of money from civilians and killings. These actions were intended to threaten and terrorize the civilian population. Many civilians saw these crimes committed; others returned to find the results of these crimes – dead bodies, mutilated victims and looted and burnt property.

First Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 12 August 1998 (S/1998/750), paras 16, 43.

Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 16 December 1998 (S/1998/1176), para 38.
Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 March 1999 (S/1999/237), para 28.
Sixth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 June 1999 (S/1999/645), para 35.
Human Rights Watch, "Getting Away with Murder, Mutilation and Rape" Vol. 11, No. 3 (A) June 1999, pages 45-54.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, pages 24, 25.
Human Rights Watch, "We'll kill you if you Cry, Sexual violence in the Sierra Leone Conflict" Vol. 15 No. 1 (A), January 2003, pages 46-48.
Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 33, 34.
Amnesty International Annual Report 1999, "AI Report 1999: Sierra Leone".
Human Rights Practices for 1998, "Sierra Leone Country Report", released by the Bureau of Democracy, Human Rights, and Labor US Dept of State Bureau of Democracy, February 1999, introduction and section 1.
Amnesty International "Annual Report 2000, Sierra Leone".
Human Rights Watch: "World Report 1999: Sierra Leone, Human Rights Developments".
Human Rights Watch Report 2001: Sierra Leone, "Sierra Leone: Most Serious Attacks in Months. Human Rights Watch Interviews: Victims and Witnesses," 24 July 2001.
Physicians for Human Rights "War-Related Sexual Violence in Sierra Leone," published 2002 ISBN: 1-879707-37-3, pages 27, 28, 44, 46.
Mazurana, Dyan and Khristopher Carlson, "From Combat to Community: Women and Girls of Sierra Leone" January, 2004, page 13.
Report on Unacceptable Behaviour of CDF in the Southern Region, August 2000 by the Regional Reconciliation Committee (RRC) Southern Region.

W. The Junta was forced from power on or about 14 February 1998. President Kabbah's government returned in March 1998.

Fourth Report of the Secretary General on the Situation in Sierra Leone, 18 March 1998 (S/1998/249) paras 6, 9, 17.
International Crisis Group, "Sierra Leone, Time for a New Military and Political Strategy," ICG Africa Report N 28, 11 April 2001, Appendix A.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, page 4.
Human Rights Practices for 1998, "Sierra Leone Country Report", released by the Bureau of Democracy, Human Rights, and Labor US Dept of State Bureau of Democracy, February 1999.

X. At all times relevant to the Indictment, the CDF did, throughout the Republic of Sierra Leone, initiate or enlist children under the age of 15 years into armed forces or groups, an/or use them to participate actively in hostilities.

Sierra Leone Humanitarian Situation Report 15 June 1998, UN Office for the Coordination of Humanitarian Affairs, para 13.
Fifth Report of the Secretary General on the Situation in Sierra Leone, 9 June 1998 (S/1998/2486), paras 23 and 39.
First Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 12 August 1998 (S/1998/750), paras 16, 59.
Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone (S/1998/960) 16 October 1998 at para 23.
Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone (S/1998/1176) 16 December 1998 at para 39.
Sixth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 June 1999 (S/1999/645), para 36.
UNICEF Press Release, "Stop Using Child Soldiers, Sierra Leone Told," 19 June 1997.
UNICEF Monthly Report, "Events Pertaining to Children," 31 July 1999.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, pages 25, 26.
Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 27, 28.
Amnesty International, "Sierra Leone – Childhood – a casualty of conflict," AFR 51/69/00, 31 August 2000, pages 1-3, 9, 10, 18, 19, 22.
Amnesty International Annual Report 1999, "AI Report 1999: Sierra Leone".
Human Rights Practices for 1998, "Sierra Leone Country Report", released by the Bureau of Democracy, Human Rights, and Labor US Dept of State Bureau of Democracy, February 1999, introduction and section 1.

Amnesty International "Annual Report 2000, Sierra Leone".
Human Rights Watch: "World Report 1999: Sierra Leone, Human Rights Developments".
Mazurana, Dyan and Khristopher Carlson, "From Combat to Community: Women and Girls of Sierra Leone" January, 2004, p. 12-13.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 31, 57.
Ministry of Information and Broadcasting, "Government Statement", 24 May 2000.

Y. In or about June 1998, the Accused, SAMUEL HINGA NORMAN, pledged that the CDF would stop recruiting child soldiers.

Sierra Leone Humanitarian Situation Report 15 June 1998, UN Office for the Coordination of Humanitarian Affairs, para 13.
Fifth Report of the Secretary General on the Situation in Sierra Leone, 9 June 1998 (S/1998/2486), paras 23 and 39.
First Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 12 August 1998 (S/1998/750), paras 16, 59.
Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone (S/1998/1176) 16 December 1998 at para 39.
Sixth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, 4 June 1999 (S/1999/645), para 36.
UNICEF Press Release, "Stop Using Child Soldiers, Sierra Leone Told," 19 June 1997.
UNICEF Monthly Report, "Events Pertaining to Children," 31 July 1999.
Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998, pages 25, 26.
Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do, at pages 27, 28.
Human Rights Practices for 1998, "Sierra Leone Country Report", released by the Bureau of Democracy, Human Rights, and Labor US Dept of State Bureau of Democracy, February 1999 (Excerpt, pp 1-5).
Mazurana, Dyan and Khristopher Carlson, "From Combat to Community: Women and Girls of Sierra Leone" January, 2004, p. 12-13.
No Peace Without Justice, Sierra Leone Conflict Mapping Program 9 March 2004, see pages 31, 57.

PROSECUTOR'S MOTION FOR JUDICIAL NOTICE AND ADMISSION OF EVIDENCE:

ANNEX B

Request for Authenticity Finding and Admission of the Following Documents

United Nations Documents

UN Humanitarian Situations Reports

1. 23 June 1997
2. 14 July 1997
3. 31 March 1998
4. 15 June 1998
5. 30 April 1999
6. 9 October 1999
7. 20 November 1999
8. 7 August 2000

Reports of the UN Secretary General on the Situation in Sierra Leone

9. 21 November 1995 (S/1995/975)
10. 5 December 1997 (S/1997/958)
11. 5 February 1998 (S/1998/103)
12. 18 March 1998 (S/1998/249)
13. 9 June 1998 (S/1998/486)
14. 12 August 1998 (S/1998/750)
15. 16 October 1998 (S/1998/960)
16. 16 December 1998 (S/1998/1176)
17. 4 March 1999 (S/1999/237)
18. 4 June 1999 (S/1999/645)
19. 30 July 1999 (S/1999/836)
20. 6 December 1999 (S/1999/1223)
21. 19 May 2000 (S/2000/455)

UN Security Council Resolutions

22. Resolution 1346 (30 March 2001)
23. Resolution 1313 (4 August 2000)
24. Resolution 1306 (5 July 2000)
25. Resolution 1299 (19 May 2000)
26. Resolution 1289 (7 February 2000)
27. Resolution 1270 (22 October 1999)
28. Resolution 1220 (12 January 1999)

29. Resolution 1181 (13 July 1998)
30. Resolution 1132 (8 October 1997)

Other UN Reports

31. UNICEF Press Release, "Stop Using Child Soldiers, Sierra Leone Told," 19 June 1997.
32. UNICEF Monthly Report, "Events Pertaining to Children," 31 July 1999.
33. UNOMSIL – Human Rights Assessment Mission to Freetown 25 January and 1 to 4 February 1999, Findings and Recommendations.

Maps, Peace Agreements, Treaties

34. The Lome Peace Accord, The Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL), 7 July 1999.

35. The Abidjan Peace Accord, The Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL), 30 November 1996.

36. The Conakry Accord: ECOWAS SIX-MONTH PEACE PLAN FOR SIERRA LEONE 23 OCTOBER 1997 - 22 APRIL 1998, 23 October 1997.

37. Ceasefire Agreement Between Government and the Revolutionary United Front, 18 May 1999.

38. Map of Sierra Leone, Scale 1:350,000, UNAMSIL Geographic Information Service, 6 May 2002.

39. ICRC List of States party to the Geneva Conventions and their Additional Protocols.

40. Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977.

NGO Reports/Human Rights Reports

41. Human Rights Watch, "Getting Away with Murder, Mutilation and Rape" Vol. 11, No. 3 (A) June 1999.

42. Human Rights Watch, "Sowing Terror, Atrocities against civilians in Sierra Leone," Vol. 10, No. 3 (A) July 1998.

43. Human Rights Watch, "We'll kill you if you Cry, Sexual violence in the Sierra Leone Conflict" Vol. 15 No. 1 (A), January 2003.

44. Amnesty International, "Sierra Leone 1998 – a year of atrocities against civilians" available online at http://www.amnestyusa.org/countries/sierra_leone/index.do.

45. Amnesty International, "Sierra Leone – Childhood – a casualty of conflict," AFR 51/69/00, 31 August 2000.

46. Amnesty International Annual Report 1999, "AI Report 1999: Sierra Leone".

47. Human Rights Practices for 1998, "Sierra Leone Country Report", released by the Bureau of Democracy, Human Rights, and Labor US Dept of State Bureau of Democracy, February 1999.

48. Amnesty International "Annual Report 2000, Sierra Leone".

49. Amnesty International Press Release, "Sierra Leone: Action Needed to End use of Child Combatants", 31 August 2000.

50. Human Rights Watch, "World Report 1999: Sierra Leone, Human Rights Developments".

51. Human Rights Watch Report 2001: Sierra Leone, "Sierra Leone: Most Serious Attacks in Months. Human Rights Watch Interviews: Victims and Witnesses," 24 July 2001.

52. Human Rights Watch, "Recent Abuses Documented by Human Rights Watch," 30 November 2000.

53. Human Rights Watch, "Sierra Leone Government Bombing Causes Civilian Deaths," 12 July 2000.

54. International Crisis Group Africa Report No. 28 "Sierra Leone: Time for a New Military & Political Strategy," 11 April 2001.

55. International Crisis Group Sierra Leone Project, "Sierra Leone Situation Analysis," 9 February 1998.

56. Physicians for Human Rights "War-Related Sexual Violence in Sierra Leone," published 2002 ISBN: 1-879707-37-3.

57. Mazurana, Dyan and Khristopher Carlson, "From Combat to Community: Women and Girls of Sierra Leone" January, 2004.

58. No Peace Without Justice, "Sierra Leone Conflict Mapping Program" Draft Copy, 9 March 2004 (excerpt preface, chapters 1-3, 5).

Other Public Source Documents

59. Address by Johnny Paul Koroma, 28 May 1997, available online at http://www.sierra-leone.org.

60. Address by Johnny Paul Koroma, 1 June 1997, available online at http://www.sierra-leone.org.

61. CDF Statement of FM 98.1, 22 December 1997.

62. Kamajor Press Release, 23 December 1997, available online at http://www.sierra-leone.org/kamajor1.html.

63. Summary of Conversations Held with Civil Defence Force Leader Sam Hinga Norman, 10 January 1998 by Alfred Sam Foray, available online at http://www.sierra-leone.org/cdu2.html.

64. Declaration, 22 March 2000.

65. Ministry of Information and Broadcasting, "Government Statement", 24 May 2000.

66. Report on Unacceptable Behaviour of CDF in the Southern Region, August 2000 by the Regional Reconciliation Committee (RRC) Southern Region.

67. Communique, "Meeting of the Joint Committee on Disarmament, Demobilisation and Reintegration, Government of Sierra Leone – RUF – UNAMSIL", 15 May 2001.

68. CDF Calendar 2001.

69. Speech by the President of Sierra Leone His Excellency Alhaj Dr. Ahmd Tejan Kabbah at the ceremony marking the conclusion and disarmament and the destruction of weapons Lungi, 18 January 2002. Available online at http://www.sierra-leone.org/kabbah011802.html.

1006.

Source: UN Department of Humanitarian Affairs
Date: 23 Jun 1997

Sierra Leone Humanitarian Situation Report 18 - 23 Jun 1997

Period covered: 18-23 June 1997

This report has been prepared by the office of the United Nations Humanitarian Coordinator for Sierra Leone in Conakry, Guinea

SECURITY

1. The kamajors have gradually increased their areas of influence in the Eastern and Southern Provinces of Sierra Leone establishing frequent checkpoints on the Bo-Kenema highway and the Makeni - Kono highway. The kamajors have reportedly accumulated a large force in Tikonko, approximately 12 km from Bo town, and there is speculation that they will attack the military base at Bo before beginning to move towards Mile 91 and the Freetown peninsula. Aid agencies and eyewitnesses have reported that kamajors are well-equipped with AK 47 rifles and rocket-propelled grenades. AFRC spokesmen claim that the kamajors are being supplied by the Nigerians through Liberia with the assistance of ULIMO-K. It is known that Chief Norman, Deputy Minister of Defence under the SLPP and de facto head of the kamajors, visited Sierra Leone and had discussions with the Nigerians during the past week.

2. Clashes between Kamajors and military in Kenema have intensified during the past few days. Sierra Leone Red Cross has counted 12 bodies (8 kamajors, 2 soldiers and 2 civilians) although the true number of casualties is believed to be higher. In Koribundu, approximately 20 km south of Bo town 18 people were reported to have been killed in a confrontation between the kamajors and the RUF during the weekend. In Zimmi in Pujehun district 200 civilians took refuge in the ICRC compound following fighting between the military and the kamajors. It is believed that the kamajors now control the area. War wounded are being treated by ICRC.

3. The Nigerian military build-up continues in Sierra Leone. Several military aircraft landed at Lungi on 19 June and the Nigerians are believed to be in an advanced state of operational readiness.

4. There has been a significant increase in the number of violent crimes such as murder and robbery over the past few days despite the presence of the Anti-Looting squad which continues to execute and occasionally mutilate culprits. There is no civilian movement after dark and few non-military vehicles are in evidence on the streets at any time. Fear of crime has now replaced fear of ECOMOG bombardment as civilians main concern.

POLITICAL DEVELOPMENTS

5. A Ghanaian delegation, headed by deputy Foreign Minister, Victor Gbeho, held talks

with the AFRC during the weekend of 21-22 June. Major Koroma, leader of the AFRC, said in a radio interview that the task which Ghana has undertaken will finally lead to the restoration of peace, security and constitutional order in Sierra Leone. No formal statements have been issued by the Ghanaian delegation. An ECOWAS meeting is scheduled to take place in Conakry on 26 June.

6. The Nigerian Foreign Minister has been making a tour of West African states, including Côte dIvoire, Guinea and Ghana, in order to explain Nigerias position vis-à-vis the new regime in Sierra Leone.

HUMANITARIAN DEVELOPMENTS

7. The European Union has issued another statement noting its concern that constitutional order has not yet been restored to Sierra Leone. The statement continues. The European Union and its member states therefore consider that existing development assistance to Sierra Leone cannot be provided under present circumstances. The statement made no mention of the EUs position over the provision of humanitarian relief.

FOOD AID

8. Action Aid have reported that they have 120 MTs of maize meal 22 MTs pulses and 9 MTs vegetable oil in Kambia. Over the weekend 21-22 June Action Aid distributed 52 MTs of maize and pulses to approximately 4,000 beneficiaries.

9. WFP successfully transported 50 MTs of food to Makeni in two different trucks on 19 June. Commercial transport rates had increased by 30 percent which is lower than anticipated given the recent price rises in fuel. It has not been possible to transport more food upcountry because WFP has been unable to open its store in Kline town in Freetown due to large numbers of military in the area who are well aware that the store contains rice. CRS local staff have also indicated a reluctance to check stocks at warehouses in Freetown as soldiers have shot on site suspected looters and CRS staff are afraid of being mistakenly targeted.

NON-FOOD ITEMS

10. Attempts are being made to identify quantities of non-food items still available among the humanitarian community in Sierra Leone. At a meeting on 19 June, agencies revealed the following supplies of non-food items:

Concern Universal:	No in-kind items but USD 50,000 available for emergency interventions.
Care:	28 MTs upland seed rice in Moyamba, 48 MTs upland seed rice in Makeni, 1,500 tool kits in Bo.
FAO:	130 MTs upland seed rice, 80 MTs lowland seed rice, 14 MTs seed

	maize, 28 MTs groundnut seeds, 17,000 cutlasses, 17,000 hoes. These inputs are being stored by the Ministry of Agriculture in its warehouses in Kenema, Bo, Moyamba and Makeni.
SLRC:	Makeni: 31,500 MTs seed rice, 1,500 household kits (mats, blankets, kitchen sets). Freetown: 150 rolls plastic sheeting.
UNHCR:	12,000 kitchen sets, 15,000 4x5 plastic sheets, some plastic sleeping mats, 100x25 kg containers of chlorine, 4x60 KVA generator, 7,000 hurricane lamps in Abidjan. All these items were originally earmarked for the repatriation programme but are available for other purposes.

11. The above list does not include food stocks or medical supplies as inventories of available resources in these sectors have been included in earlier reports. UN-HACU is aware that the list of inputs is not comprehensive and welcomes further information from agencies not included above. Anyone wishing to make use of the aforementioned items should contact the relevant agency directly.

HEALTH

12. MSF/ICRC intend to establish 10 health clinics in Freetown during the week beginning 23 June. Another MSF trip to Pamelap border in Guinea on 19 June revealed that the situation was unchanged from their previous trip 3 days earlier. Existing ICRC, MSF and UNICEF programme continue without significant change.

REFUGEES

13. According to UNHCR approximately 1,000 Liberian refugees at Jui camp in Freetown have moved into Waterloo camp on the outskirts of town due to fighting between the Nigerians and the Peoples Army in the area. The location of the remaining Liberian refugee caseload is unknown.

14. UNHCR have sent a staff member from their Liberian office to the border to monitor refugee influxes from Sierra Leone.

COORDINATION IN LIBERIA

15. Information exchange / coordination meetings are now being held three times a week in Monrovia for evacuees of the Sierra Leonean relief programme and there is a regular flow of information between Monrovia and Conakry on issues relating to Sierra Leone. At the third Liberian coordination meeting held on 20 June it was decided that ICRC should be the focal point for the transport of staff or supplies into Sierra Leone from Monrovia.

This report is available on the internet through RELIEFWEB: http://www.reliefweb.int

1009

ReliefWeb

Email this document

Source: UN Department of Humanitarian Affairs
Date: 14 Jul 1997

Sierra Leone Humanitarian Situation Report 08 - 14 Jul 1997

This report has been prepared by the office of the United Nations Humanitarian Coordinator for Sierra Leone in Conakry, Guinea

SECURITY

1. On 9 July, the Peoples Army attacked Lungi Airport in a bid to break through ECOMOGs outer security perimeter and destroy the 98.1 FM radio station which has recently served as a mouthpiece for President Kabbah and which they believed to be in the area. (See point seven below). The attack was comprehensively repulsed by ECOMOG troops and reliable Freetown sources have reported that at least 350 Peoples Army soldiers were killed by a combination of Nigerian and Guinean forces. The RUF commander who led the attack, Sam Bockarie (known as Mosquito) was injured in the foot during the fighting and has been seen in hospital by reliable eyewitnesses.

2. During the weekend of 12-13 July, the Peoples Army suffered another significant setback during fighting with Nigerian forces involving heavy artillery in the Jui and Hastings area. Although precise numbers of casualties are unknown, two trucks laden with corpses were observed returning to Freetown on the afternoon of 13th July. While the Nigerians suffered some casualties, the Peoples Army clearly incurred far more severe losses. ICRC reported 26 newly-wounded civilians at Netland and Connaught hospitals on 14 July. AFRC claims that Nigerian troops that were using Guineans as human shields have been ridiculed by ECOMOG Force Commander, Victor Malu. An ECOMOG warplane was observed flying over Freetown at the start of the fighting, but it was not seen to have dropped any ordnance.

3. Nigerian troops are now in control of Hastings Airport and the area up to and including Allen town. Residents from these areas are relocating in large numbers to the hills and into central Freetown. The main road out of Freetown is effectively closed as few vehicles have been observed on this route since 13 July. In Freetown, the Peoples Army have been preparing heavy machine gun positions on the high ground in the Hill station area. Some of these guns are mounted on the back of pick-up trucks and are mobile.

4. There has been sporadic but intense fighting between the RUF and the kamajors during the past week in the Zimmi area and an estimated 1,500 civilians and 300 kamajors are believed to have been forced into Liberia. Control of the strategically-important Bo Waterside bridge on the Sierra Leone/Liberia border has fluctuated between the two sides. Although the RUF was believed to have taken the bridge earlier in the week, Chief Norman, Deputy Minister of Defense and de facto leader of the kamajors, reported that the kamajors were in control of the bridge on 14 July.

5. The Kenema-Kono highway, which was previously controlled by the kamajors, has

1010

now been secured by the Peoples Army following AFRC/RUF re-enforcement of the area.

POLITICAL DEVELOPMENTS

6. The date of Major Koromas proposed meeting with the ECOWAS committee of four has been changed from 15 July to 17 July. The meeting is scheduled to take place in Abidjan and not in Conakry.

7. President Kabbah has made several broadcasts to Sierra Leone over the 98.1 FM radio station which have proved to be a considerable irritant to the AFRC. In his first broadcast on 8 July, Kabbah urged the AFRC to step down to spare the people of Sierra Leone further pain and suffering. He also ordered soldiers and RUF to report to the nearest ECOMOG base and declare their loyalty. This tactic has been partially successful as several AFRC soldiers have since surrendered to Nigerian forces at Lungi.

8. On 8 July, in an attempt to undermine the impact of Kabbahs broadcast which took place earlier in the day, the AFRC announced its 19 member Cabinet. The majority of the posts are filled by former representatives of the National Provisional Ruling Council (NPRC). For example, Captain SAJ Musa, Secretary of Mineral Resources and Chief Secretary; Victor Brandon, Secretary of Development and Economic Planning; Col. Dr. KIS Kamara, Secretary of Health and Sanitation; Major Kula Samba, Secretary of Social Welfare, Children and Gender Affairs.

9. The Finance Secretary, Joe Amara Bangali, was a former minister in the APC and the Foreign Secretary; Dr. Paolo Bangura, was a former Ambassador to the UN. The RUF are represented through the appointment of Foday Sankoh as Deputy Chairman and SB Rogers as Acting Secretary of Lands and Environment. Two portfolios, namely Trade, Industry and State Enterprises and Energy and Power, have not been filled but the posts have been reserved for representatives of the Peoples Army. 37 posts in the Supreme Council have also been created, but only 22 have been filled to date. The extent to which nominees were consulted prior to their appointment is debatable. In a radio broadcast on BBCs *Focus*, Mr. Saaba Tumor, who was appointed Director of Information and Broadcasting, denied all knowledge of his appointment.

10. In a statement issued on 11 July following its meeting with the Committee of the four ECOWAS Foreign Ministers, the UN Security Council reiterated its view that the attempt to overthrow President Kabbahs government was unacceptable and called for the immediate and unconditional restoration of constitutional order in Sierra Leone. The Security Council expressed deep concern over the negative humanitarian consequences of the continuing crisis in Sierra Leone as well as its threat to regional stability. The Security Council welcomed the mediation efforts initiated by ECOWAS and expressed its full support for these efforts as set out in the communique issued at the meeting of the ECOWAS Foreign Ministers in Conakry on 26 June. Finally, the Security Council stated that it would continue to follow the progress of efforts aimed at the peaceful resolution of the crisis and that it was ready to consider appropriate measures if constitutional order in Sierra Leone is not restored without delay.

1011

11. The Commonwealth Ministerial Action Group, on which nine different Commonwealth countries are represented, convened on 10-11 July to review developments in Gambia, Nigeria and Sierra Leone. In its discussions on Sierra Leone, the Group urged the international community to continue to deny recognition to the AFRC and decided that participation of Sierra Leone in the councils of the Commonwealth would be suspended pending the restoration of legitimate government.

12. On 10 July, the EU issued a statement welcoming ECOWAS efforts to resolve the crisis in Sierra Leone. The EU particularly, welcomed the inclusion of the OAU on the ECOWAS committee of Four. With regard to its aid programme, it was stated that Pending the return of the legitimate government to Freetown . . . the EU maintains its view that development aid to Sierra Leone cannot be continued in the present circumstances.

HUMANITARIAN DEVELOPMENTS

13. The Inter-Agency Standing Committee (IASC) has endorsed the joint UN/NGO Strategy and protocols for Sierra Leone as well as the United Nations Strategy for Inter-Agency Emergency Humanitarian Response. See Sitrep dated 24-30 June for more details. The US-based NGO consortium, INTERACTION, has also expressed written support for these strategies.

14. There has been much speculation over the status of the embargo in Sierra Leone as envisaged in the ECOWAS communique. There is no doubt that there are four Nigerian warships off the coast of the Western Area as at 14 July. Although these vessels are not visible to Freetown residents, they have successfully prevented commercial ships from docking at Freetowns port. Rocketing insurance premiums have also been a significant deterrent to shipping companies. There have, however, been many reports of pirogues and other small vessels successfully circumventing the blockade.

15. Media reports of an influx of a million people into Bo town are hugely exaggerated. ACF and MSF, both of whom have a presence in Bo estimate that less than 10,000 people have moved into Bo since the coup.

FOOD AID

16. The increase of the price of rice in Freetown to 40,000 leones per bag from its previous cost of 25,000 leones per bag is a clear indication that rice shortages are becoming increasingly acute. Although retailers still have rice available in their stores, wholesalers have exhausted their stocks as no food vessels have arrived in Freetown since the coup. Attempts by the business community to import rice into Freetown at the request of the AFRC have been unsuccessful primarily due to the exorbitant cost of insurance. Food agencies have managed to transport limited quantities of commodities (approximately 500 MTs) to Makeni and Bo during the past week. There is still a capacity of approximately 1,400 MTs in warehouses in Port Loko and Kambia.

17. The food aid pipeline for humanitarian relief remains healthy. Providing there are

1012

no unforseen complications, there will be 10,000 MTs of food aid in Conakry available for programmes in Sierra Leone by the end of July. Another 5,000 MTs of food commodities are due to arrive in Conakry during August 1997. Distribution modalities will be determined by the Committees on Food Aid.

18. Existing targeted feeding programmes as outlined in previous sitreps continue. A one-off emergency distribution is being planned for approximately 8,000 displaced in Kabala in Koinedugu district in the Northern province of Sierra Leone. As the normal population of Kabala is estimated to be 10,000 people, this new influx is putting considerable strain on the coping mechanisms of the local population.

HEALTH

19. **Freetown**. There is a concern over the maintenance of the drug pipeline for the eight clinics currently being operated by ICRC, SLRC and MSF in Freetown. Staff from these agencies are investigating how long existing stocks will last. The caseload for the ICRC/MSF surgical programme has continued to decrease notwithstanding recent admissions due to the fighting in the vicinity of Hastings. ActionAid has agreed to make incentive payments to Blue Flag volunteers working on cholera prevention in Freetown.

20. **Bo**. An assessment of the MSF-supported hospital in Bo on 5 July revealed that the hospital building has not been damaged by recent fighting although the emergency department is still under rehabilitation. There is deemed to be sufficient local surgical capacity to treat casualties from possible future clashes. There were only 40 in-patients in the hospital as at 5 July this is attributable to insecurity and inaccessibility due to poor public transport to local areas.

21. **Kenema**. Merlin continues to support the Kenema government hospital in the Under Five clinics (the Pediatric Ward and the Lassa Fever Ward). Support is provided through the provision of therapeutic and supplementary foodstuffs and essential drugs and equipment. Merlin also plays a supervisory role as well as enhancing cholera preparedness. The programme is supervised by Merlins Medical Coordinator who is based in Monrovia. Although Merlins drug supplies were left intact, the pharmacy in Kenema hospital was completely looted. ICRC is seeing an average of 800 patients per week at the Nongowa clinic in Kenema. Drugs are provided by ICRC, Merlin and UNICEF.

CHILD PROTECTION

22. Although the family tracing and reunification network in Sierra Leone was temporarily disrupted by the coup and the departure of several key staff, efforts are being made to restart the reunification programme as the regional focus organisations, ADRA and Christian Brothers are still operational.

23. At the first Child Protection meeting in Conakry on 7 July, it was acknowledged that there were several impediments to successful implementation of child protection/demobilisation programmes in addition to security constraints namely: lack of reliable numbers of child soldiers as the only source of information was the former Disarmament, Demobilisation and Reintegration (DDR) Unit under MNRRR; uncertainty over potential AFRC counterparts (e.g., the former programme manager

1013

of the DDR Unit, Major Kula Samba, is now Secretary of Social Welfare, Children and General Affairs and the former Army Chief of Staff, Col. Max Kanga is now Director of the National Relief, Rehabilitation and Demobilisation Commissions); the degree to which any programme might apply to the kamajors; and the current capacity of NGOs to implement any programmes. UNICEF is exploring the possibility of a pilot demobilisation project for 50-100 children to test the publicly-stated commitment of the AFRC to demobilisation of child soldiers.

REFUGEES

24. Concern Worldwide, the Irish NGO which still has one expatriate in Freetown, has reported that a caseload of 7,700 Liberian refugees have been receiving WFP food on a regular basis since the coup. All Liberian refugees have moved out of Jui camp to Waterloo camp, Clay Factory Camp and Freetown. Concern Worldwide continues to run a medical and therapeutic feeding programmes in Segbwema.

25. 200 of the 489 Sierra Leonean refugees who have been living in Waterloo camp in Freetown since their repatriation prior to the coup have indicated that they would like to return to their areas of origin. The first group of 40 will return by bus to the Eastern province as soon as possible.

This report is available on the internet through RELIEFWEB:
http://www.reliefweb.int

Complex Emergency Division (CED) New York
Mr. Peter Due
Tel.: (1 212) 963.1731
Fax: (1 212) 963.3630
E-Mail: due@un.org

Inter-Agency Support Branch (IASB) Geneva
Mr. David Bassiouni - Chief
Mr. Chris Kaye
Tel.: (41 22) 788.6385
Fax: (41 22) 788.6389
Registry E-Mail:Rosemary.Addo-Yirenkyi@dha.unicc.org

Press to contact (DHA-Geneva)
Ms. Madeleine Moulin-Acevedo
Tel.: (41 22) 917.2856
Fax: (41 22) 917.0023
Telex: 414242 DHA CH
E-Mail: Moulin-Acevedo@dha.unicc.org

Top

With the exception of public UN sources, reproduction or redistribution of the above text, in whole, part or in any form, requires the prior consent of the original source.

Related Documents:

1014

Latest Emergency Updates: Sierra Leone
Latest By Country: Sierra Leone
Other ReliefWeb documents by: UN Department of Humanitarian Affairs

Home Page: www.reliefweb.int
Comments

Source: UN Office for the Coordination of Humanitarian Affairs
Date: 31 Mar 1998

Sierra Leone Humanitarian Situation Report 10 - 30 March 1998

REG. NO. 98/0031

Period covered: 10-30 March 1998

This report has been prepared by the office of the United Nations Humanitarian Coordinator for Sierra Leone in Conakry, Guinea

SECURITY

ECOMOG has now deployed large numbers of troops into the interior of Sierra Leone and has secured all major towns throughout the country with the exception of Kono and Kailahun. On 22 March another two battalions departed the Western peninsula for the Eastern province and large numbers of troops are currently consolidating their position at Daru (East of Kenema) to prepare for the assault on Kailahun. Many Junta soldiers have surrendered to ECOMOG in the past month. These surrenders are being registered by ECOMOG troops and in some areas, particularly in the south-east, they are incarcerated. In other parts of the country they are allowed to move freely within ECOMOG controlled areas.

With the exception of Kambia neither the United Nations nor NGOs have permitted international staff members to remain overnight in rural parts of Sierra Leone. Checkpoints established by ECOMOG and the Civil Defence Forces (CDF) on the main highways in Sierra Leone have resulted in a regular flow of traffic between Freetown and Kambia, but there are still relatively few vehicles on the road from Freetown to Bo. There are still some dead bodies from reprisal killings in evidence on the verge of some of the roads.

POLITICAL DEVELOPMENTS

The UN Secretary-General submitted his most recent report on Sierra Leone to the Security Council on 25 March. The report commends the diplomacy of ECOWAS and its Committee of Five and highlights the contribution made by ECOMOG and the Civil Defence Forces in their removal of the junta. The report proposes that the Office of the UN Special Envoy be strengthened through the deployment of 10 UN military liaison officers, two police advisers and one human rights officer subject to the Security Council's approval. The UN Secretary-General has also established a Trust Fund for Sierra Leone to finance the immediate requirements of the GoSL, ECOMOG and the UN peace-building efforts. The British Government has pledged 2 million pounds sterling to this Trust Fund.

HUMANITARIAN DEVELOPMENTS

The formal lifting of the UN sanctions (except the import of weapons and the movement of junta associates) and the ECOWAS embargo has led to the importation of several consignments of fuel and foodstuffs by sea into Freetown. This has caused the price of basic commodities to plummet helping to alleviate the humanitarian plight of the civilian population. For example, the cost of diesel in Freetown has fallen from 20,000 leones per gallon at the beginning of February to its pre-coup level of 3,000 leones per gallon.

Although the main highways in Sierra Leone are deemed too insecure for the safe passage of International UN and NGO personnel, commercial transporters have taken advantage of reduced fuel prices to deliver rice and other foodstuffs to the urban centres of Bo, Kenema and Makeni. Markets in these areas are thriving and food prices have fallen to pre-coup levels. International staff have been monitoring humanitarian programmes by chartering commercial aircraft for one-day assessments.

On 26 March President Kabbah formally launched the United Nations Flash Appeal for Humanitarian Assistance to Sierra Leone in the presence of UN Agencies and the local media. The Appeal seeks USD 11.2 million to meet immediate humanitarian needs in Sierra Leone. Priority interventions identified in the Appeal include: provision of emergency agricultural inputs in time for the planting season in May; re-establishment of essential health services, disease control and immunisation; access to safe drinking water; child protection and food for malnourished children; emergency basic education inputs; logistics support to food distribution; assistance to and repatriation of Liberian refugees; initial support for the return of the displaced to their areas of origin; coordination support and logistical services.

The British Government has provided support to the Government of Sierra Leone to enable it to re-establish the machinery of Government. Valued at approximately 1 million pounds, the package includes generators, computers, public address equipment, vehicles and office furniture.

The Government of Sierra Leone has established a National Commission for Rehabilitation, Resettlement ad Reconstruction (NCRRR) to act as the Government focal point for the coordination and management of all humanitarian, rehabilitation, resettlement, reintegration and reconstruction work in Sierra Leone. The NCRRR, which is attached to the Office of the President, will not execute or implement programmes. The capacity of the NCRRR is limited at present as the Commissioner and the Deputy Commissioner are the only two members of the Commission to have been appointed. UNDP is providing direct support in the recruitment of the technical staff of the NCRRR. The first inter-agency meeting at the new Commission was held on 30 March.

A recent assessment by World Vision in Bonthe district revealed that the nutritional status of the civilian population was less severe than previously thought. This is attributable to the significant harvest in the district which escaped misappropriation by armed elements. Brushing for the next planting season is already underway. However, the assessment did reveal that there was an urgent need for health-related interventions in the area as the primary health care system was in disarray.

FOOD AID

WFP, CRS, Care International and World Vision have continued to transport relief food by sea and by land into Sierra Leone. Since the ECOMOG intervention, 3,600 MTs of food have been shipped to Freetown by sea and approximately 2,000 MTs by land through the Guinean border town of Pamelap. The cross-border food aid operation from Liberia through Bo Waterside has not yet commenced as ECOMOG are not yet able to provide escorts for relief convoys. The proposed food aid airlift operation to meet urgent humanitarian needs in Bo and Kenema has been temporarily suspended as WFP has successfully managed to transport relief food by road to these areas through Kambia. WFP and food supply NGOs have also moved modest quantities of food commodities to Makeni.

In Freetown ICRC has completed the first monthly food distribution to registered Liberian

refugees, 6,000 beneficiaries in more than 50 institutions and 6,650 individuals in central Freetown whose houses have been burnt or destroyed. The ICRC is cooperating closely with the Sierra Leone Red Cross Society (SLRCS), whose volunteers are instrumental in carrying out relief distributions and monitoring.

ADRA and the International Islamic Relief Organisation (IIRO) have completed distribution of food to 9,600 beneficiaries in Waterloo and Grafton camps in Freetown. ACF will start wet feeding canteens (with a capacity of 1,000 per day) in the six most vulnerable areas of Freetown in April 1998. The target groups for these centres are children under the age of five, the elderly, the disabled and lactating mothers. The period of intervention for the wet feeding programme is two months. CRS is supporting youth centres and Care has supported Food-for-Work activities equivalent to at least 36,000 work days thus far.

In rural areas the food aid regional technical committees have identified estimated vulnerable populations of 8,000 in Bo and 12,000 in Kenema. Food distribution to these groups will commence in the near future. In Makeni distribution to 9,600 beneficiaries of the Vulnerable Group Feeding programme started on 30 March. 11 MTs of rice donated by the British Government will only be distributed to institutions in Bo, Kenema and Makeni under the auspices o the technical committees in these areas. ACF has reactivated its therapeutic feeding centres in Bo and Makeni and Merlin in Kenema. These is an urgent need for Food-for-Work projects to repair the road between Bo and Pujehun.

HEALTH

During the next three months UNICEF, in conjunction with the Ministry of Health, has decided to revitalise 10 Peripheral Health Units on the western peninsula outside the immediate environs of Freetown. This intervention will complement the activities of ICRC and MSF who are jointly supporting 10 clinics in central Freetown. UNICEF is also planning a mass immunisation campaign in Freetown targeting 100,000 children under the age of five and 50,000 women.

In Bo and Pujehun districts MSF continues to support a total of 12 clinics and 2 hospitals through the provision of drugs and food. In Kenema a mass immunisation campaign is being planned as the cold chain has been broken and eight measles cases have recently been identified.

Assessments of water conditions in Bo, Kenema and Makeni have revealed that the main reason for the intermittent urban water supply in these areas is a shortage of fuel to operate the National Power Authority's generators. It is hoped that the fuel which has recently arrived in Freetown will be dispersed to rural areas in the near future. There is also a real need for chlorine to disinfect contaminated wells in these areas as most aid agencies lost their chlorine stocks during the period of the ECOMOG intervention. For example, in Makeni 1500 kg of chlorine owned by ICRC was tipped onto the ground by looters wanting to abduct the containers for the storage and transport of fuel.

Sanitation in all these areas is poor and there is a need for shovels, wheelbarrows, pickaxes and containers to dispose of the waste. However, significant progress has been made by aid agencies with regard to the exhumation and reburial of hundred of civilians originally buried in mass graves in Bo and Kenema.

The assessment of the water and sanitation needs in Lunel conducted by UNICEF and Oxfam has been completed. UNICEF has agreed to construct 15 new wells, 500 new latrines and to

rehabilitate so old wells. The facilities will benefit a basic catchment population of 35,000 persons.

CHILD PROTECTION

Child protection agencies have held several discussions with ECOMOG and the Government of Sierra Leone on the issue of the release of children held in detention and the need to protect these children from mob justice. In spite of these discussions ICRC has had difficulties securing the release of eight children detained in Pademba road prison in Freetown.

The family tracing programme has also suffered some severe setbacks following the recent ECOMOG intervention. Although ADRA and KDDO have had some success in reunifying small numbers of children in Kambia and Kenema with their families, all family tracing activities in Bo have come to a standstill. This is because the offices of Christian Brothers, the lead agency for family tracing activities in Bo, were burnt and all tracing and reunification data destroyed.

On 25 March 35 Civil Defence Unit (CDU) leaders in Freetown attended a one-day workshop, sponsored by UNICEF and CAW, on the need to protect children associated with fighting forces. Representatives from the Ministry of Social Welfare, Children and Gender Affairs, the Police and FM 98.1, the pro-democracy radio station, were also present. At the end of the workshop the CDU leaders agreed to work with child protection agencies to form anti-child abuse committees within each unit. These units will help to ensure that children's rights are respected irrespective of whether they are combatants or non-combatants.

REFUGEES

Sierra Leoneans from Kono and Kailahun have continued to cross into Liberia and Guinea due to the depredations of junta forces in these areas. It is estimated that 30,000 Sierra Leonean refugees have moved into Vahun in Upper Lofa in Liberia but the new arrivals in Gueckedou in Guinea have not yet been registered. UNHCR has also facilitated the return of 3,500 Sierra Leonean refugees from Conakry to Sierra Leone.

This report is available on the internet through RELIEFWEB: http://www.reliefweb.int

Source: UN Office for the Coordination of Humanitarian Affairs
Date: 15 Jun 1998

Sierra Leone Humanitarian Situation Report, 22 May - 8 Jun 1998

REG. NO. 98/0058

This report has been prepared by the office of the United Nations Humanitarian Coordinator for Sierra Leone in Conakry, Guinea.

SECURITY

1. The security situation has continued to deteriorate as RUF/AFRC expands its presence throughout the North of Sierra Leone. Rebel attacks are now taking place as far west as Rogberi Junction, located between Port Loko and Lunsar towns and there has been rebel movement reported to the South of Kukuna in Kambia district. In other parts of the North, rebels continue to attack and burn villages and inflict atrocities an innocent civilians. On 23 May the RUF inflicted its most significant defeat on ECOMOG since the return of the democratically-elected Government when a group of about 150 rebels launched a well-coordinated attack on Fadugu, an ECOMOG-held village to the South of Kabala in Koinadugu district. ECOMOG were put to flight and sustained some casualties after which the rebels laid waste to the village. Ongoing insecurity is clearly having a negative impact on the ability of humanitarian agencies to access populations at risk.

2. One of ECOMOG's major constraints thus far has been a lack of logistical capacity. In an attempt to address this issue the USA has provided ECOMOG with the logistics and communication services of PAE, valued at USD 4 million.

HUMANITARIAN DEVELOPMENTS

3. The United Nations Under-Secretary-General for Humanitarian Affairs will visit Sierra Leone 10-13 June, 1998. The purpose of the mission is to assess the humanitarian situation in Sierra Leone and to draw the attention of the local and international community to outstanding areas of concern.

4. On 3 June an inter-agency mission comprising the UN Humanitarian Coordinator and representatives from NCRRR, UNICEF, WFP, UN-HACU, the Field Security Officer and Christian Extension Services conducted a rapid assessment of Koidu town in Kono district. This was the first time that the humanitarian community has visited Koidu since the ECOMOG intervention. The mission observed that Koidu town was completely destroyed and that security was tenuous.

The mission was unanimous in its conclusion that Koidu town was facing a serious humanitarian emergency, the scale of which was far more severe than any other area of Sierra Leone assessed since the return of the democratically-elected Government to power. The civilian population was clearly in distress. A large proportion of the children in the town were displaying visible signs of malnutrition and numerous individuals were afflicted with skin diseases associated with prolonged hiding in the bush. Medical facilities were non-existent with the exception of occasional treatment by ECOMOG or local doctors. Water and sanitation facilities were observed to be poor.

5. Local residents reported an influx of 38,000 displaced into Koidu town. While the mission was in no position to verify this figure, physical crowding of the urban environment was evident. Most houses contained 8-12 adults with children although some interviewees reported figures as high as 20 adults with children per household. Most of the shelters required roofing materials which is a cause of concern in light of the impending rainy season.

6. There are clearly immediate life-threatening circumstances in Koidu which must be immediately addressed to improve the condition of the civilian population. However, as Koidu is clearly in the war zone care must be taken to ensure that the delivery of humanitarian assistance does not contribute to the dynamics of the conflict. Discussions are currently ongoing within the humanitarian community to prepare a joint strategy to address the current situation in Koidu in the most effective manner.

7. During the period under review MSF and ICRC have conducted several one-day assessments by helicopter in the North-East of Sierra Leone. Areas visited include Alikalia and Kabala in Koinadugu district, Njaiama-Sewafe in Kono district and Masingbi in the East of Tonkolili district. These locations were chosen due to prior reports of an influx of war-wounded into these areas and the assessments focused primarily on providing assistance to these target groups. As a result, small quantities of dressings and medical supplies were delivered and small numbers of war-wounded were evacuated to Freetown. The most significant finding to emerge from these assessments is that access to healthcare remains a serious issue for many civilians living in the North-East. It is estimated that 20 percent of war-wounded are able to find their way to safety and that the majority remain in the bush for security reasons.

8. United Nations Agencies are in the process of preparing a Consolidated Inter-Agency Appeal for humanitarian assistance to Sierra Leone to cover the period from 1 March - 31 December, 1998. The document attempts to illustrate the following: the impact of humanitarian interventions during the period of the Flash Appeal (ie. March through May 1998), the impact of those activities planned and not implemented, the impact of those activities undertaken outside the framework of the Flash Appeal and planned activities for the June-December period covered by the new Appeal. The document also outlines changes in the humanitarian climate during the past three months. In this regard it highlights the precarious humanitarian plight of civilians in the North and the North-East in the wake of the ECOMOG offensive in these areas resulting in the exodus of over 150,000 refugees in Guinea and Liberia and extensive internal displacement.

FOOD AID

9. Relief trucks are now being commandeered by ECOMOG and the Civil Defence Force in Kambia and Makeni as well as in Bo and Kenema districts despite verbal assurances from the ECOMOG Force Commander and the Deputy Minister of Defence (and de facto head of the CDF) that such activities would cease. Commandeering of vehicles has hampered agencies' ability to deliver relief supplies as many transporters are reluctant to move around much of the country.

10. The Committee on Food Aid (CFA) has approved a joint Food for Agriculture strategy to guide agricultural interventions in 1998. The policy states that Food for Agriculture may be provided as a complement to inputs of seeds and tools to identified farm families and that farm families should normally not receive assistance for more than one planting season. Given the deterioration of security in the North during the past few months Food for Agriculture may be authorised on an exceptional basis to farmers who received inputs during 1997 but subsequently lost them through looting and destruction.

HEALTH

11. The influx of war-wounded into Connaught hospital in Freetown and the Government Hospital in Makeni continues to rise. In an effort to alleviate overcrowding at Connaught hospital ICRC has rented a private hospital to cope with a potential influx in the future. Several amputees have also been relocated to the clinic at Waterloo refugee camp on the outskirts of Freetown. Health facilities in Magburaka and Port Loko are being rehabilitated in a bid to alleviate the pressure on the overcrowded hospitals in Freetown.

12. The British Medical Research Council has reactivated five health centres to the North of Bo a process which has been supported by UNICEF through the consignment of drugs and surgical equipment. The second phase of the UNICEF-supported mass immunisation campaign in the Western Area is underway. The programme targets 100,000 children under the age of five and 50,000 women of child bearing age. Arrangements for similar campaigns in Bo and Kenema have been finalised.

CHILD PROTECTION

13. The Special Representative of the Secretary-General for Children and Armed Conflict visited Sierra Leone from 26-29th May, 1998 to assess the needs of children affected by conflict. The Special Representative managed to extract several commitments from the Government, ECOMOG and the Civil Defence Force as follows:

- The Civil Defence Force would stop recruiting and initiating children under the age of 18 and would begin the process of demobilising child combatants within their ranks.
- ECOMOG and the kamajors agreed to provide special protection to AFRC/RUF child combatants who come into their custody through surrender, capture or escape.
- In creating a new national army the Government agreed that children under the age of 18 would not be recruited and that the UN would help with the provision of training material on respect for civilians, particularly women and children.
- Parliamentarians agreed to create a caucus advocating the rights of children.
- It was agreed that a Joint Task Force be constituted, comprising representatives from ECOMOG, Civil Defence Force, Ministry of Social Welfare, Gender and Children's Affairs and international humanitarian agencies to establish and oversee a procedure for the demobilisation and reintegration of ex-combatants.

14. The Child Protection committee, which comprises representatives from Government, UN Agencies and NGOs, has coordinated the registration of 52 children associated with the fighting forces and 130 unaccompanied children in Daru and Segbwema in the East of Sierra Leone following recent assessment missions to this area. The children will continue to stay with foster parents until their families are traced. The registration team noted that though the number of unaccompanied children was not alarming, a large number of children were living with vulnerable families.

REFUGEES

15. UNHCR has launched a Flash Appeal for USD 7.3 million to meet the immediate protection and emergency needs of 255,000 Sierra Leonean refugees in Guinea and Liberia from March to December 1998. Since the start of the ECOMOG offensive in the East of Sierra Leone in March

1998, 182,000 new Sierra Leonean arrivals have been registered in Guinea and 55,000 in Liberia bringing the total caseload to 530,000 in these two countries. Although the influx of refugees into Liberia has ceased, the influx into Eastern Guinea continues with the result that UNHCR has added an additional 18,000 to the current caseload for planning purposes.

16. UNHCR raises several issues related to protection in the Appeal. In Guinea, refugees presumed to be AFRC/RUF combatants are arrested and taken to Conakry without UNHCR being given the opportunity to access these refugees to determine whether they should be excluded from UNHCR's mandate. In Liberia there are reports of 2,000 former AFRC/RUF combatants among the Sierra Leonean refugees arriving in Vahun. This is a source of concern as it is important that military elements are separated from the refugees to maintain the civilian character of refugee sites. UNHCR is currently in discussions with ECOMOG and the Government of Liberia over the involvement of ECOMOG in the physical separation of former combatants from the civilian refugee population.

17. The proximity of Vahun to areas of Sierra Leone still under AFRC/RUF control is another security concern to UNHCR. It is important to relocate these Sierra Leoneans to other areas before the onset of the rainy season, which will make transportation virtually impossible. However, the proposed relocation exercise is subject to two major constraints: first, UNHCR's truck fleet in the region is overstretched on account of the ongoing repatriation of Liberian refugees; second, many refugees in Vahun are reluctant to move away from the border due to ethnic affinity with the local population.

This report is available on the internet through RELIEFWEB: http://www.reliefweb.int

Source: UN Office for the Coordination of Humanitarian Affairs
Date: 30 Apr 1999

Sierra Leone Humanitarian Situation Report, Apr 1999

HIGHLIGHTS

1. Political developments

- Foday Sankoh begins consultations with RUF delegation in Togo
- Civil Society reach consensus on peace process
- Donors meet on humanitarian aid in Sierra Leone
- International Contact Group on Sierra Leone meet in New York
- UN Under-Secretary-General for Peace-Keeping briefs Security Council on situation in Sierra Leone

2. Security

- Little change over the last two weeks.
- Gradual gains by ECOMOG near Freetown.
- Fighting in Liberia and Guinea related to Sierra Leone.

3. Humanitarian Highlights

- Sectoral Updates
- A looming food crisis in Bo and Kenema threaten assistance programmes
- Health agencies tackle measles outbreak in different parts of the country
- New humanitarian challenges emerge
- Accessibility Profile of war-affected populations
- Resources

4. Refugees

- Voluntary Repatriation of Liberian refugees postponed

1. Political developments

Summary

Political developments during this period were dominated by preparations for the RUF internal consultations and possible subsequent peace negotiations between the RUF and the Government of Sierra Leone. A number of key issues have become focused on this

meeting, although it is not clear that all issues can be addressed. Humanitarian agencies and organizations have held several meetings to consider and highlight the role of humanitarian aid in the ongoing peace process, particularly the issue of gaining access to war-affected populations across the entire country.

RUF Internal Consultations in Togo, Lome

RUF in-house consultations began in Lome, Togo on 26 April, after a weeklong delay. Some 19 RUF members are said to be present at the discussions, which are aimed at formulating proposals for full-fledged peace negotiations with the government of President Tejan Kabbah. Conspicuously missing at the start of the talks were RUF Field commander Sam "Maskita" Bockarie and former Chairman of the AFRC Johnny Paul Koroma. During a BBC interview on 27 April, RUF Spokesman Omrie Golley denied reports of a possible split within the RUF, and stressed that the RUF was "strong and unified." Mr. Golley further stated that the RUF was ready to declare an immediate cease-fire under certain circumstances.

Meanwhile, as Sierra Leone marked its 38th anniversary on 27 April, President Tejan Kabbah told the nation that coups, counter-coups and the country's eight-year civil war had "taken a heavy toll on all aspects of life in this country." He called on the RUF to renounce violence and earn power through the ballot box. "Our message to the RUF rebels is that if indeed they are genuinely interested in peace, if indeed they want to rule, or if they want political power in any proportion, they must first secure the will of the people of Sierra Leone," he said. President Kabbah appeared to rule out any power-sharing arrangements ahead of elections. He said that if Sierra Leone found it necessary to make substantive changes to the constitution, "we will, as in other democracies, do so only with the consent of the people, and in accordance with the relevant provisions for amending that supreme document of the state."

Civil Society reach consensus on peace process

The President's views appeared consistent with his latest initiative to call a national consultative conference to elicit the views of civil society towards formulating a national consensus on the peace process. The conference, which was organized by the National Commission on Democracy and Human Rights (NCDHR) was held from 7 to 9 April and recommended the following:

- General amnesty to be granted to all combatants on the condition that those who are accused of committing serious offenses should face a Truth and Reconciliation Commission. At the same time a fund should be created to assist victims of Human Rights violations;

- Foday Sankoh to be freed only after he and members of his organization show a genuine commitment to peace. While the legal process should be suspended to

enable him meet members of his organization, his return to the country should be guaranteed and the full process of law completed before a state pardon.

- Rebels should release all abductees and withdraw from all economically viable areas which should revert to government control. This was presented as a precondition for government acceptance of a cease-fire.

- There should be no power-sharing outside that provided for in the Abidjan peace accord, which stated that the RUF should have access to the political process.

- International community should serve as moral guarantors to monitor any future peace agreement and at the same time provide logistical support for ECOMOG.

- any peace agreement is to be ratified by parliament before it is implemented.
- The recommendations of the meeting are not binding, but are viewed as an important source of ideas and legitimacy for the peace process.

Donor Initiatives

Consultation on Humanitarian Aid in Sierra Leone

At the end of March, ECHO organized a special consultation in Brussels to address the issues of humanitarian aid in Sierra Leone. The meeting aimed to create awareness at a political level about the serious humanitarian situation in Sierra Leone and to maintain close coordination among the key humanitarian players through exchange of information and views on humanitarian policy, orientations and priorities. Participants included 30 representatives of humanitarian agencies, nine EU Member states, Canada, Norway, USA and the European Commission. The organizers deemed the deliberations useful and constructive, leading to "a better identification of humanitarian concerns and priorities" and increased understanding between donors and humanitarian organizations. Noting that the restoration of 'humanitarian space' in Sierra Leone cannot be left to the sole responsibility of humanitarian organizations, donors agreed to support humanitarian considerations as an agenda item for future political negotiations between the GOSL and the RUF.

International Contact Group Meeting on Sierra Leone

The second meeting of the Sierra Leone International Contact Group was held at the UN building in New York on 19 April 1999. Mr. Tony Lloyd, Minister of State, Foreign and Commonwealth Office, UK, chaired the meeting. Participants included representatives of 22 countries, the UN, ECOWAS/ECOMOG, the EC, the Commonwealth, the World Bank, IMF, ICRC and the GOSL. The main objectives were to support the process of political dialogue and national reconciliation and to sustain, widen and help coordinate international assistance to the GOSL and to the ECOMOG forces working to restore peace and security.

Noting the serious developments since their last meeting in November 1998, participants confirmed their strong support for the twin-track approach to restoring peace and stability and pledged further support for the GOSL, ECOWAS/ECOMOG efforts towards this goal. The UK pledged a further £270,000 to support the security sector, while the US committed to double the extent of its financial and material support to the peace process, assuming security can be maintained. Other countries, including Argentina, Australia, Canada, China, France, Germany, Ireland, Italy, Japan, The Netherlands, New Zealand, Russia, Sweden and the European Commission reaffirmed existing pledges or provided new ones.

Addressing the meeting on the Humanitarian situation in the country, Mr. Kevin Kennedy, Chief, Emergency Liaison Branch, OCHA, noted that "the humanitarian community has grappled with, but never entirely achieved unhindered access to all areas of the country." He said the proposed peace process may present the opportunity to achieve this goal of humanitarian access and stressed the importance of promoting the humanitarian agenda during the deliberations in Togo.

The issue of humanitarian access in Sierra Leone was pursued further at the Inter-Agency Standing Committee (IASC) held in Rome from 22 to 23 April, which consists of high level United Nations and NGO representation. A Position Paper on negotiating humanitarian access prepared by UN-HACU with support from the international humanitarian community and UNOMSIL formed the primary basis of the discussions on Sierra Leone. The Paper, presented by the Humanitarian Coordinated and the Chief of UNHACU, details principles and possible mechanisms for obtaining unhindered humanitarian access to all areas of the country and provides a strategic framework for negotiating access with all parties. The comments provided by the meeting have been incorporated into the Paper, which will now be presented to members of the International Contact Group, the Government of Sierra Leone, and the rebel leaders.

UN Security Council Briefing on Sierra Leone

On 23 April, the Under-Secretary- General for Peacekeeping Operations, Mr. Bernard Miyet, briefed the Security Council on the situation in Sierra Leone. During the discussion, Council Members expressed unanimous support for the dual track process and commended ECOMOG for its role in the country. They welcomed the preparations for negotiations for the intra-RUF talks and the subsequent dialogue between the Government and the RUF. Council members also expressed their concern about the

humanitarian situation, in particular about the allegations on the recent killings in Songo as well as the RUF attacks at Mola in Guinea. Several members stated that they believed that illicit diamond and arms smuggling should be addressed through a tightened sanctions regime.

2. SECURITY

Summary

Little has changed in the overall security situation in the country in the last month. ECOMOG / CDF have slightly expanded their control of key areas near Freetown, but there have been no major exchanges of territory. This means that the security situation in the country continues to be highly fluid and unstable, and caution should be maintained by humanitarian staff at all times.

Freetown and the Western Area

The gradual extension of ECOMOG / CDF control outwards from Freetown has slightly improved the security of Freetown itself. ECOMOG forward positions are now reaching as far as Masiaka, where fighting has been taking place over the last two days for the control of the strategic town.

In Freetown, additional checkpoints have been introduced over the last two weeks, many of which are now being maintained by Sierra Leone Army units instead of ECOMOG. The curfew continues to be enforced from 18:00 to 07:00, and should be strictly observed. ECOMOG has been maintaining a higher level of activity around Lumley beach, and frequently enforce a clear zone in the area.

Following reports of fighting in Songo in the week ending 17 April, a United Nations team has visited the area twice. Destruction of property is considerable, and consistent with that suffered by other villages in the area (such as Newton). Songo and its surrounding villages were completely evacuated at the beginning of the year, and the area had no civilian presence at the time of the mission. Once IDPs return to the area, in common with other areas, considerable assistance will be needed from humanitarian agencies, subject to inter-agency assessments. Both missions were unable to find any evidence to support the reports in the press of large numbers of civilian deaths in the area. While it is believed that there were casualties, there was no available evidence of a 'massacre'.

Northern Province

Port Loko continues to be controlled by the Malian and Guinean contingents of ECOMOG, while the Guinean forces continue to hold their positions outside Kambia. Rogberi Junction is held by Nigerian ECOMOG troops. While there has been little change in the control of these areas, occasional encounters between ECOMOG and rebel forces continue to occur. The majority of the province continues to be inaccessible to

humanitarian agencies, although there is some passage of civilians to many areas in the North. Areas around Lungi and Port Loko can currently be reached. A recent CARE mission indicated that normality is returning to Port Loko town, and the surrounding villages. However, all offices in the town have been looted, and military forces are staying in most public buildings. A curfew is enforced from 18:00 to 08:00. Vehicles are using the road to Lungi on a regular basis, and ECOMOG has encouraged NGOs to return to the area. However, the commander requested a letter informing of NGO plans before arrival.

HACU staff in the area report that the situation in Kambia district is highly unstable, although there have been few incidents in the last two weeks. IDPs continue to be concentrated in chiefdoms to the East and West of Kambia town. Some commercial traffic has been reported passing between Port Loko and Kambia.

Eastern Province

CDF forces have been building up in the area of Bunumbu, North-East of Kenema. This has been part of continuing efforts to control the areas around Kenema, particularly the strategic diamond fields, and alleged RUF supply lines from Liberia. Daru continues to be isolated from Kenema, and Segbwema is still in the control of rebel forces. Fighting continues in the area, particularly in the villages around Bunumbu.

Southern Province

ECOMOG / CDF forces control the road from Bo to Mile 91, but have not yet succeeded in opening the road to Masiaka and Songo Junction. Five commercial trucks carrying rice and onions arrived in Bo, having encountered sporadic fire around the Bradford area.

Liberia / Guinea

On Wednesday 21st April, a joint WFP/UNHCR/Donor mission was temporarily detained by armed men in the early hours of the morning, from four different locations. This coincided with fighting between different factions of Liberian armed forces, and the transit of RUF leaders to Lomé. The Sierra Leone Humanitarian Helicopter was sent to Monrovia to assist in the evacuation of the mission, which interrupted regular services for a short time. The Liberian President, Charles Taylor, accused Guinean authorities of supporting 'incursion forces', and stated that Liberia would defend itself. The Guinea government indignantly rejected the charges.

A number of incursions by forces thought to be affiliated to AFRC / RUF rebels have successfully infiltrated Guinea in the Forecariah prefecture over the last two weeks. An attack on Moia on Monday 19th April resulted in two dead and eleven wounded. Residents of the town then attacked a Sierra Leonean refugee camp on the following day, accusing them of sheltering rebels in the area. The Guinean Army has again raised the level of security in the area following the attack. Additionally, reports continue to point to

occasional rebel incursions in Guinea near the Liberian border. Specific information is not currently available.

3. HUMANITARIAN HIGHLIGHTS

The humanitarian situation in Sierra Leone is likely to worsen in the next few months, as the regular 'rainy season' begins. This time of year, (May to November) is normally characterized as the "hungry season", as food stocks traditionally run low prior to the harvest at the end of the year. It arrives against the backdrop of a lingering and brutal conflict that has left large numbers of people destitute and lacking even basic abilities to cope with hardship. The devastating fighting in Freetown and other parts of the country in January caused considerable hardship and destruction which will continue to have an impact on the humanitarian situation throughout the rest of the year. The formal economy has virtually collapsed and business confidence remains at a low level. This impacts on the Government's ability to raise revenue to provide basic services. As the living situation of most Sierra Leoneans remains desperate, humanitarian agencies are anxious to provide basic emergency support in as many areas as possible. As peace negotiations get underway in Togo, it is crucial that humanitarian considerations are given a high profile. Additionally, consultations between humanitarian agencies and government continue on how to provide a secure environment in currently accessible areas. This follows considerable problems with commandeered humanitarian assets, and other forms of harassment by armed groups.

Sixty-day humanitarian Plan of Action ends - *progress made*

Against the background of the urgent needs following the January fighting, the Humanitarian Community, in consultation with the GOSL, developed a 60-Day Emergency Plan of Action in February to allow for international support of the efforts of Government and National humanitarian staff. The Plan benefited from improved security conditions in Freetown and surroundings, allowing the return of expatriate staff who relocated to Guinea in January. In March, programmes were expanded from western Freetown to central and eastern parts of the peninsula area. Despite uncertainties about the security situation and constraints including loss of relief assets, the response has been considerable in most sectors, including health, non-food relief items, food aid, WATSAN, child protection and human rights. NCRRR, with support from UNHACU, succeeded in reactivating many parts of the National Coordination Structure to effectively coordinate and harmonize response. (see figures III).

SECTORAL UPDATES

Health

UNICEF, WHO, MOHS and health NGOs have combined efforts to bring the health situation under control after a health emergency was declared in January. There are now 25 functional health centres in Freetown, in addition to eight mobile clinics. Another 22 centres are being reopened. Furthermore, all private and public hospitals in accessible areas have now been rehabilitated and are staffed with the support of UNICEF, WHO and

health NGOs. Health interventions during this reporting period were marked by the intensification of EPI activities to tackle outbreaks of communicable diseases, particularly measles. UNICEF, MOHS, MERLIN and MSF-Belgium have now completed measles immunization campaigns covering 45,723 children below the age of 12 in Bo and Kenema, and 20,802 in Freetown and the Western Area. A significant reduction in the number of children admitted to Kenema Pediatric Ward and Blama Measles Isolation Unit run by MERLIN is an indication that the outbreak is now under control. A cumulative total of 626 children were admitted in both units between mid February and end of March. By end April, new admissions were down to 80 in Kenema and 20 in Blama. MERLIN reported six deaths in these Units, indicating an effective treatment approach. British Medical Research Council (MRC) is operating in Bo North and has reported an outbreak of measles in the area, up to 60 cases and six deaths at the first assessment. Four of their mobile teams have begun operations in the area while 10 PHUs in the northern part of Bo are expected to start operations in the near future.

The MOHS reported about 19 measles cases in eastern Freetown this month. UNICEF is confident that good coverage achieved during the campaign in March will prevent any major outbreaks in the area. The measles campaign has ended in Bonthe district, with almost 100 per cent coverage of the target population.

With regard to the recent outbreak of chicken pox in Freetown, 135 cases had been registered by mid April. No case fatality resulting from the outbreak was reported. Health agencies report that the outbreak is being well managed and does not constitute a serious health concern at present.

Normal health programmes in all accessible areas are ongoing with increased support from UNICEF and WHO which are providing medical supplies and equipment as well as technical expertise to the MOHS and health NGOs.

In addition to support provided to health centres and clinics in Freetown, UNICEF has recently signed an agreement to assist more NGOs supporting health centres and mobile clinics in various areas of operation. In Bonthe district, WVI continues to support health activities in 11 clinics with drug supply from UNICEF for the next nine months.

In Bo and Kenema, health programmes are continuing unhindered. Some 25 PHUs are functioning in Bo with the support of MSF-B, UNICEF, ACF, MOHS and MRC. MSF-B has been able to send adequate drug supplies to Bo to sustain its mobile clinics and other health activities.

Assistance to amputees and war-wounded is ongoing with the efforts of Handicap International and other partners who provide occupational and psycho-social therapy. MSF-France is willing to assist with treatment of amputees when needed.

Nutrition:

On 22 April, the MOHS released its *Rapid Assessment of the Nutritional Status of Under-5 Children in IDP Camps in Freetown*. The report describes the nutritional status of

children in IDP camps as "seriously compromised" due to extreme food scarcity and high commodity prices affecting the country. One important conclusion of the assessment is that the presence of acute malnutrition in children of breast-feeding age (0-5 months) strongly indicates maternal malnutrition. Among other recommendations, it urges that all lactating internally displaced mothers be included in Supplementary Feeding Programmes.

Meanwhile, ACF continues nutritional programmes in its Therapeutic Feeding Centres in eastern Freetown with a caseload of 124 children as of mid April, an increase of almost 40 per cent in the last three weeks. It maintains three dry-ration Supplementary Feeding Centres in Calaba, Wellington and Kissy with weekly distributions to 1,025 moderately malnourished children. In December, ACF was operating five such centres in Freetown, with a caseload of 2,200. However, this current caseload of just over 1,000 does not reflect the true picture of those needing assistance. ACF believes that current needs exceed those of December, considering the higher levels of displacement and homelessness in the area. As people begin to return to their homes and to concentrate in selected camp locations, a more extensive survey of the nutritional status will become possible. In the meantime, ACF plans to extend its feeding programmes to more locations in affected areas so as to capture more of the moderately malnourished populations. Assessment of the Waterloo area is currently ongoing, with plans to start feeding programmes there.

In Bo, the number of children in ACF's TFC increased from 65 to 90 children in the first half of April. The increase could be partly explained by the outbreak of measles in Bo North and the current food crisis. The price of rice in the region has more than doubled in the last few weeks, from Le 35,000 to Le 80,000 per bag ($1=Le2,000). Supplementary feeding continues in four centres in Bo district, and one in Mattru town in Bonthe district. ACF plans to carry out a nutritional survey in Bo town in May.

NON-FOOD ITEMS

Status of Freetown IDP camps, April 1999

Table I:

Camp Site	Lead Agency	Status	Current Caseload
Parade Grounds	CORD-SL	Shelter construction completed. WATSAN facilities in place. MSF-B and OXFAM supplied NFI. Food distribution undertaken by WFP. EU is considering a project for the provision of mattresses.	767
National	CARE	Shelter construction completed;	

Workshop		work on roofing pending; scrap metal cleaning in progress. NFI distribution to family sizes completed by CARE; IRC considering the provision of educational materials for the displaced children;	
Trade Centre	EFSL	30 sheds completed, including kitchen; Multi-purpose shed under construction. Water is being provided by ACF	238 family heads
National Stadium	CCSL	Distribution of NFI completed: Distribution of two-week food ration completed on 22 April. Approval given to build 15 temporary booths.	1,904
Rokupa		No progress - problem of site layout unresolved.	Not available
Approved School	IIRO	20 out of 80 sheds completed; More than 10,000 IDPs from Koya and Waterloo have still not been registered.	Not available
Bailor Barrie	SLRCS	Food provided by WVI; Medical facility provided by SLRC	Not available
Pa Morlai Playing Field	CCSL (?)	On hold due to land dispute	Not available
Grafton	GOAL	15 of 94 sheds completed; ACF will be responsible for WATSAN activities	3,000
Waterloo Camp (old)/Town,	ADRA/SLRCS/CWW	ADRA Project for permanent shelter yet to be approved; clinics covering both sites; Food distribution ongoing;	20,000
Mandella Playing Field,	EFSL	Will be completed this week The problem of squatters persists	

Current Capacity

Action Aid: Received approval of their donors to transfer funds for traditional development areas of Wellington and Calaba Town towards the purchase and subsequent distribution of ten different non-food items in these areas;

CARE: Received additional non-food items including 200 rolls of plastic sheeting and

30,000 blankets;
MSF-B: Items available for immediate distribution to registered and verified IDPs include --10,000 aluminium pots; 10,000 each of plastic plates, spoons and cups; and 15,000 packets of laundry soap.
The NGO *OREINT* has announced the availability of NFIs which will support about 1000 IDPs.
UN-OCHA: Arrived in Freetown: 90 rolls plastic sheeting; 27 cartons of nylon ropes; 84 bales of blankets; 30 community kitchen sets; 5x5000 litre water tanks; and 3,050 jerry cans

FOOD AID

During April, WFP distributed a total of 641 Mts of assorted food rations to 82,386 beneficiaries in Freetown, Lungi, Kenema, and Blama. No food distribution has been possible in Kambia, which has been inaccessible since the attack on Pamelap in March. (see figure 4). Distributions in Freetown are being undertaken as populations at the various approved and unapproved sites are registered and verified. Registration has been completed in 22 unauthorized IDP locations in the city, with a caseload of 6,630 who have received monthly food rations. IDPs at the National Stadium received rations from CRS, who also fed 9,994 in Waterloo town. In Kenema, WFP provided two-week rations to 32,836 IDPs, as well as 14,256 IDPs in Blama. An additional 3,970 IDPs in Gofor about 5 km outside Kenema town also received two-week rations. WFP has run out of food in Kenema, but reserved sufficient stocks for institutional feeding programmes until end of May. In Bo, 6,706 IDPs in camps received monthly food rations on 25 April. The distribution did not target some 3,000 IDPs integrated into the host population. Food agencies are reserving remaining stocks for targeted feeding programmes.

Table II:

WFP FOOD DISTRIBUTIONS - APRIL 1999 (01 - 25 April 1999)

Distribution Point	Partner	Programme	Ration Days	Case Load Pop	Cereal	Pulses	Veg. Oil	CSB	TOTAL Metric Tonnes
Freetown	WFP/SLRCS/IIRO/CMSL	IDPS-VGF	30	7,397	67	0	6	28	101
	WFP/WCSL	Institutional-VGF	30	1,500	14	0	2	6	22
	WFP/OHDRA	Disable-VGF	30	2,615	24	0	2	10	36
	WFP/UNHCR	Liberian Refugees	30	3,649	22	0	3	0	25
	WFP/SLRCS	Institutional	30	2,240	1	0		1	2
Lungi	WFP/CMSL	Institutional	30	663	5	0	1	3	9
Freetown Sub-Total				18,064	133	0	14	48	195
Bo	WFP/ADDO/CCSL	IDPS	30	6,706	60	0	4	25	89

	WFP/SLRCS	Liberian Refugees	30	1,658	10	0	1		11
Bo Institutional	WFP/Hospital/ ADDO/CCSL	Institutional	15	572	1	0	0	2	3
Bo Sub-Total				8,936	71	0	5	27	103
Kenema Town	WFP/KDDF	Liberian Refugees	30	2,661	16	0	2	0	18
Kenema - Camps	WFP/KDDF/MCSL	IDPs	15	32,836	148	28	12	0	188
Kenema - Blama	WFP/KDDF	IDPs	15	14,256	64	13	5	0	82
Kenema - (Gofor & Town IDPs)	WFP/KDDF	IDPs	14	3,970	18	7	2	0	27
Kenema - Orphanage	Ben Hirsh	VGF	60	153	3	1	0	0	4
Kenema - TFP/SFP	MERLIN	VGF	30	3,510	30	0	2	0	32
Kenema Sub-Total				57,386	279	49	23	0	351
GRAND TOTAL				84,386	483	49	42	75	649

Current Capacities
WFP: approximately 6,000 mts in-country and in sub-region
CARE: 7,700 mt in Freetown and the sub-region
CRS: 7,300 mt in-country and sub-region
WVI 1,800 mt in-country, another 7,000 mt arriving in sub-region

WATSAN

Water trucking, well rehabilitation/chlorination and waste management activities in most IDPs sites have reduced the incidence of water-borne diseases such as cholera and diarrhea. As the peak of the cholera season approaches, UNICEF and its partners have drawn up a Cholera Preparedness Plan for Freetown and surrounding areas. Fortnightly chlorination of community wells in Wellington and Calaba town has commenced and a training programme on chlorination has been developed for over 1,500 well owners. UNICEF presently has 9.5 Mts of chlorine in stock and is distributing to NGOs for their chlorination programmes.

UNICEF has also provided 2,000 sachets of ORS to be distributed to about 200 Blue Flag Volunteers during their cholera sensitization campaign in depressed communities. A further 2,000 sachets of ORS and a drum of chlorine was supplied to MSF-H for use in the Kambia district IDP camps.

UNICEF has launched a weekly radio/TV social mobilization campaign on hygiene education and cholera preparedness and prevention, and is supporting the Animated Area

Development Committee, which covers 27 communities in eastern Freetown with fuel and chlorine for the de-watering/cleaning and chlorination of wells.

ACF, MSF-B, and OXFAM are assisting with WATSAN activities in Waterloo town and IDP camps in Bo, Kenema, and Blama. In Waterloo, ACF provided a 95,000-litre water tank for immediate installation. In Blama, two wells have been constructed to meet the needs of the health centre and the IDPs at the camp. At the Splendid camp/cholera camp in Bo, OXFAM and MSF-B completed rehabilitation and chlorination of five wells. OXFAM and CARE conducted a two-day hygiene promotion seminar for 49 IDPs representing all the camps in Bo. WATSAN activities in Bonthe district are being managed by World Vision, which has completed the construction and rehabilitation of wells in the area.

Education

In Freetown, UNICEF reactivated the Education Coordination Committee to address emergency needs in the sector. Action Aid will rebuild eight schools which were burned down, while the Catholic Relief Services (CRS) will extend health facilities to schools and support the non-formal education programme. UNICEF will rehabilitate 15 partly damaged schools and provide essential school materials. It has also donated school materials to the school for orphans at Kissy and IDP camp schools in Bo.

All educational institutions in Bo have now re-opened with the exception of the Government (boarding) Secondary School which is currently facing food shortages caused by the closure of the Freetown-Bo highway. UNICEF has provided school materials for most of the schools. Schools remain closed in Kenema district where most facilities continue to be occupied by IDPs. Parents are putting pressure on local authorities to relocate the IDPs. Up to 179 booths need to be constructed at the Kenema Lebanese camp for the relocation of IDPs occupying educational institutions. However, most agencies do not currently have the capacity to address the situation. Local authorities are continuing to seek ways to address the matter, and the relief community is considering moving some shelter materials from Freetown to Kenema.

Child Protection

As of mid April, UNICEF documented a cumulative total of 3,268 missing children in Freetown, out of which 356 have been found. Of the 204 separated children, 153 have been reunified, as well as the 92 released by ECOMOG and the RUF. UNICEF and partners are following up on their well being through regular visits and provision of counseling services. Some 150 counselors have been trained to offer counseling to both unaccompanied children and those released by armed groups. UNICEF also supported the Italian NGO COOPI in the establishment of the Holy Mary clinic in Wellington. The clinic is expected to provide medical and counseling services to the affected children. ECOMOG continues to release captured and surrendered child combatants to UNICEF.

A special coordinating committee has been established to provide assistance to sexually abused women and children, to provide medical and psychosocial counseling.

The Irish NGO, GOAL is operating mobile clinics to serve street children in Freetown. The Organization plans to collaborate with the three existing centres for street children.

Refugees

UNHCR has continued to provide assistance to some 480,000 Sierra Leonean refugees in neighboring countries. The repatriation exercise for Liberian refugees in Sierra Leone has been suspended in order to undertake a re-registration exercise to determine the exact numbers willing to be repatriated. From 8 March to 13 April, UNHCR succeeded in repatriating 694 of the refugees. They are currently providing relief assistance to a caseload of 3,690 refugees in the Freetown area.

Logistics

The Humanitarian Helicopter funded by the US, ECHO and the Government of Norway has continued to operate flights between Conakry, Freetown and Kenema. According to WFP which manages the helicopter, during the first 60 days of operation (February to April), the helicopter covered 98 flying hours, carried 1,069 passengers and lifted 37 Mts of cargo to operational areas of 11 agencies. The helicopter will be out of regular service for routine maintenance between the 1st and 3rd of May.

Agriculture

The food shortage in the East and South, combined with the tremendous pressure caused by the poor security situation and large numbers of displaced, has considerably increased the demand for agricultural inputs. Some 143 bushels of rice distributed by CRS, AFRICARE, SLRC and MAFE have all been consumed by IDPs who say they have run out of food and that farming land is not safe from rebels. The same situation applies in some areas of the Southern Province. Ongoing food security assessments are required to ensure swift response to needy areas.

On 12 April, the SLRCS donated Le 16 million worth of vegetable seeds to the Ministry of Agriculture to support farmers in the Western Area. This package was initially meant for the northern and eastern provinces, but was diverted due to the limited access to these areas.

NEW CHALLENGES

Yele/Mondema: A recent assessment of humanitarian agencies indicate emergency needs in Yele where 5,743 IDPs have been registered. An additional 3,000 displaced are estimated to be staying in villages just outside the town. Priority needs include food, household units, health services, water, health education, WATSAN, and agricultural

input. Insecurity in the area is preventing comprehensive assessments at this time. Also at the town of Mondema there are 9,489 IDPs reported.

Waterloo: About 20,000 IDPs are now living in Waterloo, spread between the old IDP camp, the Post Office Community Centre and surrounding villages. The IDPs at the old camp have been registered and food distribution is expected to begin soon. A caseload of 9,994 residing in make-shift camps at the community centre received two-week food rations from CRS at the end of April. Toilet facilities and water sources remain a big problem, and the camp area must be viewed as temporary. ECOMOG forces are still occupying the health centre. The Sierra Leone Red Cross Society (SLRCS) will support CRS in providing plastic sheeting and blankets. ACF will assist with WATSAN needs. ECOMOG has assured agencies that the area is now secure for operations, although regular access is not always possible.

Port Loko: The rebel attack on Port Loko town in late December led to the suspension of all relief activities by CARE, SLRCS, CARITAS, WVI, ADRA and Action AID. Although the town has been under the control of Guinean ECOMOG troops since January, the security situation along the Lungi - Port Loko route remained unclear for some time, preventing the return of aid workers and an assessment of the area until recently. A recent assessment of the town by a number of agencies indicate that the market is functioning and a few shops have re-opened. NGOs plan to restart activities in the town and nearby communities as soon as possible. CARE expects to resume normal project activities by June while the NGO *CAP ANAMUR* has sent drug supplies to the children's hospital and Port Loko hospital where patients are beginning to return. Children's Aid Direct has stocked a substantial quantity of drugs which will be airlifted to Lungi for health services in the Port Loko District. As the damage to relief assets and public property is considerable, relief efforts at the initial stage cannot be full-scale.

Kambia: Aid workers who fled to remote villages in Kambia district during the March attack on Pamelap, have managed to reach Forecariah and report large concentrations of displaced populations in the villages of Funkdeh, Kabaya and Milaia north-east of Pamelap. Exact numbers of the displaced were not available at the time of reporting but estimates are in the tens of thousands. Most of the displaced are said be living in congested shelter situations. Some of them appear to be moving to settlements along the Pamelap-Gbalamuya route in search of better shelter, as the rainy season approaches. Security in Kambia town continues to be fluid, preventing the return of the displaced and the re-establishment of relief programmes. MSF-H national staff continue to visit Samu Chiefdom where large numbers of IDPs have been reported.

'Displaced' NGOs from most of the northern districts are setting up offices in Forecariah with a view to assisting UNHCR in the refugee camps and assisting IDPs in nearby villages. CARITAS plans to undertake child protection activities in all the refugee camps in Forecariah as well as care for some 150 unaccompanied children, 51 of whom are an earlier caseload from Kambia. The rest are from Kalia, Dakhagbe and Faramoria refugee camps. They have secured permission from the Guinean authorities to operate a mobile clinic in areas around Gbalamuya to provide basic medical services for the displaced.

Action Aid is planning WATSAN, health education, reconciliation and trauma healing programmes in some of the refugee camps in Forecariah.

HUMANITARIAN ACCESS IN SIERRA LEONE

Humanitarian response to the country's emergency continues to be defined by the issue of access to war-affected populations trapped in large sections of the country. The northern districts of Bombali, Koinadugu, Kambia, Tonkolili and Port Loko, home to approximately 1.6 **million** people, have been **inaccessible** to humanitarian agencies for sustained periods of time. Similarly, more than 60 per cent of the population normally residing in the eastern province is beyond the reach of relief aid. All told, at least 55 **per cent** (2.6 **million**) of the total Sierra Leone population residing in conflict-affected parts of the country are presently out of reach of humanitarian agencies (*See figures 1 and 2 -- Accessibility Profile*). Given the fact that the Sierra Leone civil war has been fought with absolute disregard for human rights and humanitarian principles, it could be safely assumed that majority of these populations have been chronically affected by the fighting, and thus require emergency health, food aid, shelter and non-food assistance.

As far as is known at this stage, the populations of major towns in these districts have fled to villages ranging up to 15 miles distance from the centre of town. Although their situation has not been assessed for sometime, it is evident from the few who manage to escape to safer havens that humanitarian conditions are desperate. One example is the fact that 95 per cent of the measles cases that hit Kenema and Blama in February, originated from Kailahun and Kono districts, parts of which have not been accessible for relief activities and other basic services for several years. Recent reports of outbreaks of measles and meningitis in Kabala (Koinadugu district), are a further indication of the crisis at hand as this area, though controlled by ECOMOG does not indicate a safe environment for restarting relief operations.

In the more accessible government-controlled areas where some 2 million people reside, and where humanitarian agencies are providing emergency services to just over 120,000 beneficiaries, insecurity on the roads, and sometimes in the main towns makes it difficult for agencies to operate. This is most evident in Bo and Kenema where a declining food security situation requires emergency support. Although food aid agencies are actively seeking ways to replenish stocks in the regions, initial attempts to assess an alternative route via the Nitti Port revealed logistical and security difficulties that may take weeks to resolve. In newly accessed areas, prevailing insecurity along those routes also prevent timely intervention. For several weeks, displaced populations, believed to be moving from the Masingbi/Magburaka axis have been trapped in Yele, Tonkolili district, and in Mondema and Barma Konta in Kenema district without adequate relief assistance.

It should be noted that at present, humanitarian agencies are unable to move substantial quantities of relief goods to any part of the country but Freetown.

10291

Table iii: POPULATION ACCESSIBILITY PROFILE IN SIERRA LEONE - APRIL 1999

Region	1997 POP EST.	IDPs as at December 98	Total IDPs Accessed since January 99	Total Pop Accessed	Total Pop Inaccessible	% Pop Inaccessible	Operational Agencies at Present
North Total	1,629,791	175,041	17,743	166,879	1,462,912	89.76%	
Bombali	428934	44257	Unknown	0	428934	100.00%	None
Koinadugu	229133	48000	Unknown	0	229133	100.00%	None
Kambia	238376	11142	12,000 relocated to the border area of Guinea	12,000 (accessible from Guinea)	226376	94.97%	CARITAS - Makeni
Tonkolili	311788	62236	5743 (Yele Town)	43171	268617	86.15%	None
Port Loko	421560	9406	Unknown	111708	309852	73.50%	OXFAM, WFP, KAP ANAMUR, CARE, CAD
South Total	973,145	2,680	10,558	924,718	48,427	4.98%	
Bo	362706	Not Available (NA)	10,558 (Bo Town)	362706	0	0.00%	WFP, OXFAM,CARE, WVI, ACF,MSF B, UNICEF, CRS, ADDO, MAFE, MOHS, MRC, AFRICARE,
Bonthe	131259	NA	NA	131259	0	0.00%	WVI,SLRCS,CARE,APEGS,MAFE,MOHS

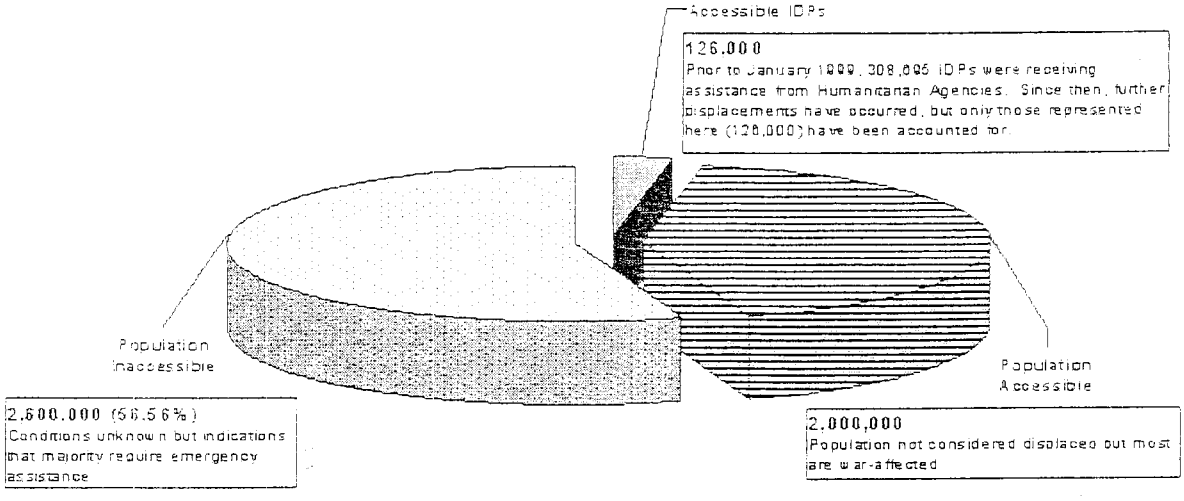
1040

Pujehun	153512	NA	NA	153512	0	0.00%	WVI, ACF, MSF-B, AFRICARE, Bo-Pujehun RDP, CRS, ICRC, SLRCS PUDDRA, WFP, MOHS
Moyamba	325668	2680	Unknown	277241	48427	14.87%	None
East Total	**1,277,745**	**118,882**	**47,042**	**187,039**	**1,090,706**	**85.36%**	
Kenema	471877	44587	47,042 (Kenema Town & Blama)	187039	284838	60.36%	WFP, OXFAM,CARE, WVI, ACF, UNICEF, CRS, KDDO, MAFE, MOHS,AFRICARE, MERLIN
Kailahun	299314	26442	Unknown	Nil	299314	100.00%	None
Kono	506554	47853	Unknown	Nil	506554	100.00%	None
West Area & Freetown Total	**719,566**	**12,092**	* 50,923	**719,566**	**0**	**0.00%**	WFP, OXFAM, CARE, WVI, ACF, UNICEF, CRS, MOHS, AFRICARE, MERLIN, SLRCS, ARD, CCSL, EFSL, MSF-B, MSF-F, IRO, EFSL, CORD-SL, ADRA, COOPI, GOAL, ARD, A. Aid, CAUSE Canada, ORIENT, CAD
**Freetown	601313	Nil	*31,811	601313	Nil	0.00%	
Mountain	4298	Nil	Nil	4298	Nil	0.00%	
Waterloo	67659	12092	19112	67659	Nil	0.00%	
York	29310	Nil	Nil	29310	Nil	0.00%	
Koya	16986	Unknown	Unknown	16986	NA	0.00%	
Total	4,600,247	308,695	126,266	1,998,202	2,602,045	56.56%	

NOTE: *Numbers represent war-affected populations residing at IDP camp sites approved by the Government. It is believed that at least another 100,000 war-affected people are residing with families and friends in the city and surrounding towns.

Figures are based on 1997 population estimates and the UNHACU IDP database. The numbers will change as more information becomes available.

Figure I: Population Accessibility Profile in Sierra Leone



Resources

Most of the activities undertaken under the Plan of Action were executed with existing funds of humanitarian agencies. As the peace negotiations open up new prospects for greater access to populations in need, agencies will require new funding to meet 1999 needs. The UN Consolidated Appeal for 1999 requested $27.9 million, but so far, only about five million has been forthcoming from donors. (see Table IV below)

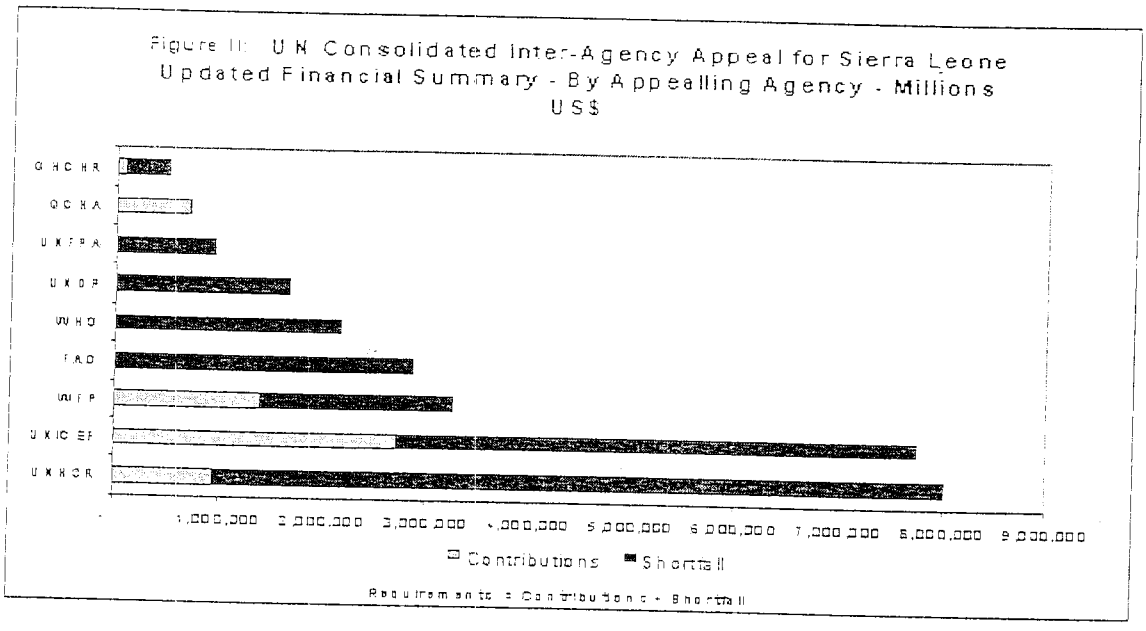
Table IV:

Funding to the 1999 UN Consolidated Inter - Agency Appeal for Sierra Leone
Summary of Requirements and Contributions - by Appealing Agencies as of 16 April 1999

Compiled by OCHA on the basis of the information provided by the respective Appealing Agencies

Appealing Agency	Appeal Requirements	Contributions	Shortfall	% of Request Covered
UNHCR	8,024,800	940,370	7,084,430	11.7%
UNICEF	7,750,000	2,712,190	5,037,810	35.0%
WFP	3,260,786	1,394,068	1,866,718	42.8%
FAO	2,883,000	-	2,883,000	0.0%
WHO	2,166,110	-	2,166,110	0.0%
UNDP	1,676,000	-	1,676,000	0.0%
UNFPA	950,000	-	950,000	0.0%
OCHA	713,600	694,805	18,795	97.4%

OHCHR	500,000	64,935	435,065	13.0%
GRAND TOTAL	27,924,296	5,806,368	22,117,928	20.8%



New Appointments

Ms. Joanna Van Gerpen has been appointed Special UNICEF Representative to Sierra Leone. She resumed work in Freetown on 7 April.

The UN Resident /Humanitarian Coordinator, Ms. Elizabeth Lwanga, has ended her in Sierra Leone after nearly five years service. Mr. Kingsley Amaning, current Representative of UNHCR has been appointed interim Resident/Humanitarian Coordinator and Designated Official for security.

American Dr. William Aldis has replaced Dr. Nsu-Milang as WHO Representative for Sierra Leone.

Figure III: National Humanitarian Coordination Structure

Please send comments and/or contributions to:

Ahunna Eziakonwa, Humanitarian Affairs Officer (information), UN-HACU, Sierra Leone
aeziaki@hotmail.com

United Nations Office for the Coordination of Humanitrian Affairs
Humanitarian Assistance Coordination Unit for Sierra Leone

United Nations House, 43 Siaka Stevens Street, P.O. Box 1011, Freetown, Sierra Leone
Tel: +232-22-227764, Fax: +232-22-228720, Email: rpainter@sierratel.sl

ReliefWeb Email this document

Source: UN Office for the Coordination of Humanitarian Affairs (OCHA)
Date: 9 Oct 1999

Sierra Leone Humanitarian Situation Report: 03 - 09 Oct 1999

1. Political Developments

The return of Chairman Foday Sankoh and Major Johnny Paul Koroma continues to improve prospects for peace in the country. Since their arrival in Freetown on October 3rd the RUF/AFRC leaders have been visiting civil society groups, IDP camps, DDR campsites and others. They are expected to work closely with the GOSL in the formation of a Government of National Unity. They are also making plans to visit their various locations to further sensitize their men on the DDR programme. Addressing about 800 people including some ex-combatants at Lungi on October 8, Chairman Sankoh said he had moved from guerrilla warfare to political warfare. He urged the ex-combatants to ask the forgiveness of all Sierra Leoneans and to do something positive for the country.

The UN Security Council is currently meeting to discuss the peacekeeping force for Sierra Leone, and is likely to adopt a resolution before the end of the month.

In other developments, Britain has notified the UN Security Council Sanctions Committee that it will be exporting live ammunitions and military equipment to Sierra Leone for use by the new military. The shipment includes 4.5million pounds promised by Britain to help re-train the Sierra Leone army. Some 5.5 million pounds has already been paid directly to ECOMOG.

On October 5, the Government, with the support of Britain's Department for International Development (DFID) held an anti-corruption workshop as part of the on-going effort to eradicate corruption in the public services. Participants included cabinet ministers, senior government officials and RUF/ AFRC leaders Chairman Foday Sankoh and Major Johnny Paul Koroma. Presidential spokesman Septimus Kaikai reported that the workshop focused on three main areas: Prevention, Enforcement and Education. Mr. Kaikai also reported that an anti-corruption bill was before Parliament. When enacted, the Bill will provide the legal basis for establishing an anti-corruption commission.

2. SECURITY

The security situation has not significantly improved since in the last week. On October 4, it was reported that rebels on the Masiaka - Mile 91 highway, attacked a Sierra Leone Road Transport bus bound for Kenema. The bus was reportedly stopped at a checkpoint five miles to Masiaka on the Freetown highway. According to the report, all the commuters were ordered to disembark while the band of armed men stripped them of all they had, and abandoned the bus at a nearby bush-path. Human Rights Watch interviewed some of the passengers on the bus who confirmed that some of the girls had been raped. One pregnant woman reportedly aborted after suffering physical abuse by the captors. Such abuses are said to be on the increase in the northern region. The RUF/AFRC have blamed bandits for the incident.

These security incidents are hindering access to RUF/AFRC-controlled areas, particularly in the north. Concern Worldwide (CW) which has been attempting to re-start relief activities on the Magburuka - Matotoka axis, reports that it has been prevented from moving into the area by RUF/AFRC Commanders who are demanding that food be distributed in their district. According to CW, travel to Matotoka is not possible at the moment. Terrorism in villages around Magburaka and Matotoka is on the rise. Residents are forced to give food to the Paramount Chief who in turn gives to the armed combatants. Sometimes, the rebels go directly to the farmers for food, causing them to be doubly taxed. OSM officials in the area are reportedly afraid of the commanders, all of whom seem to be at the same level of command. UNOMSIL has been informed and is looking into the matter.

Makeni residents reportedly went into a panic when shooting broke out in parts of the town on 3rd October over a period of three hours. The Bishop of Makeni, Bishop Biguzzi (who was on a visit to the town) was prevented from leaving the town until the situation was brought under control. He reported that a meeting between the RUF and AFRC led to a resolution of the situation.

There are also persistent reports of armed groups attacking civilians (seizing properties, demanding

money and beating civilians) in villages in the Kambia district. The harassment has reportedly led civilians (some of them just returning from refugee camps in Guinea) to flee these villages and head back to the refugee camps or to settle in villages very close to the border with Guinea. The security situation in Port Loko district is also of concern. An aid agency working in the district reported some difficulty in the implementation of its programme due to the fragile security situation in the district. Groups of the AFRC are reported to be harassing civilians along the Port Loko - Lungi road and also at Loko Masama. Rape cases were also reported in this area.

In the Western Area, there are continuing reports of armed robbery attempts and the harassment of civilians by unidentified groups of young men suspected to be ex-combatants. According to UNOMSIL, there are reports of weapons being smuggled into the city.

The security situation in the southern region remains calm. However, elements of the CDF in the Bumpeh area continue to pose threats to the security of the people in the town. According to aid workers, these individuals are harassing innocent civilians. They confirmed that CDF personnel shot a pregnant woman dead on suspicion that she was having an affair with another man. The matter is under Police investigation. The peace-building and reconciliation committee and NCRRR are also following up on the issue.

3. Humanitarian Highlights

Inter-Agency Assessment Mission to Kailahun District

Following the inter-agency assessment mission to Kailahun District last week, WFP and other relevant agencies are beginning to take some practical steps to address some of the urgent needs. A detailed report of the mission is attached.

Health

The main health event during this period was the start of National Immunization Days (NIDs) on October 9, aimed at eradicating polio in Sierra Leone. Some 800,000 children under five are targeted for immunization countrywide. The whole of the southern region and parts of the northern and eastern regions were covered in this first phase. WHO, UNICEF and Rotary International, are the main supporters of the government in mounting the campaign. Their goal is to reach the entire country by the end of the third round. UNICEF and WHO reported that the first round got off to a good start as parents turned up in their numbers to immunize their children. In Freetown, President Ahmed Tejan Kabbah immunized the first child to kick-off the occasion. Over 5,000 children were reported to have been immunized by noon on the first day.

The programme was also undertaken in the RUF/AFRC-held northern towns of Makeni, Kabala, Kambia, Kono and Port Loko. Despite the overall success thus far, there have been a number of hitches. On 7 October, a scheduled helicopter flight to deliver vaccines to Makeni for the programme had to be cancelled, as there was no clear approval from the RUF/AFRC commanders for the helicopter to land. An assessment was made of the situation based on information from a number of sources (NGOS, UNOMSIL, ECOMOG) which led to the decision that at that time, it was not advisable to proceed to Makeni. The organizers managed to provide alternative means of transporting the supplies to the town. A serious security incident occurred during the exercise in the eastern town of Segbwema. Six MOHS staff members and NID volunteers have been missing since 9 October, and their abandoned vehicle has been found. Contacts have been made and negotiations are ongoing to secure their release.

It is hoped that by the end of the programme, at least 70% of the target group would have been covered. Community Health Organizations (CHOs), nurses and other health staff/volunteers have been fully trained for the programme. Intensive sensitization and awareness building programmes are being carried out throughout the country. The 2nd and 3rd phases will be undertaken on November 6th and December 11th .

Reported cholera cases in the Western Area have now increased to 927 cases with 9 cholera related deaths. There were however no new cases reported at the IDP camps. Efforts continue on all sides to combat the outbreak (See SITREP 23-30 September 1999). In Port Loko District, the District Medical Officer confirmed 40 cholera-related deaths during the month of September. Some 400 cases are currently being treated at the health center.

During the past week, a seven-year old died of measles at the METCHEM section of the National

Workshop Camp in Freetown. An outbreak of measles is also reported at the Approved school camp. Concern Worldwide is handling the situation at its camp clinic.

The MOHS has announced the start of the Cost Recovery Program as of October 1, 1999 in all areas, with the exception of Kono, Kailahun and the displaced camps. The outpatient Units in Magburaka, Kambia, Port Loko and Makeni are now operational. Malnutrition cases are the most prominent in these locations.

Food Aid

During the past week, WFP served 12,885 IDPs in all camps in Bo and 777 IDPs with host population at Mandu in the Bo North cluster. CRS also provided food for 4,273 beneficiaries in TFCs, SFCs and institutional programmes. At the Songo-Masiaka axis, WFP, ACF, ADRA carried out food distributions to 5,957 persons. These distributions will be followed by a distribution to 3,130 beneficiaries at villages between Masiaka - Makeni. Also, food pipeline agencies are soon to complete the third month of Food-For-Agriculture in their areas of operation.

As more areas of the country are accessed, the collective resources of food aid agencies will be insufficient to address increasing needs. There are reports of continuing food shortages in many areas in the north, including Fadugu and Kabala. The food situation in Makeni (in spite of the last distribution) is said to be getting bad. Some agencies have recommended a second distribution to avoid further deterioration.

CARE, WFP and CRS provided 3,946 mt of food aid to 276,190 IDPs and war-affected populations during the month of September. At the time of writing, WVI figures were not available.

Food Distribution - September 1999

Food Pipeline Agency	Population Served	Bulger	Oil	Lentils	CSB	Others	Total (mts)
CARE	60,531	558	48	221	-	-	827
CRS	87,873	619	63	255	57	-	994
WFP	106,013	637	48	325	83	745	1,838
WFP Partners	21,773						287
Grand Total	**276,190**	**1,814**	**159**	**801**	**140**	**745**	**3,946**

Nutrition

MERLIN reported an increase in the cases of malnutrition in Kenema town, IDP camps and in some chiefdoms within the district. They reported a total caseload of 411 and 176 severely malnourished cases in Kenema and Blama respectively. MERLIN is in the process of handing over its supplementary feeding caseload to GOAL. They are working closely with GOAL and CRS to address the nutritional problem in the area, through a joint distribution/ screening exercise planned for all under 5s in Kenema. This will be undertaken in a few weeks.

Agriculture

In an effort to strengthen the existing coordination mechanism in the agriculture sector, FAO, in collaboration with MAFE and the Ministry of Fisheries and Marine Resources (MFMR), has embarked on the production of a monthly newsletter called AGRISIL. The first edition has just been distributed to partners. The monthly newsletter will attempt to highlight agricultural relief and rehabilitation activities carried out by the government, UN Agencies, International Organizations and NGOs in Sierra Leone. It is expected that AGRISIL will serve as a medium of information exchange among agencies in the agriculture sector.

Celebrations for the *World Food Day* are underway. FAO, in collaboration with MAFE, other agencies and farmers associations in the Western Area, has lined up activities to mark the day on October 16. "Youth against Hunger" has been selected as the theme for this year's celebrations, to highlight the potential contribution of young men and women in achieving food security for all.

FAO has in principle, agreed to provide US**$6,000** to fund the needs assessment survey referred to in

SITREP 23-30 September. It is expected that the exercise will guide stakeholders in the agriculture sector to better plan for the year 2000.

Distribution for the last phase of the planting season is still in progress. FAO, MAFE and NGOs are currently distributing seed rice, vegetable seeds, tools, groundnut and sweet potatoes to 8000 Farm Families. MAFE recently concluded the distribution of 1.3 Mt of vegetable seeds to Farm Families in the entire country. It is expected that at the end of October 1999, agencies will make their input distribution reports available to the NGO Desk and HACU for collation and analysis.

Finally, a tools selection-clearing house has been established within the Ministry of Agriculture to help NGOs and other interested organizations to select the right tools for their beneficiaries.

IDP Update

There was no significant change in IDP figures during this period. Registration done at Lunsar town for VGF distribution revealed a total of 30,616 war-affected persons (not encamped).

Water and Sanitation

ACF has constructed 4 (4 x 4) latrine structures on Kendeyella site 1 camp in Bo. These are now in use by 750 IDPs. The following is being done on site 2 by ACF:- 12 x 4 squat blocks of latrine pits dug; 6 x 4 squat blocks of latrine foundations cast. Latrines are expected to serve up to 6,000 IDPs. The first phase of sensitization on hygiene promotion at site 1 has commenced. At Splendid and Kendeyella camps, ACF also completed general spraying of latrines and drainage at Splendid, Lebanese and Kendeyella camps. At Splendid, 7 latrine blocks have collapsed and have been closed. ACF is also engaged in dismantling old latrines at the former Tikonko road camp, and has completed the construction of 1 x 4 squat block latrine at Yele. Another 2 x 2 block of VIP latrines has been completed at Yele for the community health center. ACF intends to provide additional ones once space is available. CARE has completed one latrine at the Lebanese camp to complement the existing ones that are expected to serve 1,131 IDPs.

OXFAM has rehabilitated nine wells on Kendeyella site 2 with one awaiting hand pump from UNICEF. Four more wells are on standby and will be completed according to demand. In Koya rural, WSD and OXFAM are rehabilitating 100 wells constructed by Plan International.

At Kaffu Bullom chiefdom in Port Loko district, OXFAM has completed and fitted three new lined wells fitted with hand-pumps. Two more wells are under construction. Family latrine projects are underway in eight more villages in the chiefdom and 500 latrines are planned. Support is also being given to the Lungi Hospital cholera ward in the form of buckets, plastic drums, plastic sheeting's, gloves and chlorine. Temporary latrines are being constructed at the site to complement the poor sanitation systems. CARE International is also planning to resume its water and sanitation programs in three chiefdoms in Port Loko District.

In Kenema, OXFAM has repaired 6 latrine blocks and construction is underway for 12x5 latrine blocks. Four full latrine blocks have been shut down. At Nyawama camp, - installation of a gravity water system will provide water to 3,500 camp residents.

In the Western Area, Guma Valley has solved the water situation at Parade grounds camp, and UNICEF is supplementing shortfalls with daily trucking of water to the camp. OXFAM is in the process of building three new latrine blocks and two wash areas for IDPs at Approved School camp.

Child Protection

Some 90 people were released in Lunsar on October 2nd, of which 72 were children. On October 3rd, another 29 children were released. On October 6, RUF/AFRC commanders turned over 78 children to UNOMSIL and CARITAS - Makeni.

Refugees

UNHCR reported that the recent crisis in Lofa County has seen the movement of about 2,000 Liberian refugees and Sierra Leoneans back to the Kailahun area. They are proposing increased monitoring in this area by humanitarian agencies. Although the people did not appear in poor condition, their shelter situation is of concern.

3. Socio-economic

UNDP organized a press briefing on the National Human Development Report on 8 October 1999, in preparation for the launching of the Report on 11 October. The launching will be followed by a two-day workshop in Freetown.

4. DDR

The DDR camp for 2000 ex-combatants in Port Loko is now ready, but will have to be increased so as to accommodate their families, which makes it only 80% ready to use. The newly constructed water wells have been found to be salty so alternate water supply has to be looked into. SRSG Ambassador Francis Okelo led a mission to the demobilization camp in Port Loko at the end of the week, including the DFID program manager, political and human rights officers. Ambassador Okelo confirmed significant progress in preparation of the site and commended DFID and ECOMOG for a job well done. He said the demobilization phase of the DDR process should start soon and should ensure the full participation of Chairman Foday Sankoh and Major Johnny Paul Koroma. The new campsite is attracting a lot of commerce in the area and it is expected that up to Le16 million will go into the local economy daily.

During the week, officials from the DDR secretariat, on their visit to Bo, announced that Bo (Gerihun) has been designated as one of the DDR centers in the country. Pre-planning will commence in the near future. It is expected that more than 10,000 CDF personnel in the region will be disarmed and demobilized. Child combatants will form the core of the total number of CDF to be disarmed. Meanwhile, in certain areas in Bo and Pujehun districts, the CDF is expressing their desire to disarm, return to their homes and engage in meaningful projects, which will help rebuild their shattered lives. The DDR site at Kenema is ready and the operation is expected to start by mid October. The programme is also expected to begin in Daru at the same time. RUF Brigadier Mike Lamin has been in the area sensitizing the combatants. A total of 50 ex-combatants are now at the site in Lungi. In Makeni rebels have not allowed the inspection of DDR campsites.

Top

With the exception of public UN sources, reproduction or redistribution of the above text, in whole, part or in any form, requires the prior consent of the original source.

Related Documents:
Latest Emergency Updates: Sierra Leone
Latest By Country: Sierra Leone
Other ReliefWeb documents by: UN Office for the Coordination of Humanitarian Affairs (OCHA)

Home Page: www.reliefweb.int
Email: comments@reliefweb.int

ReliefWeb Email this document

1049

Source: UN Office for the Coordination of Humanitarian Affairs (OCHA)
Date: 20 Nov 1999

Sierra Leone Humanitarian Situation Report 7 - 20 Nov 1999

SUMMARY

Continued violations of the cease-fire agreement and the slow implementation of the Disarmament Demobilisation and Reintegration (DDR) Programme have continued to hinder humanitarian interventions. Security continues to be poor in most parts of the Northern Province, and real questions remain about the ability or willingness of the parties to the conflict to support the DDR process.

1. Political

Multi-Donor Mission to Sierra Leone

A Multi-Donor Mission visited Sierra Leone (November 8-11) led by the Under Secretary General for Humanitarian Affairs, Ms. Carolyn McAskie. The mission consisted of representatives from a number of key donor countries (Japan, USA, UK, Finland, Sweden, Norway, Canada and Ireland), the EU and United Nations officials from the FAO and WFP as well as a representative from IOM.

The objective of the mission was to demonstrate the commitment of the international donor community to support Sierra Leone's recovery from the civil war, and to focus on critical needs across all sectors. The mission met people across a wide variety of sectors including government officials, leaders of the AFRC and RUF, international and local non-governmental organisations (NGOs) local members of civil society and UN officials.

They visited the amputee camp at Aberdeen, and the St Michael's Children's Centre in Lakka. They also visited the Therapeutic Feeding Centre, Government Hospital and the Lebanese camp in Kenema. Ms. McAskie stated that the uncertain security situation on the ground made it difficult for humanitarian agencies to access areas where people where suffering. She urged all parties to speed up the DDR process that plays an important role in humanitarian intervention, and to respect the commitment to provide access to all parts of the country for humanitarian aid.

New Special Representative to replace Ambassador Francis Okelo

United Nations Secretary-General Kofi Anan has appointed veteran Diplomat Oluyemi Adeniji as Special Representative to replace Ambassador Francis Okelo who is ending his two years position in Sierra Leone. Mr. Adeniji is considered an expert in disarmament and conflict resolution and has produced several publications in this regard.

UNAMSIL Peace-Keeping Contingent

Kenya has agreed to send 45 Officers and 779 servicemen and 6 service women as part of the 6,000 strong peace keeping-force (UNAMSIL). The United Nations has stated that it will begin deployment of troops to Sierra Leone on the week of 22 November.

Canadian Government donates money to Sierra Leone

Cause Canada announced that the Government of Canada has donated 100,000 Canadian dollars for permanent shelter support in the country. Cause Canada intends to use funds to construct 60 houses equipped with Kitchens, Latrines and water wells in the villages of Bevehun, Bandama and Waima along the Bo-Kenema Highway.

United Nations Institute of Disarmament Research (UNIDIR) Mission

A two-week mission to Sierra Leone by two representatives from UNIDIR- Dr. Robin Poulton and Dr. Anofloe Ayissi (Specialist in African Security in the UNIDIR) to promote new ideas for Peace and Disarmament ended on 14 November.

1050

The team visited with members of the government, UN Agencies, civil society groups and the press. Dr. Poulton said that if disarmament should continue at a fast pace then, there must be a visible sign that the people can appreciate. He suggested that a 100 weapons should be burnt as a "Smoke of Peace" as a means of building up the confidence of all Sierra Leoneans in the DDR programme. UNDP and the Council of Churches in Sierra Leone (CCSL) are launching the campaign against small arms nation wide.

Government Policy on Displaced Camps

The National Committee for Reconstruction, Rehabilitation and Reintegration (NCRRR) gave a press release on 12 November on behalf of the Government discouraging IDP camps. The Commissioner encouraged all IDPs whose homes are in safe areas to return home and resettle in their homes. Plans are being put in place for the resettlement and reintegration of IDPs after disarmament of ex-combatants.

The NCRRR commended Freetown Cold Storage Company for employing four amputees, stating that this type of positive action is one of the best ways of helping amputees prosper in society. Other private business enterprises and institutions were urged to follow this step.

US Mission to Aid Sierra Leone

The US State Department is funding a mission to rehabilitate victims of war; Charles Ellmaker who left for Guekedou, Guinea on 13 November will head the mission. The mission grant of US$766,000 is for a year and will focus on psychological help for tortured victims. Ellmaker stated that "if torturers no longer get the political benefit that they expected, then that as a weapon becomes useless."

The OCHA/HACU, UN Agencies and International NGO's also had a visit from Beth Stanford from the OFDA office in Washington and Janet Beik, the Regional Refugee Coordinator from the State Department office in Abidjan. They were here to discuss programs that the US government is funding.

Formation of a Truth and Reconciliation Commission

On 8 November AFRC called for the formation of a Truth and Reconciliation Commission, as provided by the Lomé Peace Accord. This commission will form a forum where Sierra Leoneans can tell their stories, express their grievances and identify those who tortured them. The Commission will form an essential part of the peace and reconciliation process, but Chairman Foday Sankoh of the RUF opposes the idea and calls for a blanket amnesty for all crimes.

Commonwealth Heads of State meeting in South Africa

The Commonwealth Heads of Government meeting in Durban, South Africa on 15 November called on all parties to the Lomé Peace Accord to fulfil their commitments to the DDR programme. The communiqué also commended ECOMOG force and expressed support for UNAMSIL.

2. SECURITY

The security situation has not improved since the last sitrep, when a number of incidents were reported that severely impacted on the ability of humanitarian agencies to carry out their activities. Insecurity has also affected the DDR programme in Lungi and Port Loko.

On 8 November riots broke out at the demobilisation camp in Lungi among rebel SLA soldiers. The soldiers were demanding information, an acceleration of the DDR process and payment of monies they claim are owed to them. The ex-SLA looted businesses and personal homes. While the United Nations Military Observers and Government staff were eventually able to restore calm at the camp, tensions remain. Also ex-combatants have threatened DDR staff at the Port Loko centres. This has helped to highlight the necessity of dramatically improving the consistency and quality of the sensitization effort and speeding up the process of providing the benefits to the ex-combatants.

As reported in the Human Rights section below, there continue to be almost daily attacks on civilians in Port Loko district. These primarily consist of raids for food, but abductions and rapes are also frequently reported. These attacks have been followed by an incident involving a vehicle belonging to Children's Aid Direct (CAD), an International NGO carrying out humanitarian operations in Port Loko district. The occupants of the vehicle, engaged normally in supplementary feeding activities, were

stripped, beaten and forced to march into the bush. While they were released the following day, this unacceptable incident has severely jeopardized operations in the area, and will be addressed at the highest levels. This is the first attack on an international aid agency, outside of a combat situation, for over a year.

105i

Insecurity continues to grow in the Kabala area, where RUF armed elements continue to push ex-SLA soldiers from their bases in the North. Many of these soldiers are now in Kabala town, and have informally surrendered their weapons to loyal SLA. Others remain in the outskirts of the town, with their weapons, and have been responsible for some looting. A United Nations mission is planning to go to Kabala this week to highlight the issues there, and recommend on a future course of action.

The Yele-Matotoka road is currently blocked, following disagreements between the CDF and RUF.

A UNAMSIL mission in Segbwema was diverted to Buedu, at the request of Sam Bockarie. Initial reports indicated that the team had been detained, but UNAMSIL officials have since denied this.

Other areas of the country remain quiet, notably in Makeni/Magburaka, where the new command appears to have consolidated its control.

All persons abducted in October near Mange Bridge along the Masiaka highway have been released.

Information that several members of UNAMSIL were detained at Kailahun is false and should be disregarded.

3. HUMANITARIAN HIGHLIGHTS

A. Access

Access to the North has significantly reduced over the last few weeks, primarily due to the lack of secure environment in which to work, threats against agency staff, and the mentioned attack on CAD. Despite a number of pledges and commitments by RUF commanders, looted aid resources have not been returned. Travel and security in most of the northern province still remains a problem, which has limited the amount of humanitarian intervention in the area. With considerable and persistent effort a minimal supply of medical, nutrition and food has been able to reach this area in the past. At this time, conditions do not exist for a significant increase in activity in the Northern Province.

WFP and World Vision International have completed an assessment mission to Kailahun district and hope to start small-scale operation once logistical constraints have been addressed.

B. Sectoral Analysis

Agriculture

FAO delivers fishing equipment to fishing communities

An FAC project is assisting war-affected artisanal fisherman and women groups who are fish processors and marketers in the Western Area, Pujenhun, Bonthe, and Moyamba districts. Some 2000 families are benefiting from the ongoing distribution of project supplies which include fishing boats, outboard engines, fishing nets, kuralon hard cord, ropes, twines, hooks, life jackets, lead in plates, ice machine, insulated containers and fish smoking ovens.

The project also provides training in fish processing and marketing. On 12 November project inputs were delivered to beneficiaries in Tombo, in the Western area. Tombo is considered one of the most important fishing areas in Sierra Leone that suffered the devastation of the war. The distribution was completed on 17 November with distributions to Fogbo and Magmpoh few miles from Waterloo.

CAD agricultural team has provided an additional 1,000 vulnerable farm households in Masimera, Malal and Yoni chiefdoms in the Port Loko and Tonkolili districts with groundnut seeds, cassava, potato vines and farm tools.

International Committee of Red Cross (ICRC) and the Sierra Leone Red Cross Society (SLRCS) have completed agricultural input distribution to 12,226 farm families in Lower Yoni, Kholifa Mabang and Gbonkelenken Chiefdoms in the North. They have also assisted 237 war victims in Mortaim and

Morgegba Villages near Grafton with seeds and tools, while Evangelical Fellowship of Sierra Leone (EFSL) is planning to assist with food for agriculture.

Child Protection

10 52.

Spontaneous releases continue to occur, supported by ECOMOG, Human Rights community, UNAMSIL, and Child Protection Network and rebel groups. On 14 November 52 Child combatants were released at Laia Junction, as well as 6 abductees, 2 babes and 4 children. However, there remain 2,486 children registered as missing in the Western Area since January 1999.

At the St. Michael's Children's Centre Lakka west of Freetown there are 152 children (abductees and children associated with the fighting forces) being taken care of by Family Home Improvement (FHM) in collaboration with Cooperazione Internazionale (COOPI) and UNICEF, prior to fostering or reunification.

National Family Tracing and Reunification October 1999

	Western Area	Northern Province	Southern Province	Eastern Province	TOTAL
Missing CHN Documented	70	-	35	30	135
Missing CHN Reunified	245	-	-	-	245
Found CHN Documented	11	345	99	06	461
Found CHN Reunified	74	05	69	16	164

CHN....Children
Source: UNICEF- Sierra Leone

Western Area Family Tracing And Reunification Update January - October 1999

	OCTOBER	NOVEMBER
Missing CHN. Documented (Reg./UAC)	70	4,411
Missing CHN Reunified	245	1,925
Children Still Missing		2,486
Found CHN. Documented (Reg.)	11	584
Found Children Reunified	74	400
CHN. In Interim Centres and Foster Homes		184

Reg.:- Registered
UAC:- Unaccompanied Children
Source: UNICEF -Sierra Leone

Released Children/Abductees- January to October 1999

	Western Area Children Officially released		Northern Area Children Officially released		Total Number of Children released
MONTH	ECOMOG	AFRC/SLA	ECOMOG	AFRC/SLA	
January	-	-	-	-	-
February	40	-	-	-	40
March	55	51	-	-	106
April	05	-	-	-	05
May	01	-	-	-	01
June	02	-	-	-	02

1053

July	10	129	-	-	139
August	04	165	-	52	221
September	03	-	-	76	79
October	19	29	-	217	268
November	-	51	-	-	51
TOTAL	**139**	**425**	**-**	**345**	**912**

Official Number of Demobilised child soldiers to date =160
Source: UNICEF -Sierra Leone

Food Aid

On 8 November a caseload of 2,647 Liberian refugees in the Eastern region received their November ratio of food (159bags of bulgur, 159 bags of maize meal and 107 pails of vegetable oil) from WFP.

Discussions in the Committee on Food Aid (CFA) have been focused on expanding access to areas that desperately need assistance. In particular, Makeni and its surrounding towns clearly need support, but security remains uncertain and insufficient to allow for action. However, in the meantime, more information will be sought on the situation in Kabala and Port Loko, and the possible implications for food aid.

Some progress has been reported on the funding for the WFP EMOP set up to acquire food for DDR participants: the Norwegian government has committed US$250,000 in cash, the Swedish are considering an equal sum, and the US agency Food for Peace has committed up to US$1million worth of pulses and oil.

Health and Nutrition

Second Round of National Immunization Days (NID)

The second round of the NID took place between 6-7 November. Vitamin A was given during this round, which plays an important role in the resistance of under five children. This round was considered successful; the teams were able to access most parts of the country including Kono. Oral Polio Vaccine coverage was 85% and 80% coverage of the Vitamin A supplement nationwide.

The causative agent for bloody diarrhea in the Southern Province has been identified in Shigella N. in the Southern Province. The agent is resistant to antibiotics; the MOHS has recommended the use of noladixic acid for serious cases.

Medicins Sans Frontiers Belgium (MSF-B) started operating a mobile clinic on 9 November between Kendeyella site2 and Splendid camp in Bo. This clinic is expected to serve 11,000 IDPs. This clinic will also cover Kendeyella site1 camp.

Lebanese Camp in Kenema continues to receive medical attention from the UNICEF sponsored clinics at the New Police barracks.

Planned Parenthood Association Sierra Leone (PPASL) conducted refresher courses for 75 Community Based Distribution (CBD) agents, 45 Traditional Birth Attendants (TBAs) and 15 Mother/Child Health (MCH) Aides in reproductive health, Family Planning and Income Generating skills.

Courses in Soap making and gari processing for 100 women of reproductive age were given. Bumpe, Boama and Jiama Bongor chiefdoms in the Southern Province were the target areas.

CAD continues to support 7 health clinics in Port Loko District with medical supplies, equipment, basic repairs, furniture and incentives for MOH staff. In the first week of November support was extended to an eighth clinic. They continue to implement a Supplementary-feeding Programme for malnourished children and pregnant and lactating women from 8 locations in Port Loko District. The severely malnourished cases are transferred to the Action Contra la Faim (ACF) feeding centre in Freetown. Approximately, 600 children and 500 pregnant women are currently being supported in the programme.

1054

Refugees

UNHCR reports that the current number of Sierra Leonean refugees is 460,000 with 380,000 in Guinea and 80,0000 in Liberia. Of these numbers 173,000 are originally from Kailahun, 28,000 from Kenema and 20,000 from Freetown. Repatriation as planned is unlikely to begin in significant numbers as planned for the beginning of 2000 due to insecurity. However, 3,000 ex-SLA soldiers are expected to return from Liberia in the near future. Fighting along the Makeni-Kabala axis has resulted in the movement of 1,000 civilian's north into Kabala.

Water and Sanitation

Oxfam has completed 3 showers and 3 laundry facilities at the Kendeyella site 2, and well construction at Tikonko is on going. The maintenance of existing hand pumps has been completed. Repairs on hand pumps and hygiene promotion is ongoing at Gondama in Bo. ACF is installing one submersible pump at their TFC. They have completed 12 blocks of latrines at the Kendeyella site 2. Construction to underway for 6 new latrine blocks and 2 VIP latrines for MSF-B who started running a clinic at the Kendeyella site 2.

Distribution of medicated soap and hygiene promotion at site 1 is ongoing. Construction of hygiene training hall at the site is in progress.

World Vision Sierra Leone (WVSL) has rehabilitated 63 wells in 6 chiefdoms in the Bonthe District, and has installed 40 pumps.

CARE is doing concrete work at various stages on 25 wells in the Moyamba district. Rehabilitation work on 10 existing wells is in progress. 90 latrine slabs have been cast and placed over pits while 79 latrine pits have been excavated and health lessons being taught in the Moyamba District.

OXFAM and ACF will be constructing 6 Latrines each at the Splendid camp after the demobilisation of booths.

C. IDP Updates

Due to the recent attacks in the Port Loko-Lungi-Lunsar axis the number of displaced people has soared with numbers between 8,000-10,000 in Port Loko town. When the security situation allows, the National Technical Committee (NTC), HACU and NCRRR are planning an assessment mission to the area to evaluate needs in food, shelter and water sanitation.

Actionaid has acquired a variety of non-food emergency items for Kambia district and will distribute then as soon as accessibility improves.

African Muslim Agency (AMA) distributed clothing to different areas:

- Jui refugee camp 55 bales
- National Workshop 25 bales
- Jui/Kossoh Town 10 bales
- AMA centre Kenema 31 bales
- Representatives of displaced Paramount Chiefs 10 bales

BO

400 booths constructed at Kendeyella site2 have been allocated to IDPs. OXFAM is doing work on the water facility at the camp whilst ACF is taking care of sanitation. Cause Canada has constructed over 700 skeletal booths on site 2 of Kendeyella camp.

KENEMA

OXFAM and MERLIN continue to provide humanitarian assistance in Watsan and Health respectively at Lebanese Camp.

OXFAM and AFRICARE continue to provide health and Watsan facilities for Nyandeyama camp. A 9-man management committee (3 each from Kono, Kailahun and Kenema Districts) has been elected

to address IDP concerns.

IRC provided 2 rolls of plastic sheets for roofing the school and a football to children.

1055

The transit centre for abductees at Dauda in Kenema is now complete. 8 booths to house 150 prisoners of war/Abductees. Each shelter is estimated to hold 50 released abductees.

OXFAM has completed 2 toilet structures with 4 squat holes each and 2 laundries and shower sites at Dauda. 1 traditional well has been rehabilitated. The fencing of whole campsite started on 11 November. There are no prisoners/abductees at the site; Agricultural Production Extension and General Services (APEGS) a local NGO has offered to manage the camp.

FREETOWN

- Amputee Camp: There are presently 1,500 Amputees and family members at the site and 371 war victims. Representatives of the Multi-Donor Mission to Sierra Leone paid a visit to the camp on 9 November to assess their needs. Handicap International are running the prosthetists centre at the camp and have Dave Evans from the Vietnam Veterans Foundation training amputees and other people in the construction of prosthetic limbs for amputees. The camp manager pleaded on behalf of the amputees for donors to assist their return home and help in getting an education.
- National Stadium: GOAL has moved a total of 4,738 registered IDPs to Grafton. There remains 240 unregistered IDPs and 55 polio and leprosy victims at the stadium that need to be moved to some other location; the matter has been referred to NCRRR.
- Parade Grounds: The monthly food distribution by WFP has been completed; 26 cartoons of vegetable oil, 138 bags of bulgur and 58 bags of peas for 764 IDPs.
- Mandela Camp: Monthly food distribution by WFP has been completed for 434 IDPs.
- National Workshop: On 16 November UNICEF immunized children against measles. There are still illegal occupants at the camp, which is creating a problem for the legal occupants.
- Trade Centre: EFSL has disinfected all sheds and toilets against bed bugs. CHASL is planning a micro-credit program at the camp for single mothers and orphans.
- Approved School: The International Islamic Relief Organisation (IIRO) is planning on phasing out camp management at Approved School by December 1999.
- Grafton: There are a total of 10,710 IDPs at Grafton who need to be verified. GOAL is having some problems in doing this and this is causing a delay for food distribution at the camp.
- Waterloo: ADRA hopes to complete the booths for IDPs staying at the make shift in Waterloo and have them moved out. ADRA is still under-going problems with abductees at the transit centre especially with food as is appealing to WFP to help out in this regard.

4. DISARMAMENT, DEMOBILISATION AND REINTERGRATION (DDR)

Status Report: Disarmament Demobilisation and Reintegration of Ex-Combatants

Location of demobilisation Centre	Assigned groups for centres	Fully operational	Ready for Use	No. of Ex-combatants Registered
Lungi	RUF CDF AFRC CHILD	Yes		0 0 63 7
Port Loko	RUF CDF AFRC CHILD	Yes	Yes	90 372 262 5
Hastings	RUF CDF AFRC CHILD	Yes	Yes	2 24 168 70
Kenema	RUF CDF AFRC CHILD	Yes	Yes	1 81 0 14

Daru	RUF	Yes	Yes	0

Source: UNAMSIL - Sierra Leone

1056

There are a total of 1,063 ex-combatants at the various centres around the country.

Lt. Col. Johnny Paul Koroma has visited field commanders in the Okra hills and asked them to register for the DDR programme. He assured them that there were provisions for them to join the new army, however it was important that they give up their weapons by 15 December the end of the disarmament period. In this same light Chairman Sankoh sensitized his men in Makeni and Kailahun about the importance of the DDR programme. He urged his men to turn away from war and work towards peace.

The demobilisation site at Daru continues to remain empty contrary to some reports.

5. HUMAN RIGHTS

There have been repeated reports of human rights abuses of civilians by former rebel elements. There have been daily reports of attacks on villages, and associated rape, abduction, looting, and various forms of intimidation. These incidents are reported to be more prevalent in the Port Loko - Lungi axis. Also, civilians continued to be levied with taxes and general harassment in RUF controlled areas as well as in Bo and Northwest area by CDF elements.

Amnesty International called upon Commonwealth member states to help restore good governance, the rule of Law, and respect of human rights in Sierra Leone. In order to end human rights abuses effective implementation of the peace accord has to take place. This can only be effective with a strong commitment from the international community. They recommend support of the Truth and Reconciliation Commission in investigating human rights abuses. Recommendations are also made that those helping to bring peace in the region be properly trained about international human rights and humanitarian law.

13 Walpole Street, Freetown, Sierra Leone
Tel: +232 22 227759/227764, Fax: 228720, E-mail: rpainter@sierratel.sl/aeziaki@hotmail.com

Top

With the exception of public UN sources, reproduction or redistribution of the above text, in whole, part or in any form, requires the prior consent of the original source.

Related Documents:
Latest Emergency Updates: Sierra Leone
Latest By Country: Sierra Leone
Other ReliefWeb documents by: UN Office for the Coordination of Humanitarian Affairs (OCHA)

Home Page: www.reliefweb.int
Email: comments@reliefweb.int

1057

ReliefWeb

Email this document

Source: UN Office for the Coordination of Humanitarian Affairs (OCHA)
Date: 7 Aug 2000

Sierra Leone Humanitarian Situation Report 25 Jul - 07 Aug 2000

A. SECURITY

The security situation was relatively calm during the reporting period, characterized by the disarming of a number of West Side Boys (WSBs) and RUF fighters. The only clashes with the RUF occurred around Mange Bridge in the northwest, with the advance of SLA troops from Port Loko.

Northern Region

UNAMSIL troops occupy Masiaka and regularly patrol the roads. Since UMAMSIL's "Operation Thunderbolt", which aimed at clearing the WSBs out of the area, 130 of them have disarmed in Mile 38 and Port Loko. However, others who refused to disarm are continuing to man three checkpoints on the Mile 38/Masiaka road, and are harassing civilians. Four relief workers of the Christian Health Association of Sierra Leone (CHASL) are among the latest victims of abductions by the WSBs. They went missing on 21 July, and were only released on 31 July, unharmed, but their vehicle and its contents (food supplies etc) remain unaccounted for. Although the Masiaka-Mile 91 route has been reopened, caution is advised due to the continuing presence of elements of armed WSBs.

The security situation in Mile 91 remains relatively calm but fluid. UNAMSIL has assured residents that the situation there is under control. They however confirmed rebel activities in Mayibin village, across the Mabang River, where 24 houses were reportedly burnt down and a few civilians killed during a recent incident that took place at the beginning of the month. UNAMSIL expects to deploy one full Indian Battalion in Mile 91 before the end of the month.

The Bo-Mile 91 route is reported safe with a constant flow of vehicular traffic. Road access via the Mabang Bridge continues to be hindered by the poor state of repair and CDF harassment. Work is programmed to start on the bridge in the near future and UNAMSIL has promised troops to guard the bridge once work commences. The difficulty experienced on this route prompted the first use of a UNAMSIL escort by an NGO food convoy on 28 July, taking 500 mt of food to Mile 91 and Kenema. Humanitarian agencies remain concerned about the issue of access and security for aid workers and beneficiaries in the area, and are arranging a series of meetings with UNAMSIL and government authorities to address the matter.

There has been continuing violence in Port Loko between CDF and the SLA, with sporadic shooting after dark. Defense HQ has deployed a new Battalion Commander to rectify the situation.

1057

Western Area

An increase in search and cordon operations by UNAMSIL and the Police within Freetown, and the movement of CDF out of the Brookfields Hotel, has seen positive results in reducing crime in the city.

Eastern Province

Daru continues to see the disarming of a small number of RUF fighters, but the agreement between the RUF and CDF, to allow commercial trucks to use the road from Kenema to Daru, seems to have fallen through, with the report of six vehicles captured by the RUF at Segbwema on Saturday 6 August. Save the Children Fund (SCF) reported that the vehicles (3 trucks and 3 taxis) were traveling from Kenema to Daru and Daru to Kenema respectively, when they were seized and taken to an unidentified RUF base. One of the vehicles is said to be a large commercial truck carrying rice and palm oil. With the exception of one passenger who escaped, the whereabouts of the people on the vehicles were still unknown at the time of writing.

Southern Province

The region was generally calm. However, aid agencies continue to express serious concerns about a number of security incidents involving Kamajors, which are hindering smooth delivery of humanitarian assistance in the region. The authorities are currently investigating a number of cases reportedly linked to the Kamajors, including the death of an MSF-B national officer; the looting of ACF/WFP food in Moyamba district and the commandeering of relief vehicles belonging to the Lutheran World Federation in Sorogbema, Pujehun district.

The recent decision of CDF authorities to organize a workshop in Freetown, with the participation of all its members, is viewed by the humanitarian community as a welcome and timely initiative. Humanitarian organizations urge the CDF to discuss as a matter of priority, strategies to end the continuing harassment and intimidation of aid workers and the civilian population at large by its members.

Military Expansion

UNAMSIL troop strength in the country now stands at 12,500, recently boosted by the arrival of a Russian aviation unit with four Helicopter Gun Ships. The SLAs have also expanded, with 1000 troops now undertaking continuation training after passing out of the Benguema Training Camp. A new group of recruits are now undergoing training.

B. POLITICAL DEVELOPMENTS

UN Security Council extends UNAMSIL mandate

On Friday, 4 August, the UN Security Council unanimously adopted a British-sponsored resolution to extend UNAMSIL's mandate until 8 September 2000 and to strengthen its capacity. The original six-month mandate was due to expire on Monday 7 August. The resolution said UNAMSIL's military component "should be reinforced

1059

through accelerated troop rotations, with further aviation and maritime assets, a strengthened force reserve, upgraded communications, and specialist combat and logistic support assets." According to the resolution, U.N. peacekeepers would help the Sierra Leone government to extend its authority over areas of the country under RUF control by deploying at key locations and main population centres. The Council also agreed that the peacekeeping force would "deter, and where necessary, decisively counter, the threat of RUF attack by responding robustly to any hostile actions" or threat of imminent use of force.

The resolution calls on the U.N. force to maintain security around Freetown and at Lungi International Airport as a priority, to patrol main access routes to the capital, and to promote efforts to disarm and demobilise combatants. "Widespread and serious violations" by the RUF of the Lomé Peace Accord "constitute a breakdown of the prior generally permissive environment based on the agreement" and predicated on the cooperation of the warring parties, the resolution said. Until security conditions allow progress toward a peaceful resolution of the conflict, "there will continue to be a threat to UNAMSIL and the security of the state of Sierra Leone," it added.

An initial draft of the resolution called for UNAMSIL's strength to be increased from 13,000 to 16,500 troops, but given disagreement among Council Members on various issues, the resolution was amended to call on the Secretary-General to recommend measures to strengthen and restructure the Force. Meanwhile, the UNAMSIL Force Commander, Major General Vijay Jetley is due back in the country on Tuesday, 8 August after an official mission to New York to brief troop contributing countries and the UN Secretary-General on military developments and issues relating to the mandate of the peacekeeping force.

The Quest for an RUF Leader continues

UNAMSIL reported on Monday, 7 August, that efforts were underway to identify a new RUF leader to facilitate renewed dialogue between the RUF and the GOSL. The RUF is yet to finalize their decision on the matter. Meanwhile, the UN Special Representative for the Secretary-General (SRSG) Ambassador Oluyemi Adeniji visited Monrovia on Wednesday, 2 August for consultations with President Charles Taylor on this and other matters relating to the Sierra Leone conflict. The SRSG is due to travel to Bamako, Mali, on Tuesday 8 August to hold discussions with the Chairman of ECOWAS, President Alpha Oumar Konare on the same issue.

C. DDR - Learning the Lessons

Deviation should not be tolerated in new DDR process - UN SRSG:

Disarmament should no longer be left to the discretion of the leadership of armed groups. Rather it should follow a generally agreed timetable and an agreed sequence. Any deviation should immediately be exposed as sabotage and as an indication of a hidden agenda, said the SRSG, Ambassador Oluyemi Adeniji at the opening session of the workshop. The SRSG, who chaired the occasion, stressed the need for political, military, humanitarian/development agencies, Donors as well as civil society movements, to work in full partnership in order to achieve the common goal.

1060

Humanitarian Agencies will play their part - UN Humanitarian Coordinator/Resident Coordinator

Speaking along the same lines, and in his capacity as UN Humanitarian/Resident Coordinator, Mr. Kingsley Amaning said humanitarian agencies saw the meeting as an opportunity to expand the ongoing collaboration with the NCDDR and its partners in the pursuit of the common goal - a successful DDR programme. In this regard, he said the Programme "should be anchored within a framework of a wider simultaneous and collective effort targeted at the resolution of conflict through: political arbitration; the enhancement of security; the provision of basic social safety nets and humanitarian assistance." While recognizing the role of political and military protagonists in providing a permissive environment, Mr. Amaning noted that, "without a well planned and efficient DDR and other humanitarian programmes to guide and encourage the peace process, an opportunity for real peace and stability can be easily lost." "For the UN humanitarian and operational agencies," he concluded, "this meeting is a timely invitation to us to join in biblical terms, the five wise maidens in putting oil in our lamps to keep them burning in readiness for the arrival of the bridegroom."

To do nothing is not an option for DDR - World Bank Director for Sierra Leone

"DDR is central and fundamental to Sierra Leone's transition from war to peace." "To do nothing, is not an option," declared Mr. Peter Harold, the new World Bank Director for Sierra Leone. Mr. Harold recognized the need to safeguard investments already made, while preparing for a full resumption of the Programme. Commenting on the controversial issue of the Transitional Safety Net Allowance (TSA) for ex-combatants, the Bank Director conceded that it was important to correct the erroneous image of a cash-for-guns policy, but underlined the continuing need for "cash", which he described as "cash-for-peace." "Without the early provision of development support, there will be no transition," Mr. Harold stressed, noting that the ultimate challenge was the Reintegration aspect of the programme. He observed that the Bank's contribution to reintegration was contingent on the support of humanitarian agencies, UNAMSIL, bilateral partners and civil society organizations.

GOSL still committed to the Lome Peace Accord

The Minister of Presidential Affairs declared that the GOSL was still committed to the Lome Accord, and that the government had gone one step further to outline the conditions for a resumption of peace talks with the RUF. He appealed to all stakeholders to fully support the DDR process and other instruments of peace.

Challenges for the future -- Dr Francis Kai-Kai, Executive Secretary of NCDDR

Dr Francis Kai-Kai, the Executive Secretary of NCDDR outlined a number of key challenges facing the DDR programme since May 2000, including: Status of the Lome Peace Agreement and its key structures; Status of political and military leadership of all fighting forces; Clarification of strategy to end the conflict and implications for DDR; Establishment of a security framework for DDR; Securing military compliance; and Clarifying the policy on encampment and specific incentives for D&D.

1061

Summary of specific recommendations from discussion groups

Status of the DDR Programme

Before the resumption of hostilities in May, 24,285 combatants had been disarmed including 1,743 child combatants. Some 14,807 weapons and 255,719 ammunitions were collected. Since then, some of the disarmed soldiers have been re-armed and have returned to the war front. Only the Lungi and Daru camps are currently operational. On 7 August, the Executive Secretariat of NCDDR reported a total of 260 ex-combatants at the Lungi camp, including some of the newly disarmed Westside Boys. They are currently screening the ex-combatants for appropriate action. The Executive Secretary said NCDDR had embarked on a sensitization campaign to inform ex-combatants that they would not receive TSA payments while they were encamped -- rather, payments would be made in communities -- to ensure that the money is utilized for community-based reintegration programmes.

At the Daru camp, there are now 582 RUF and SLA ex-combatants. It is increasingly difficult for NCDDR to plan community-based reintegration activities for the ex-combatants there, as the town remains surrounded by a hostile environment, dominated by the RUF. The Commission however hopes to be able to move the SLAs from the area and to find ways of reintegrating the RUF.

In Port Loko, 299 ex-combatants are said to have returned to the DDR camp. These are mainly ex-RUF fighters who were being protected by UNAMSIL. Some of them are finding it difficult to return to their home areas due to insecurity and lack of acceptance by community members.

The NCDDR is currently sensitizing previously registered ex-combatants under the reintegration programme to re-register so they could be considered for assistance. They have appealed to agencies planning rehabilitation projects to include ex-combatants in their beneficiary caseloads.

Meanwhile, World Vision, in collaboration with NCDDR-eastern region, has started a three-week training programme for community volunteers to assist over 300 ex-combatants and affected youths from seven chiefdoms in the Kenema district. This programme, which is sponsored by the USAID/Office for Transitional Initiatives (OTI), is aimed at empowering the youths to become better-adjusted citizens. OTI is also supporting apprenticeship programmes to rehabilitate schools, wells and other community projects, in collaboration with UNICEF and other partners.

D. HUMANITARIAN HIGHLIGHTS

1. Eastern Province

Daru - Relief activities expand

Further to our report on the Daru displaced in the last SITREP (10-24 July), subsequent inter-agency missions have confirmed the presence of around 5,000 new IDPs who arrived in Daru from nearby chiefdoms in Kailahun district. Agencies are gradually expanding activities in the area, with UNICEF and OXFAM supporting

1062

Watsan activities, IMC and ICRC providing health services, and NRC addressing education needs with UNICEF support. SCF continues to assist separated children and other children associated with the fighting forces.

Although food prices are reported to be high, WFP maintains that the situation does not yet warrant emergency food aid intervention. The IDPs are said to be in good condition with no visible signs of malnutrition. Agencies are closely monitoring the situation for any significant changes. In this regard, IMC, WFP and MERLIN will conduct a quick nutritional survey in the affected areas on Saturday 12 August, which will help determine the appropriate level of intervention required at this stage.

On the health side, IMC continues to run two clinics - one in the main town and the other in Malema (see Sitrep 10-24 July). They have commenced routine EPI activities for U5s and women of childbearing age. On Tuesday, 8 August, MERLIN and IMC will organize a Lassa fever workshop in Daru town, as Daru is part of the Lassa belt and could be at greater risk of an outbreak due to recent population movements.

Kenema - overcrowding in camps due to new influxes

The humanitarian situation in Kenema remains under control despite the latest population influx resulting from UNAMSIL/GOSL military operations in the east last month. Existing camps are however overcrowded, straining current facilities and services. The regional inter-agency committee in Kenema estimates that more than 7,000 of the new IDPs have settled in IDP camps - (Blama - 747; Gofor - 2,000; Nyandeyama camp - 100; Lebanese camp - 1000; Konia - 2000 and Refugee returnees residing in different camps - 2000). CRS has agreed to provide a one-month VGF distribution to the new IDPs in camps after they have been verified. WFP will also distribute food to the new caseload at the Blama camp. In order to help relieve the overcrowding in the camps, agencies are mobilizing resources to construct a new camp either at the Gofor site or near the Blama camp.

Meanwhile, MERLIN has now completed a nutritional survey of IDPs in four of the camps. They are currently analyzing the results, which will be made available in our next report.

2. Northern Province

Mile 91 area - Inter-agency coordination intensifies

Efforts are underway by CARE and WFP to re-register and verify IDPs in Mile 91 for further clarification on the numbers currently in the area. OCHA is now chairing a weekly inter-agency meeting in the town to improve coordination of activities between sectors and among agencies. The meetings are held every Friday.

Shelter: The immediate priority is to relocate IDPs currently occupying school buildings in Mile 91 town, as schools are due to resume by mid September. CARITAS reports significant progress in the construction of the transit camp in the town, which will accommodate about 4,000 IDPs. They have completed the clearing of the site and have pre-positioned construction materials in the area. Construction is expected to begin during the week of 7 August. UNICEF has already started digging

1063

wells at the camp location.

Health: As a follow up to the recommendations of a joint rapid assessment mission, UNICEF has distributed a consignment of drugs, medical equipment and EPI supplies to the District Medical Officer of Tonkolili District for IDPs in the township. Meanwhile, at the U5 clinic, ICRC/SLRC immunised 1,356 children (DPT & BCG) and treated 670 children for malaria, Acute Respiratory Infection (ARI) and diarrhea. Some 405 expectant mothers were immunized against Tetanus. At the SLMB clinic supported by MSF-H, a dehydration and observation unit has been temporarily set up to treat severe bloody diarrhea cases until the isolation treatment centre for Shigella, currently under construction is completed. MSF-H has already trained medical personnel to attend to patients in the new centre. Meanwhile, the agency continues outreach programmes within the township and in surrounding villages.

Nutrition: ACF is treating 151 severely malnourished children at its Therapeutic Feeding Centre in Yonibana, while 654 moderate cases are benefiting from dry ration programmes at the Supplementary Feeding Centre in Mile 91 town.

Non-food Items: ICRC/SLRC have completed distribution of Non-Food-Items (NFI) to 2,642 families on the Roruks-Yobinana axis who had not benefited from earlier distributions.

WATSAN: Water and sanitation needs remain acute in the township. UNICEF is supporting the construction of 25 pit latrines as well as cleaning and chlorination of 572 traditional wells in the town. In Gbonkenlenken chiefdom, ACF has resumed well rehabilitation and will begin hygiene education for the population there in the immediate future.

Agriculture: In Gbonkenlenken chiefdom, Tonkolili district, CARE is following up an earlier VGF distribution to about 12,000 new IDPs, with FFAg assistance to 750 farm families in the villages there. Meanwhile, CARE together with other agencies has commenced a re-registration of new IDPs in Yele.

In Kholifa chiefdom, also in Tonkolili district, CARITAS distributed 500 kits of vegetable seeds and 1,500 bushels of rice seeds to 100 farming families in 14 communities.

Kabala - Poor road conditions hinder food assistance to new IDPs

During the reporting period, hundreds of new IDPs were reported in the Kabala area, coming from the Makeni and Kono axis. The food security situation there is of major concern as the Christian Relief Services (CRS) has now run out of food stocks there. Food aid agencies are having difficulties re-supplying the area due to poor road access. A cross-border operation via Guinea is being considered, but might prove impossible for movement of large trucks, as the roads are extremely bad at this time. The only viable option appears to be airlift operations. However, the Humanitarian Helicopters managed by WFP and MSF do not have the needed capacity to lift large volumes of food stocks at a time. Negotiations are ongoing with UNAMSIL on the possible use of their MI26 Helicopter, which has the capacity to lift up to 25mt of food stocks at a time. According to MSF-B, which is operational in the area, the IDPs

1064

are presently coping with the host communities, but their conditions will most certainly deteriorate if a solution is not found in the next two weeks.

Bumbuna - humanitarian situation worrying

More than 7,000 newly displaced people are reported to have arrived in Bumbuna, (northeast of Makeni) in the last week. MSF-B undertook a one-day assessment mission to the town on Monday, 7 August and reported that the new IDPs were in desperate need of humanitarian assistance, particularly food aid. About 20 mt of food aid will be required to address the current needs. At present, food can only be transported to the area by air. Efforts are being made by various agencies to find ways of responding to the immediate needs of the IDPs.

The IDPs interviewed by MSF said they fled from Makeni and Magburaka to escape RUF forced recruitments and continuing attacks. Some of them also fled due to the helicopter gunship attack in Makeni in June, and had been hiding in bushes until their arrival in Bumbuna.

The American Ambassador, Amb. Joseph Melrose and the Catholic Bishop of Makeni, Bishop Biguzzi, visited the town on 4 August and donated some medical kits and BP5, which MSF said would help a great deal, as the bulk of the IDPs are children. Nearly 400 of the new arrivals are occupying a school building and an uncompleted hospital, while the rest are staying with host families. MSF conducted a quick nutritional screening of about 350 children during their visit. They are currently analyzing the results. Some of the children showed signs of malnutrition, particularly the new arrivals. MSF has opened a clinic in the town and plans to support MOHS health officials in the area to operate the facility. Some cases of diarrhea were identified, but no evidence of a major outbreak.

Port Loko - More IDPs reported

Within the Port Loko Township, the Norwegian Refugee Council (NRC) has registered a total of 25,200 IDPs, of which 5,499 arrived between 18 July and 1 August. Upon registration, the IDPs are reporting to the Police for further screening and security clearance. A significant number of the IDPs 10,831, have been absorbed into the local communities, while another 10,612 people have taken refuge in the camp. Due to the congestion in the camp, 3,241 of the IDPs have moved into the local primary school, while another 516 relocated to the Barracks. Meanwhile, WFP plans to undertake a re-registration and verification exercise in Port Loko town starting Tuesday, 8 August.

NRC began the construction of an additional 100 two-room booths at the camp on 31 July. Despite the continuing tense security situation, humanitarian activities are gradually being reactivated in Port Loko town, with OXFAM resuming WATSAN activities, which will help alleviate the suffering of many of the IDPs. The one-month VGF distribution by WFP in July has had a considerable impact on the food security status of the IDPs. However food shortages are reported in the camps due to continuing influxes. Non-food items have not been provided for new arrivals. IMC continues to maintain health programmes at the IDP clinic where they see an average of 120 patients per day. They identified about 40 malnourished children during the

1065.

period under review, mainly among the newly displaced.

NRC continues the Rapid Response Education classes. They will soon complete the construction of two additional temporary school structures for the students. A total of 970 children are enrolled in the programme. NRC is currently conducting a three-week teacher training for the teachers attached to the camp school.

Lungi Area/Tasso Island/Kakum Island - boosting coping mechanisms

IMC continues to support the outpatient clinic at the Lungi hospital, while providing medical screening services to children in the Interim Care Centre in Lungi. In Tasso Island, where at least 8,000 IDPs and residents are considered vulnerable, IMC is maintaining health services and supplementary feeding programmes. They are currently distributing plastic sheeting donated by ICRC to cover 97 booths in a makeshift camp constructed by IDPs on Kakum Island. As a follow-up to a one-month VGF distribution to 8,116 IDPs and residents in Tasso Island, WFP is now focusing on FFW & FFAg interventions aimed at reducing the population's dependency on VGF. In Lokomassama, which also hosts a large number of IDPs, CARITAS is supporting agricultural production. They distributed 500 bags of seed rice and 500 hoes to help boost the production capacity of the farming community there.

3. Western Area

IDP relocation ongoing

CARE, WFP, OCHA and NCRRR continue to facilitate the relocation of IDPs in National Workshop to the expanded sections of Waterloo and Grafton camps. As of the time of reporting, a total of 1,675 IDPs had been relocated. The relocation exercise will resume on Friday, 11 August. Plans are underway to further expand camp facilities to ease the overcrowding situation in IDP camps. Concern Worldwide and GOAL are currently working on the site expansion, while ACF is helping to upgrade and extend WATSAN facilities in the expanded sites. Meanwhile, MSF-H reports an increase in watery and bloody diarrhea in the camp clinics in Freetown.

Gambia donates money to IDPs

The Gambian President, President Yayah Jammeh, donated US$10,000 to IDPs in the Western Area during a visit to Sierra Leone on 26 July. Discussions are ongoing with the IDPs on how best to allocate the funds. The Gambian leader also donated US$10,000 to the amputees at the Murray Town camp in Aberdeen, Freetown.

Enhancing women's capacity

After an assessment of women's associations and war-affected youths, ICRC/SLRC together with the Ministry of Agriculture are planning to establish a community-based vegetable production programme, initially targeting 11,722 women and children in the Western Area and in Port Loko district. Meanwhile, UNICEF has distributed six sets of food processing equipment through AFRICARE & Action Aid for women's groups involved in food security activities in the Western Area and in

1066

Bo.

4. Southern Province

Flood victims targeted in Bonthe District

WVI has completed a second distribution of 42.75mt of FFAg to 1,000 flood victims in the Kwame Bai Krim chiefdom, Bonthe district. Meanwhile, ACF has completed a food security assessment in five flood-affected chiefdoms in the Bonthe and Pujehun districts.

E. SECTORAL HIGHLIGHTS

Child Protection

The Minister of Social Welfare Gender & Children's Affairs (MSWGCA), in a press conference held on 27 July reported that the Sierra Leone government was working on modalities to ratify the two optional protocols approved by the UN General Assembly in May. The Minister also stated that the "Rights of the Child Act" has been drafted and is awaiting review. The Ministry is yet to organise a stakeholder's workshop to develop the mandate and structure for a Commission of War Affected Children in the country. UNICEF reports that the special rapporteur on "violence against women" will visit Sierra Leone by the end of the month.

During the past week, UNICEF and MYES along with other child protection agencies conducted a two-day mass tracing exercise in the Western Area, including cross-border tracing. Meanwhile, CRS has registered 28 separated children in Mile 91, while CARITAS is undertaking a registration and verification exercise for more than 400 separated children in Yele.

Below is a summary of family tracing and reunification activities in the South for the month of July.

	Separated children	Families traced	Reunifications effected	Follow-up visits made
Bo	7	15	11	11
Moyamba	3	2	2	-
Bonthe	3	-	-	-
Pujehun	7	-	1	13

Education

MYES in collaboration with UNICEF has conducted a 10-day training of trainer's workshop for the first batch of 20 trainers to implement the Accelerated Learning Programme (ALP). The ALP is meant to cater for over-age children wishing to complete primary schooling in half the normal time. UNICEF is also working with other partners to facilitate integration of amputee children and the children of amputees living in Murray town camp into neighbouring schools for the ensuing year.

1067

Meanwhile, WFP has offered to extend its school feeding programme to UNICEF-supported formal schools and non-formal centres.

Food Aid

During the reporting period, WFP distributed a total of 445.879mt of assorted food-aid commodities to 39,447 beneficiaries countrywide.

Health

According to a health information bulletin recently published by the MOHS, health facilities operational in the Western Area and northern province have declined from 356 institutions in 1997, to 154 to date; (Western Area-76; northern province- 78). Meanwhile, UNICEF, WHO and UNFPA continue to undertake activities to strengthen the MOHS capacity to respond to health challenges in different regions.

UNICEF recently supplied 1,800 EPI manuals for the training of PHU staff in accessible districts. They also launched a community-based Anemia & Prevention Control Project in Bo, aimed at targeting 12,000 pregnant and breast-feeding women. They continue with chlorination, water trucking, and cesspit emptying activities in IDP camps and in accessible areas. In collaboration with local contractors, UNICEF is constructing wells in Moyamba, Port Loko, Tonkolili and Kenema districts to service schools, PHUs and vulnerable communities.

F. HUMAN RIGHTS

Human Rights Watch (HRW) reports continuing violations committed against civilians by armed groups. According to a report sent to OCHA on 6 August, "of particular concern is the plight of civilians attempting to flee RUF areas to escape attacks, forced recruitment, and GOSL gunship attacks." HRW said it has collected testimonies of civilians who were tortured by the RUF or killed for attempting to flee (Makeni, Lunsar, Kambia). Given the massive displacement of populations within RUF areas, the organization said it has reason to believe that the RUF is trying to terrorize the remaining civilian population in their areas of control to prevent them from leaving. "We've also documented many cases of civilians being severely maltreated by CDF members, particularly the Gbethis who routinely extort money from civilians and beat and torture those accused of being RUF combatants or collaborators," the report said.

Gunship Attacks: Furthermore, testimonies of victims and witnesses from Tongo Field recounted serious civilian casualties resulting from gunship attacks near the market place. "While other RUF targets were also hit, and while there were reported to be RUF combatants in and around the crowded market place, the attack resulted in 14 civilian deaths and at least a dozen wounded," said the HRW report. HRW said it was yet to confirm which gunship was responsible for these attacks.

Forced Recruitment: HRW has recorded witness accounts of a recent RUF recruitment drive in Makeni and in Yeliboya, near Kambia. "We have credible evidence to suggest a small number of children as young as 10 were recruited in Makeni between July 11 and 15." There are (unconfirmed) similar reports from

1068

Kono.

Food Raids: The RUF continues to commit serious violations in raiding villages in Makeni, Lunsar, Kambia and Kabala for food. HRW said it has documented at least 15 murders and several rapes, which occurred during such raids (in June and July).

Westside Boys: HRW reported at least eight cases of abductions along the Freetown-Masiaka highway, including the four aid workers of the Christian Health Association of Sierra Leone (CHASL) who were abducted on 21 July and released a week later.

CDF: There are continuing reports of extortion and lawlessness within the areas of Moyamba, Kenema and Bo. HRW has also documented several cases of excessive use of brutality against suspected RUF rebels by the CDF.

For comments/questions/contributions please contact, Ahunna Eziakonwa, Humanitarian Affairs Officer, OCHA, Sierra Leone. Email: aeziaki@hotmail.com/Tel: 232-22-227759/23223-501302.

For the Directory of Humanitarian Agencies/Partners in Sierra Leone, please click here (pdf format)
* Get Adobe Acrobat Viewer (free)

Top

With the exception of public UN sources, reproduction or redistribution of the above text, in whole, part or in any form, requires the prior consent of the original source.

Related Documents:
Latest Emergency Updates: Sierra Leone
Latest By Country: Sierra Leone
Other ReliefWeb documents by: UN Office for the Coordination of Humanitarian Affairs (OCHA)

Home Page: www.reliefweb.int
Comments

1069

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1995/975
21 November 1995

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN SIERRA LEONE

I. INTRODUCTION

1. The present report is submitted pursuant to a number of requests from members of the Security Council. It covers the period since my good offices were formally requested by the Government of Sierra Leone in November 1994.

2. The conflict in Sierra Leone began in March 1991, when the forces of the Revolutionary United Front (RUF) launched attacks to overthrow the Government of the All People's Congress (APC) headed by former President Joseph S. Momoh. The conflict has so far caused the deaths of thousands of civilians, while many thousands more are internally displaced or are refugees in Guinea and Liberia.

3. On 29 April 1992, the Government of President Momoh was overthrown by a military coup and the National Provisional Ruling Council (NPRC) was established. Captain Valentine E. M. Strasser became the Chairman of NPRC and Head of State. After the coup, RUF made additional demands and continued its conflict with the new Government.

4. Towards the end of 1993, NPRC regained control of areas held by RUF in the southern and eastern parts of the country and subsequently announced a unilateral cease-fire in December 1993. Nevertheless, attacks on towns, villages and major highways escalated to unprecedented levels and spread throughout the country.

5. In a letter addressed to me on 24 November 1994, Chairman Strasser formally requested my good offices to bring the Government and RUF to negotiations, with the United Nations serving as an intermediary in that process. I dispatched a member of the Department of Political Affairs, Mr. Felix Mosha, to Sierra Leone to explore the possibilities of dialogue between the Government and RUF. He held a series of discussions from 15 to 22 December 1994 with Government officials, prominent citizens, religious leaders, resident diplomats and representatives of all United Nations bodies and agencies in Sierra Leone. He was not able, however, to establish contact with RUF in order to assess its

attitude towards negotiations. In a letter to me dated 28 December 1994, Chairman Strasser expressed his appreciation and full support for the mission and requested that I continue my efforts.

6. The findings of the exploratory mission convinced me of the need to establish a more permanent presence in Freetown. I therefore appointed Mr. Berhanu Dinka (Ethiopia) as my Special Envoy for Sierra Leone and communicated this to the President of the Security Council on 7 February 1995 (S/1995/120).

II. POLITICAL SITUATION

7. During the last three years, while taking military measures against RUF, the Government has followed a two-track political approach: a negotiated settlement with RUF and democratization of the political process, including transition to an elected civilian Government within a fixed time-frame. These two political approaches are intended to reinforce each other.

A. The pursuit of negotiations

8. Prior to requesting my good offices, the Government had dispatched a delegation of prominent Sierra Leoneans to the border with Liberia to establish contact with RUF and pave the way for peace talks. The delegation met with the representatives of RUF on the Mano river bridge and held meetings with them on 24 November and 4 and 7 December 1994. Since then, there have been no follow-up meetings and each side has blamed the other for the non-resumption of talks. RUF accused the Government of sabotaging the process by issuing derogatory statements while the talks were being held. The Government alleged that the talks were discontinued because RUF took hostage three members of the Government delegation and continues to hold them.

9. My Special Envoy has spared no effort to establish contact with RUF. He has closely collaborated with the Organization of African Unity (OAU), the Commonwealth Secretariat and other organizations supporting negotiations in Sierra Leone. Along with the OAU and Commonwealth delegations, he issued a tripartite statement in Freetown in February 1995, calling on RUF to meet with them. He has since kept in constant communication with officials of these two organizations.

10. In his attempts to establish contact with RUF leadership, my Special Envoy has sought and received assistance from official bodies, private individuals and non-governmental organizations in Sierra Leone and throughout the subregion. This has enabled him to communicate with Mr. Foday Sankoh, the leader of RUF, and some of its senior members. In May 1995, Mr. Sankoh invited my Special Envoy to visit him at his base but later changed his mind. In a similar vein, at the beginning of September 1995, he invited, through the International Committee of the Red Cross (ICRC) in Freetown, a number of prominent Sierra Leoneans to meet him. The Government agreed to allow those invited to proceed to the meeting. On 18 September, ICRC informed RUF of the Government's

agreement and requested RUF to fix the date and venue. No response has yet been received.

11. My Special Envoy is still continuing his efforts through various channels to meet face-to-face with the RUF leader. In addition to these efforts, he has been assisting and encouraging the Government in its democratization process.

B. Democratization

12. On 26 November 1993, Chairman Strasser issued a declaration setting out a programme of transition to democratic constitutional rule. According to the schedule, registration of voters was to have been completed from March to June 1994 and presidential elections were to have taken place in November 1995. However, the continued conflict and limited State resources have delayed the implementation of the transition programme by one year.

13. On 27 April 1995, on the occasion of the thirty-fourth anniversary of independence, Chairman Strasser reaffirmed the commitment of NPRC to the transition programme, pledging that everything possible would be done to complete its implementation by January 1996, when a democratically elected President would be sworn in. Several important steps have followed that pronouncement.

14. The Interim National Electoral Commission (INEC), which was established by Decree No. 1, 1994, has intensified its activity under the chairmanship of Mr. James O. C. Jonah. Its sister organization, the National Commission for Democracy (NCD), established by Decree No. 15, 1994, promotes civic and voter education throughout the country.

15. At the request of the Government, the United Nations Electoral Assistance Division conducted a needs assessment mission from 22 November to 2 December 1994, in close collaboration with the National Electoral Commission, to identify the technical requirements for organizing the electoral process, including voter registration, polling, civic education, training of electoral officers, legal issues and the electoral timetable.

16. On 20 June 1995, the Government issued Decree No. 7, 1995, lifting the ban on political activities, which it had imposed when it came to power, and empowered INEC to register political parties. Fifteen political parties have so far been issued with final certificates of registration and have begun campaigning (see annex I).

17. In order to build broad-based support for the electoral process, a National Consultative Conference on Elections was held in Freetown from 15 to 17 August 1995 with the participation of all the political parties, representatives of the Government and 78 different organizations representing a wide spectrum of civil society. The Conference adopted a system of elections based on proportional representation, a code of conduct for political parties and rules to govern campaign financing. The Conference overwhelmingly agreed to hold elections by the end of February 1996. The date has since been set for

26 February 1996. The vigorous debate and the consensus that emerged indicate wide support for the democratic process.

18. As a result of these decisions, INEC is ready to begin voter registration and to finalize preparations for the elections. However, there are serious financial constraints that endanger this process: the total budgetary requirement is US$ 10,730,219, but only US$ 1,125,005 in cash and kind has so far been raised from external sources (see annex II). Unless additional financial support is made available, the electoral timetable will not be met.

19. Postponement of the elections could result in escalating violence and halt altogether the process of democratization. There are some elements within Sierra Leone that seek to derail the electoral process, as was attested by the attempted coup of 2 October 1995.

20. Various efforts have been made to raise resources. At a briefing of donor countries on the electoral and political situation in Sierra Leone on 2 November 1995, the response was very positive. I am convening a donors' conference on electoral assistance to Sierra Leone in New York on 30 November and I urge Member States to respond generously.

21. I have instructed my Special Envoy to follow closely all aspects of the democratization process. I have also instructed him to encourage the Government and leaders of the political parties to safeguard the integrity of the process, ensuring that the elections are free and fair and that their outcome is not contested.

III. SECURITY SITUATION

22. When NPRC took power, the Republic of Sierra Leone Military Forces numbered 3,000. A massive recruitment drive increased their total strength to around 14,000. After the December 1994 offensive by RUF, however, it became clear that the forces were inadequate to confront the challenges they faced. In addition, some soldiers have been implicated in illegal activities.

23. Given the links between the conflicts in Liberia and Sierra Leone, certain regional and other countries have taken the decision to provide military assistance to Sierra Leone. In addition, NPRC has been using non-Sierra Leonean advisers to improve the fighting skills of its troops, instil discipline and upgrade command and control.

24. The situation on the ground has not changed dramatically. Foreign and Sierra Leonean nationals, including seven nuns, were taken hostage in different parts of the country in early 1995 and subsequently released on 21 March 1995. In addition, RUF began moving closer to Freetown and captured several villages in Kono District, an area rich in diamonds and therefore of great economic importance.

25. Recently, morale and discipline within the Republic of Sierra Leone Military Forces appear to have improved. The diamond fields of Kono and a number of villages were retaken by Government forces in July and August 1995.

The frequency of ambushes on the highways has decreased in the last few weeks and, if the present trend continues, the delivery of relief assistance to the countryside, as well as registration and voting, will be facilitated.

26. The majority of the combatants on both sides are young men with no employable skills other than soldiering. The Government has expressed its desire to demobilize part of its army. This is imperative, but it is also vital to reintegrate the demobilized soldiers into society as productive citizens. Sierra Leone lacks the resources to accomplish this task and the international community needs to assist the processes of demobilization and reintegration. While this programme will initially cover only members of the Republic of Sierra Leone Military Forces and those RUF combatants who are already in the hands of the Government, it must be designed to cover those still in the field as soon as a cease-fire and peace agreement are in place.

27. The Republic of Sierra Leone Military Forces held a seminar on 16 and 17 November 1995 with civilians and representatives of political parties to discuss the differences of perception and mutual suspicion between the military and the civilian population. It hopes that this seminar will create a harmonious environment in preparation for the forthcoming transition to civilian rule.

IV. THE ECONOMIC SITUATION

The socio-economic costs of the war

28. Much of the fighting has taken place in the mineral-rich areas in the south and east and the agriculturally viable regions where cocoa, coffee and other cash crops are grown. As a result, production of gold and diamonds dropped from 43,000 tons in 1991 to 38,000 tons in 1994. This was reflected in a $30 million decline in exports. Income from the production of cash crops has declined from $21 million in 1990 to $7.6 million in 1993, a fall of 64 per cent. At the same time, government expenditures have risen as a result of the war; it is estimated that some 75 per cent of total revenue is now spent on the war effort.

29. Infrastructure damage has been enormous, with academic institutions, government offices, banks, health centres, schools and hospitals in a state of severe disrepair. Roads, bridges and construction equipment have been destroyed, while the Government, the churches, NGOs and mining companies have closed or scaled down operations and laid off thousands of workers as part of the austerity measures.

30. The Government has been credited with stabilizing the economy. However, the formal economy accounts for only 25 to 30 per cent of the country's total economic activities. As economic opportunities in the formal sector decline, people have little choice but to participate more fully in the informal economy, including resorting to acts of banditry.

31. Much of the war is being fought in the rural areas, particularly in the south and east, affecting semi-subsistence farmers who make up the bulk of the rural population. Farms have been destroyed, food stores burnt, domestic

animals stolen or killed and agricultural tools looted. Attacks have consistently taken place during the dry season, preventing farmers from harvesting their crops. As a result, 248,800 tons of cereals were imported in 1992, an 80 per cent increase over the previous year. Continued food shortages are likely to perpetuate the war.

V. HUMANITARIAN

32. The humanitarian situation in Sierra Leone remains critical. Nearly 2 million people have been internally displaced, the majority flocking to major towns, including Bo, Kenema and Makeni. This represents close to 50 per cent of the country's estimated population of 4,477,000. Only about 1.1 million persons from this group receive assistance with any degree of regularity, owing to security constraints. Highways linking Freetown to key population centres have been usable only sporadically for much of this year and the impact on civilian populations has been severe. In the eastern and south-eastern areas of the country, which have been totally inaccessible for more than eight months, it is feared that malnutrition will soon reach life-threatening levels. Beginning in September 1995, however, there has been a relative improvement in access, allowing humanitarian organizations to deliver relief without armed escorts. Areas in the eastern portion of the country, however, remain inaccessible.

33. The gap between the resources made available by the international community for humanitarian assistance and the unmet needs of the affected population continues to be great. In March 1995, I launched the United Nations inter-agency consolidated appeal for humanitarian assistance to Sierra Leone, covering the period from March to December 1995 and requesting $14.7 million for the emergency activities of the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the World Food Programme (WFP) and the United Nations Department of Humanitarian Affairs. Only 41 per cent of the funds requested has been received. This pattern is particularly worrying with respect to the status of WFP food stocks and anticipated needs for the coming year. Resources are required as soon as possible to prevent an even more precarious food aid situation next year.

34. The emergency situation has prevented development organizations from carrying out any sustained activity outside the Freetown area. Programmes have now been reoriented to address the emergency. The Department of Humanitarian Affairs will establish a humanitarian assistance coordination unit in Freetown, staffed by three experienced officers, to support the United Nations Humanitarian Coordinator.

VII. OBSERVATIONS AND RECOMMENDATIONS

35. While the situation in Sierra Leone is generally characterized by conflict, human suffering and economic decline, there are some positive emerging trends which, if assisted, would contribute to the re-establishment of peace and stability. The ongoing process of democratization, particularly the elections set for 26 February 1996, is a significant element in this development and worthy of the international community's support.

36. The internal conflict that has raged for the last four years has damaged or destroyed much of the vital physical and social infrastructure of the country. In order to consolidate the democratic process and support the incoming elected civilian Government, I urge the international community to demonstrate its solidarity with the people of Sierra Leone, many of whom believe that the world has abandoned them. Some initial steps must be taken now to signal the international community's commitment to assist this democratization process.

37. Given the importance of the issue, I am instructing the Department of Humanitarian Affairs and the United Nations Development Programme (UNDP) to field a team of experts to prepare, in collaboration with the Government, a coordinated and workable action plan for the demobilization and reintegration of combatants. The team will take into account the experiences gained by the United Nations in El Salvador and Mozambique, as well as the present effort in Liberia, to identify sources of funds so that implementation can begin expeditiously.

38. I have also instructed the Electoral Assistance Division to work closely with other United Nations agencies and programmes, in particular UNDP, to assist INEC in coordinating international observers during the elections and in strengthening national observer groups.

39. The humanitarian situation in Sierra Leone is a cause for concern because of the widening gap between the needs of the war-affected population and the resources available to humanitarian agencies. Unless the international community responds quickly to enhance the humanitarian agencies' capacity to deliver relief assistance in time and in sufficient quantity, the situation may become desperate. In this connection, I should like to commend all United Nations agencies and non-governmental organizations operating in Sierra Leone for their response to the emergency situation by reorienting their various programmes.

40. Delivering relief assistance to the needy is not an easy task even at the best of times. It becomes almost impossible when humanitarian convoys are targeted. Members of the Security Council may consider admonishing those responsible for attacking relief convoys and urging them to refrain from such deplorable actions.

41. Despite all efforts to contact it, the RUF leadership has remained elusive and unresponsive to initiatives for a meeting or negotiations. While commending those Governments, non-governmental organizations and individuals that have been supporting the efforts of my Special Envoy, the time has come for the international community to urge RUF to take advantage of my good offices and to initiate a process of negotiation.

42. I intend to retain my Special Envoy in Sierra Leone for the time being. He will continue his efforts to establish a dialogue between RUF and the Government and to support the process of democratization. His efforts will be coordinated with OAU and the Commonwealth.

43. In conclusion, I should like to call upon Member States to provide the fullest possible material and financial support to INEC so that the elections

can be held on schedule. Although there are legitimate security concerns, experience has shown in other places, such as Cambodia and South Africa, that the democratic process should not be held hostage to the intransigence of any particular group.

Annex I

List of registered political parties in Sierra Leone

	Name of political party	Name of leader
1.	People's Progressive Party (PPP)	Edward Bundu-Kamara
2.	National Unity Movement (NUM)	Desmond Luke
3.	People's National Convention (PNC)	Ibrahim Ben Kargbo
4.	United National People's Party (UNPP)	John Karafa-Smart
5.	People's Democratic Party (PDP)	Thaimu Bangura
6.	All People's Congress (APC)	S. A. T. Koroma
7.	National Unity Party (NUP)	A. O. D. George
8.	Sierra Leone People's Party (SLPP)	Rev. Paul Dumbar
9.	National Democratic Alliance (NDA)	Foday B. Mansaray
10.	National People's Party (NPP)	Alimamy Yamba Komeh
11.	National Republican Party (NRP)	Sahr Steven Mambu
12.	Democratic Centre Party (DCP)	Abu A. Koroma
13.	Coalition for Progress Party (CPP)	Ms. Jeredine Williams Sarho
14.	National Alliance Democratic Party (NADP)	Mohamed Y. Sillah
15.	Social Democratic Party (SDP)	Andrew Lungay

Annex II

Interim National Electoral Commission

Electoral assistance budget (November 1995-March 1996)

Funding status as at 24 October 1995

Category	Description	Amount	Funded	Promised	Not funded
Coordination	Chief technical adviser	108 000	108 000 a/		
	Legal adviser	60 000	60 000 b/		
	United Nations Volunteers	55 000			55 000
	Electoral coordinator	30 000			30 000
	Admin. support personnel	36 000	36 000 a/		
	Mission costs/duty travel	25 000	25 000 a/		
	Reports sundries	18 000	18 000 a/		
	Subtotal	332 000	247 000		85 000
Voter education	International personnel				
	Media coordinator	60 000	60 000 b/		
	Civic education consultant	120 000	120 000 c/		
	National personnel				
	Civic education consultants	12 000	10 000 a/		2 000
	Publicity supervisors	14 667			14 667
	Publicity officers	175 000			175 000
	Publicity assistants	400 000			400 000
Materials rental	Audiovisual productions	55 556	20 000 d/		35 556
	Theatre productions	100 000	63 000 e/		37 000
	Design/graphic materials	83 333			83 333
	Vehicle rental	100 000			100 000

1079

Category	Description	Amount	Funded	Promised	Not funded
	Launch/other rental	5 556			5 556
	Mobile radio communications	300 000	50 000 a/		250 000
	Training	50 556			50 556
	Equipment materials	100 687			100 687
	Audiovisual communication vehicles	250 000	250 000 f/		
	Fuel and maintenance	106 500			106 500
	Subtotal	1 933 855	573 000		1 360 855
Voter registration	International personnel				
	Logistics coordinator	60 000	60 000 g/		
	Team leaders	40 000			40 000
	Database expert	17 555	17 555 a/		
	Registration coordinators	7 200	7 200 a/		
	Registrars	500 000			500 000
	Data editors	25 667			25 667
	Revision personnel	250 000			250 000
	Data entry personnel	20 000			20 000
	Logistics assistants	6 000			6 000
Training	Registration officials	100 000		63 000 h/	37 000
Rentals/others	Vehicles for registration	166 667			166 667
	Vehicles for revision	83 333			83 333
Materials	Registration	400 000		100 000 h/ 100 000 i/	300 000
	Computerization	220 250	8 500 e/ 211 750 h/		
	Subtotal	1 896 672	305 005	263 000	1 328 667

/...

Category	Description	Amount	Funded	Promised	Not funded
Polling	International and national personnel				
	Nomination day	20 767			20 767
	Election day	900 638			900 638
	INEC supervisory personnel	100 000			100 000
	Trainees, monitors	533 333			533 333
	Training coordinator	7 200			7 200
	Training assistants	10 800			10 800
Training	Election officers training	250 000			250 000
Materials/rentals	Materials rentals	85 000			85 000
	Vehicle rentals	233 333			233 333
	Election day materials	851 067		a/	851 067
	Food/materials for brigades	109 667			109 667
	United Nations Secretariat equipment	69 220			69 220
	Helicopter lease	1 000 000			1 000 000
	Subtotal	4 171 025			4 171 025
Transportation	Purchases				
	Field vehicles (6)	240 000			240 000
	Light vehicles (14)	560 000			560 000
	Trucks (5)	266 667			266 667
	Minibuses (5)	400 000			400 000
	Motor bicycles/bicycles	150 000			150 000

Category	Description	Amount	Funded	Promised	Not funded
	Operation/maintenance	500 000			500 000
	Air transport fuel/operations	300 000			300 000
	Subtotal	2 416 667			2 416 667
	Grand total	10 750 219	1 125 005	263 000	9 362 214
Summary					
Coordination		332 000	247 000		85 000
Voter education		1 933 855	573 000		1 360 855
Voter registration		1 896 672	305 005	263 000	1 328 667
Polling		4 171 025			4 171 025
Transportation		2 416 667			2 416 667
	Grand total	10 750 219	1 125 005	263 000	9 362 214

a/ United Nations Development Programme.

b/ Commonwealth.

c/ European Union.

d/ Greece.

e/ United States of America.

f/ United Kingdom of Great Britain and Northern Ireland.

g/ Canada.

h/ Sierra Leone.

i/ Sweden.

Annex III

Resource mobilization for the Sierra Leone emergency

Agency	Requirements	Pledges	Shortfall	Percentage of needs covered
United Nations Children's Fund	2 799 000	1 100 000	1 699 000	39.3
World Health Organization	1 325 000	759 856	565 144	57.3
Office of the United Nations High Commissioner for Refugees	4 648 800	336 538	4 312 262	7.2
Department of Humanitarian Affairs	237 500	8 772	228 728	3.7
World Food Programme (non-food)	450 000	0	450 000	0
(food and ITSH) a/				
Vegetable oil	3 503 640	1 455 000	2 048 640	41.5
Corn-soya blend	686 280	592 800	93 480	86.4
ITSH a/	493 038	278 460	214 578	56.5
Subtotal	4 682 958	2 326 260	2 356 698	49.7
Total for consolidated appeal	14 143 258	4 531 426	9 611 832	32.0
United Nations Development Programme b/		4 104 000		
Food and Agriculture Organization of the United Nations b/		356 000		
United Nations Population Fund b/		100 000		
Grand total	14 143 258	9 091 426	9 611 832	

a/ Internal transport, stores and handling.

b/ Not included in the March-December consolidated appeal.

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1997/958
5 December 1997

ORIGINAL: ENGLISH

SECOND REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN SIERRA LEONE

I. INTRODUCTION

1. The present report is submitted pursuant to paragraph 16 of resolution 1132 (1997) of 8 October 1997 and to the Presidential statement of 14 November 1997.[1] It covers developments in Sierra Leone since my first report, dated 21 October 1997.[2]

II. IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1132 (1997)

Action taken by the military junta, the Economic Community of West African States and the Special Envoy

2. On 23 October 1997, the Economic Community of West African States (ECOWAS) Committee of Five on Sierra Leone and a delegation representing Major Johnny Paul Koroma, Chairman of the Armed Forces Revolutionary Council (AFRC) regime in Sierra Leone, held talks at Conakry and signed a six-month peace plan for Sierra Leone[3] which was to take effect from that date. The United Nations was represented at the signing of the Conakry Agreement by the Assistant Secretary-General for Political Affairs. A representative of the Organization of African Unity also attended.

3. The Agreement calls, inter alia, for the cessation of hostilities as from 23 October 1997, to be monitored by an ECOWAS Monitoring Group (ECOMOG) verification mechanism to be assisted, subject to the approval of the Security Council, by United Nations military observers; the disarmament, demobilization and reintegration of combatants, which is to take place from 1 to 31 December; the resumption on 14 November of humanitarian assistance to Sierra Leone, to be monitored by ECOMOG and United Nations military observers; commencing 1 December, the return of refugees and displaced persons, with the assistance of the Office of the United Nations High Commissioner for Refugees (UNHCR); the provision of immunities and guarantees for the coup leaders; the restoration of the constitutional government of President Kabbah by 22 April 1998; and the broadening of the government's power base. Under the Agreement, Corporal Foday Sankoh, leader of the Revolutionary United Front (RUF), was expected to

return to Sierra Leone to make his contribution to the peace process. The ECOWAS Committee and the junta's representatives also agreed to continue negotiations towards the effective and prompt implementation of the Agreement.

4. On 5 November, President Ahmad Tejan Kabbah issued a statement[4] indicating his acceptance of the Conakry Agreement, and stated his Government's willingness to cooperate with ECOWAS, ECOMOG, the United Nations and UNHCR in the implementation of their respective roles in accordance with the Agreement.

5. Although the junta publicly committed itself to the implementation of the Conakry Agreement and has held discussions with ECOMOG on the modalities for the disarmament process and for the provision of humanitarian assistance, it has issued several statements criticizing key provisions of the Agreement, and raised several important issues (see para. 6 below), which may seriously affect, if not undermine, its implementation.

6. On 11 November, the ECOMOG Force Commander, Major-General Victor Malu, met with representatives of the junta at Kossoh Town, Sierra Leone, to discuss the modalities for the implementation of the Conakry Agreement. The meeting reportedly resulted in a number of provisional agreements, including those on the deployment of ECOMOG troops throughout Sierra Leone and the cessation of all hostile propaganda. However, three major points of disagreement - the role of Nigeria within ECOMOG, the modalities and timing of the return of Corporal Sankoh and whether or not disarmament should extend to the Armed Forces of Sierra Leone (AFSL) - remained.

7. Members of the Council were briefed on the Conakry Agreement on 11 November by representatives of the ECOWAS Committee of Five, including the Ministers for Foreign Affairs of Nigeria and Ghana, Chief Tom Ikimi and Mr. Victor Gbeho, and the Executive Secretary of ECOWAS, Mr. Lansana Kouyaté.

8. On 14 November, the Security Council adopted a Presidential statement expressing its full support and appreciation for the continued efforts of the ECOWAS Committee of Five to seek a peaceful settlement of the crisis, and welcoming the Conakry Agreement.[1] The statement noted with satisfaction President Kabbah's acceptance of the peace plan. On 17 November, members of the Council received the first report of ECOWAS, submitted pursuant to resolution 1132 (1997).[5]

9. In order to assess conditions on the ground and formulate recommendations as to the form that United Nations assistance in the implementation of the Conakry Agreement might take in terms of humanitarian aid, the deployment of military observers and support for ECOWAS and its Monitoring Group, ECOMOG, I requested my Special Envoy for Sierra Leone, Mr. Francis Okelo, to lead a small exploratory team which visited the subregion during the second half of November.

10. The team met with the Minister for Foreign Affairs of Liberia, Mr. Monie Captan, and with senior ECOMOG officers at Monrovia, as well as with President Kabbah and the Minister for Foreign Affairs of Guinea, Mr. Aliou Camara, at Conakry. The team also met with refugees at Forecariah refugee camp near the border between Guinea and Sierra Leone, and visited the border crossing point at Pamelap.

11. Foreign Minister Captan stated his Government's support for the restoration of constitutional rule in Sierra Leone but expressed concern at the danger of the conflict in Sierra Leone spilling over into Liberia. These concerns were stated previously in a letter dated 31 October 1997 from the Permanent Representative of Liberia addressed to the President of the Security Council.[6]

12. It was intended that the team would accompany the ECOWAS Committee of Five ministerial assessment visit to Freetown, which, under the Conakry Agreement, was scheduled for 20 November. However, following the cancellation of that visit, the ECOMOG Force Commander, General Malu, the Executive Secretary of ECOWAS, Mr. Kouyaté, and my Special Envoy, met with junta representatives at Freetown on 27 November to discuss the modalities for the implementation of the Agreement.

13. It should be noted that the route from Kossoh to Freetown, where my Special Envoy and Mr. Kouyaté met with Major Johnny Paul Koroma, the Chairman of the AFRC, was lined with thousands of Sierra Leoneans who were waving banners demanding peace. At the meeting with Major Koroma, my Special Envoy and Mr. Kouyaté stressed the commitment of the international community to the restoration of the constitutional order in Sierra Leone and the need for the junta to cooperate fully in the implementation of the Conakry Agreement. Major Koroma did not express any objections.

14. However, at a meeting held at Jui on the same day between General Malu and the military representatives of the junta, including the AFRC Secretary-General, Colonel Sessay, and its Chief of Staff, Colonel Williams, very little progress was made in discussing the practical modalities for the implementation of military provisions of the Agreement. Colonel Williams insisted that no progress could be made in implementing the decisions reached at the military talks on 11 November until the following issues had been resolved: the release of Corporal Sankoh; the removal of the Nigerian troops from ECOMOG; and the exclusion of the AFSL troops from the disarmament exercise. It was, however, decided that the three committees established at the meeting held on 11 November to deal with disarmament, ceasefire violations and humanitarian assistance, should start operating from 1 December 1997 but, so far, no progress has been made in that regard. A further meeting with the junta to review the situation is expected to be held in the near future, following consultations.

15. It should be noted that while the junta appears to be in control of Freetown, the extent to which it is willing, or able, to negotiate the implementation of the Conakry Agreement is not clear. There have been reports of recent difficulties in the relationship between the AFRC and the RUF. Moreover, on 16 November, Mr. Steven Bio, a close relative of Brigadier Julius Maada Bio, the former National Provisional Ruling Council (NPRC) Chairman, who had been working closely with the AFRC/RUF junta, was arrested along with the RUF spokesman, Mr. Massaquoi, for allegedly trying to persuade some AFRC and RUF members to oppose the implementation of the Conakry Agreement. In addition, eight members of the AFRC Supreme Council have reportedly been detained for engaging in illegal diamond-mining activities.

16. Although the ceasefire between ECOMOG and the junta's troops in the Freetown area appears to be largely holding, heavy fighting has been reported

between the Kamajors, a traditional hunter militia, and the AFRC/RUF in the south-east and in the diamond-producing areas around Tongo in the east. Clashes between rival factions within the AFRC/RUF have also reportedly taken place, and there are numerous reports that all armed elements in Sierra Leone are recruiting, training and acquiring weapons. Insecurity and armed robberies continue in Freetown, where the warehouses of the non-governmental organization World Vision and that of the United Nations Children's Fund were looted by armed men. The junta has acknowledged the lack of security and has threatened looters with summary execution.

17. ECOMOG is continuing its preparations to implement the military provisions of the Conakry Agreement, including the identification of possible sites for the disarmament and demobilization of all Sierra Leonean armed elements. However, the success of the peace process depends on the creation of conditions that would enable the deployment of ECOMOG throughout the country and to begin the demobilization exercise as soon as possible. In turn, the elaboration of a United Nations concept of operations in Sierra Leone depends on the formulation by ECOMOG of a detailed implementation plan of the Conakry Agreement.

Other action taken pursuant to resolution 1132 (1997)

18. By paragraph 13 of resolution 1132 (1997), the Security Council requested States to report to the Secretary-General within 30 days of the date of adoption of the resolution on the steps they had taken to give effect to the provisions contained in paragraphs 5 and 6 of the resolution. At the time of writing, the following 13 countries have provided information on the measures they have taken in order to give effect to those provisions, namely, Chile, Cyprus, the Czech Republic, Germany, Greece, Japan, Lebanon, Malta, New Zealand, Oman, Monaco, Singapore and Sweden. The Chairman of the Security Council Committee established pursuant to resolution 1132 (1997) visited the region from 4 to 7 December to review the status of implementation of the sanctions.

III. HUMANITARIAN SITUATION

19. The humanitarian situation in Sierra Leone has deteriorated since the coup of 25 May 1997. The health and nutritional status of the population has been especially affected, owing to a combination of insecurity, a drastic breakdown in public services and limited supplies of essential drugs, vaccines and food. Approximately 157,000 people have been displaced by the conflict associated with the coup. Over 21,000 families are registered as eligible for food aid under various humanitarian projects. There has been a significant increase in the incidence of communicable diseases, especially measles. Furthermore, there are still areas of the country that, for reasons of insecurity, remain inaccessible to the humanitarian community and where the gravity of the emergency situation is unknown.

20. In the rural areas, where armed conflict has not significantly disrupted agriculture, a good rice harvest is expected during December. The distribution of seeds and tools, undertaken by humanitarian organizations between January and June 1997 in two thirds of the country's chiefdoms, contributed significantly to

this encouraging picture. However, in the areas north of Bo, there are reports of some harvests being looted by armed elements.

21. In Freetown, commercial food stocks have dwindled considerably and prices have started to rise as the sanctions take effect. These price increases have affected most the vulnerable groups with limited purchasing power but they are also affecting the majority of the capital's population. It is projected that the remaining commercial food stocks will be severely depleted in approximately two weeks. Furthermore, the supply of food to all towns from rural and coastal areas is now seriously constrained by an increasingly acute shortage of petrol, resulting from the embargo on petroleum and petroleum products.

22. The start of cross-border relief operations, particularly operations involving food aid, has been delayed owing to difficulties in implementing certain aspects of the Conakry Agreement, including the full deployment of ECOMOG in Sierra Leone and, in particular, by the absence of ECOMOG and its inspection teams at the border between Guinea and Sierra Leone, which are required for cross-border deliveries to proceed. At the end of November, there were fewer than 2,000 metric tons of food aid in stock in the country.

23. While the implementation of disarmament and demobilization, as scheduled by the Conakry Agreement, is still under negotiation, the RUF has started releasing to non-governmental child protection organizations some of the children under its control. Once released, these children are given special care until reunification with their families is possible.

IV. OBSERVATIONS

24. The coup of 25 May 1997 was a serious blow to Sierra Leone and also to the subregion. Sierra Leone and its people have suffered greatly from the overthrow of the democratically elected Government of President Tejan Kabbah and continue to suffer harm from its effects on their security and living conditions. It is evident that the international community is determined that the coup must be reversed and the constitutional order restored as soon as possible.

25. The signing of the Conakry Agreement was a significant step towards resolving the crisis in Sierra Leone, and I commend the countries of ECOWAS for their initiative. However, despite some encouraging indications, little concrete progress has been made so far in the implementation of the Agreement which should be pursued with a sense of urgency, with pressure being exerted on the Freetown junta. Meanwhile, the military, political and humanitarian aspects of the Agreement require further clarification and negotiation, as well as the early formulation of the practical modalities for its implementation. These aspects should include the development of a concept of operations for the deployment of ECOMOG throughout the country, the conduct of disarmament, and the timing and modalities of implementation of an effective national reconciliation process. While these efforts must be pursued vigorously, the junta should not be allowed to manipulate the talks and to procrastinate in carrying out its commitments under the Agreement. Disarmament should, of course, be followed by the demobilization and reintegration of ex-combatants, which would require adequate assistance from the international community.

26. The United Nations should be prepared, where appropriate, to take an active part in such negotiations and to help to ensure the proper implementation of the Conakry Agreement. The Abidjan accord[7] which was signed on 30 November 1996 but remained unimplemented in part because of the coup of 25 May 1997, also provides a broader framework which can be utilized, as appropriate, to promote the overall settlement of the crisis.

27. Accordingly, if the steps outlined above are taken, and should security conditions on the ground permit, it would be my intention, with the support of the Security Council, to dispatch promptly a technical survey team to Sierra Leone. Its findings would enable me to present to the Security Council considered recommendations concerning the role that could be played by the United Nations in assisting in the implementation of the Conakry Agreement.

28. In the meantime, I have requested my Special Envoy for Sierra Leone to make arrangements to reopen a small liaison office in Sierra Leone, subject, of course, to acceptable security conditions and the availability of funds. The functions of this office would include liaison with ECOMOG and with the various political forces in Sierra Leone. In accordance with paragraph 4 of resolution 1132 (1997), my Special Envoy would continue to assist the search for a peaceful resolution of the crisis and, to that end, to participate in discussions with all parties concerned. The United Nations will also continue its efforts to ensure the delivery of humanitarian aid to populations in need.

29. In conclusion, I would like to express my appreciation to ECOWAS for the close cooperation it has extended to my Special Envoy. The efforts of ECOWAS and its Monitoring Group, ECOMOG, in resolving the crisis in Sierra Leone through the peaceful restoration of the constitutional order deserve the active support of the international community.

Notes

[1] S/PRST/1997/52.

[2] S/1997/811.

[3] S/1997/824, annex II.

[4] See S/1997/886.

[5] See S/1997/895.

[6] S/1997/835.

[7] See S/1996/1034.

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1998/103
5 February 1998

ORIGINAL: ENGLISH

THIRD REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN SIERRA LEONE

I. INTRODUCTION

1. The present report is submitted pursuant to paragraph 16 of Security Council resolution 1132 (1997) of 8 October 1997 and to the presidential statement of 14 November 1997 (S/PRST/1997/52). It covers developments in Sierra Leone since my second report, dated 5 December 1997 (S/1997/958).

II. IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1132 (1997)

Dispatch of a technical survey team

2. By a letter dated 16 December 1997 (S/1997/980), the President of the Security Council conveyed to me the support expressed by members of the Council for the implementation of the two proposals I had made in my previous report, namely, the dispatch of a technical survey team to Sierra Leone and the reopening of a small liaison office in Sierra Leone.

3. Between 10 and 17 January 1998, a technical survey team led by my Special Envoy to Sierra Leone, Mr. Francis G. Okelo, visited Conakry, Monrovia and Freetown. The objectives of the visits were to assess the political, military and security situation in Sierra Leone, to discuss with the junta the implementation of the peace agreement signed in Conakry on 23 October 1997, to consult with the Economic Community of West African States (ECOWAS) on the planning undertaken so far by its Monitoring Group, ECOMOG, to carry out the military tasks listed in the Conakry Agreement and to examine installations and infrastructure in the subregion, including airports and seaports, medical facilities, engineering works and the availability and reliability of equipment, supplies and services that might be used by a future United Nations military presence, should the Security Council decide to deploy one.

4. During its visit, the team met three times in Conakry with President Ahmad Tejan Kabbah and members of his Cabinet, who welcomed the proposals

contained in my previous report, and with the Minister for Foreign Affairs of Guinea and other Guinean government officials. With the full cooperation of the Guinean Government and the assistance of Guinean officials, the team also inspected the airport, seaport and medical facilities in Conakry.

5. In a statement issued in Conakry on 17 January 1998, President Kabbah welcomed the efforts of my Special Envoy to secure the implementation of the Conakry Agreement and the visit of the technical survey team to Freetown. He placed particular emphasis on the need for an early deployment of ECOMOG troops and United Nations military observers in Sierra Leone. On 24 January, Mr. Okelo met in Lungi, Sierra Leone, with Vice-President Albert Demby and held extensive discussions with him on the various aspects of the peace plan. As part of his consultations with all parties involved in the Sierra Leonean peace process, my Special Envoy also held meetings with representatives of Sierra Leonean civil society and organizations based in Conakry in order to apprise them of the efforts the United Nations was making to help implement the Conakry Agreement.

6. In Monrovia, members of the team met with ECOMOG High Command officers to discuss the concept of operations drawn up for the implementation of the Conakry Agreement, including the development of plans for the deployment of ECOMOG troops inside Sierra Leone beyond their present bases, and for disarming and demobilizing the Sierra Leonean combatants.

7. In their discussions with the ECOMOG Force Commander and other senior officers, members of the team found that some effort had been made to identify the logistical and equipment requirements of the ECOMOG force, and some preliminary planning had been initiated. On 24 January 1998, my Special Envoy received an outline plan for ECOMOG deployment and the ECOMOG concept of operations, but much remains to be done before the United Nations could be in a position to draw up its own comprehensive plans, which, in accordance with the Conakry Agreement, must be based on an ECOMOG concept of operations.

8. In Freetown, the team met with the political and military leaders of the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) for a series of general and technical discussions. The team also visited United Nations House in the centre of the city. While the vehicles and some other equipment that had been previously positioned in the United Nations warehouse for use in a possible peacekeeping operation had been looted, the United Nations offices, including the office of my Special Envoy, had been maintained in working condition by the local staff.

9. The team performed the necessary technical on-site inspections, including inspection of the seaport, heliport and airfield infrastructure, warehouses and storage facilities and locations for office accommodation and living quarters in Freetown. While many of these had suffered looting and sustained damage and neglect, the team considered that with a certain amount of rehabilitation work they could be rendered usable in the event of a United Nations deployment.

Security situation

10. The technical survey team found that while the junta appeared to be in control of Freetown, the security situation in the countryside remained highly volatile and did not allow the United Nations group to travel outside the capital. In its discussions with its various interlocutors, the team received reports that military activity was persisting in the east and south of the country, particularly around Bo and Kenema. Intensified guerrilla-style actions against the junta forces were being conducted by an organization called the Civil Defence Unit (CDU). CDU, which apparently comprises the Kamajors and similar groupings of traditional village-based hunters in the north and centre of the country, claims to control all major roads in Sierra Leone.

11. In a statement released on 9 January 1998, CDU indicated that it would cooperate with the implementation of the Conakry Agreement only in the event of a firm commitment by the junta to abide by its provisions, the rapid deployment of ECOMOG throughout Sierra Leone and the disarmament of all combatants, including RUF and the Republic of Sierra Leone Armed Forces (RSLMF). The representative of CDU whom the technical survey team met in Conakry, citing security considerations, declined to give the team any detailed indication of the size, armament or distribution of the CDU forces, which are led by Chief Hinga Norman, the Deputy Defence Minister in President Kabbah's Government.

12. According to information received from a variety of sources familiar with conditions in the countryside, the situation in and around the southern town of Bo is extremely tense. The food situation gives rise to particular concern, since the food stocks on which the civilian population of the town depends are running low. Attacks on civilians using the road to Bo have reportedly led to fatalities. In the meantime, fighting has also escalated in other parts of the country.

Meetings between the technical survey team and the junta

13. In his meetings with the Chairman of AFRC, Mr. Johnny Paul Koroma, and other military and political leaders, my Special Envoy reaffirmed the commitment of the United Nations to the full and timely implementation of the Conakry Agreement and of Security Council resolution 1132 (1997), as well as the need to adhere strictly to the timetable for the restoration of constitutional government on 22 April 1998. Mr. Koroma and other members of the junta claimed that, in their view, three issues stood in the way of the implementation of the Conakry Agreement, namely:

(a) The need for the immediate release of Corporal Foday Sankoh, the Deputy Chairman of the junta and head of RUF, who is currently in Nigeria;

(b) The need to exempt RSLMF from the disarmament exercise;

(c) The need to address the "dominant role played by the Nigerian contingent in ECOMOG".

14. In renewing the formal commitment of the junta to the implementation of the Conakry Agreement, Mr. Koroma stressed the need for concrete and timely action to achieve its objectives within the six-month time frame set out therein. He put forward proposals that he claimed were aimed at addressing the three issues mentioned above, as well as other outstanding matters not dealt with in detail in the Agreement. According to the junta, the proposals would require the establishment of the following four committees:

(a) A coordinating and general-purpose committee;

(b) A disarmament, demobilization and reintegration committee;

(c) A humanitarian assistance coordinating committee;

(d) A committee on the formation of a broad-based government of national unity.

Mr. Koroma proposed that, in addition to the junta, the membership of the committees would include, as appropriate, representatives of the ECOWAS Committee of Five, ECOMOG, international and national non-governmental organizations and the United Nations.

15. The junta also asserted that the confidence-building measures contained in the Conakry Agreement had not been carried out, including the assessment visit that was to have been conducted on 20 November 1997 by the ECOWAS Committee of Five Ministerial Assessment Team and the provision of humanitarian assistance. The junta expressed its readiness for dialogue with ECOWAS, as provided for in the Agreement, to resolve the issues it said were blocking the implementation of the Agreement and, in that context, welcomed the arrival of the technical survey team and the proposal to reopen a liaison office. It indicated that the deployment of United Nations military observers would also be welcome.

16. The junta also made strong representations to the team concerning what it considered to be the use of excessive force by ECOMOG in subjecting Freetown and other locations in Sierra Leone to naval and aerial bombardment. It also complained of the harmful effects on the civilian population of what it considered to be overly vigorous enforcement of both ECOWAS and United Nations sanctions by ECOMOG forces.

17. The technical survey team presented to the junta a detailed list of questions concerning plans that should have been made by the junta for the disarmament and demobilization of its combatants and confidence-building measures that the junta itself could take in order to demonstrate its commitment to the implementation of the Agreement. In reply to those questions, the junta, in reaffirming its commitment to the Conakry Agreement, cited numerous provisions of the Abidjan Peace Agreement (S/1996/1034, annex) signed by the Government of Sierra Leone and RUF on 30 November 1996, as well as of the Conakry Agreement. The junta's reply also recalled the proposals made by Mr. Koroma, which are outlined in paragraphs 13 to 15 above. The junta's reply to the technical questions posed by the team, which was received on 20 January 1998, will be taken into account in future discussions of the role to

be played by the United Nations based on the comprehensive concept of operations to be finalized by ECOMOG (see para. 36 below).

18. The team requested from the junta further information concerning reports that it had enlarged an airstrip at Magburaka and had received deliveries of weapons there in violation of the embargo imposed by the Security Council in its resolution 1132 (1997). Those deliveries reportedly included surface-to-air missiles and other matériel allegedly paid for by the sale of diamonds mined in Sierra Leone. The junta has denied those reports, and the team was unable to verify them. During and after its stay in Freetown, the team encountered persistent reports that illegal arms sales were being paid for by the sale of diamonds. Members of the junta have also travelled outside the country in violation of the travel ban imposed by the Council in resolution 1132 (1997).

Other action taken pursuant to resolution 1132 (1997)

19. On 8 January 1998 the Chairman of ECOWAS and Head of State of Nigeria, General Sani Abacha, wrote to inform me of the outcome of the seventh meeting of the ECOWAS Ministers of Foreign Affairs of the Committee of Five on Sierra Leone, held in Abuja on 19 December 1997.

20. The ministers noted that there had been some violations of the ECOWAS and United Nations sanctions imposed on the junta in Sierra Leone. Those violations related specifically to the arms embargo and travel restrictions imposed on members of the illegal regime and their families. The ministers therefore called upon all countries and, in particular, ECOWAS member States, to adhere strictly to those sanctions. They also requested countries harbouring members of the military junta, their families and all others on the restricted list to repatriate such persons to Sierra Leone.

21. The Ministers were informed of the upgrading of an airstrip at Magburaka into a full-fledged airport by the illegal regime for the illegal importation of arms and other supplies in violation of the sanctions. The ministers mandated ECOMOG to ensure that the airstrip was not used. General Abacha stated in his letter that the delays in the implementation of the Conakry Agreement were attributable solely to lack of cooperation on the part of the junta and its continued intransigence, and he accused them of stalling for time. In addition, he said, the junta had continued to carry out unprovoked attacks on ECOMOG peacekeepers.

22. Stating the need for ECOWAS and the United Nations to implement the Agreement without further delay, General Abacha requested that I help accelerate efforts towards the deployment of a United Nations military observer mission to Sierra Leone and to solicit the assistance of the international community for the operations of ECOMOG in Sierra Leone.

23. Since my previous report, a number of States have reported to me, in compliance with paragraph 13 of resolution 1132 (1997), concerning the steps they have taken to give effect to the provisions contained in paragraphs 5 and 6 of the resolution relating to the sanctions imposed by the Council on Sierra Leone. Those countries are Australia, Austria, Brazil, Ethiopia, France, Ghana, Greece, Islamic Republic of Iran, Italy, Liechtenstein, Luxembourg (on behalf of

the European Union), Norway, Portugal, the Republic of Korea, the Russian Federation, Slovakia, Switzerland, Thailand, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

24. On 15 January 1998, the United Kingdom Special Representative for Sierra Leone, Mr. John Flynn, visited United Nations Headquarters to participate in an ad hoc meeting of donors and other interested parties convened by the British Government. The purpose of the meeting was to consider what additional steps could be taken by the international community to support the work of ECOWAS in facilitating the implementation of the Conakry Agreement.

25. The parties reached a number of conclusions concerning the finalization by ECOMOG of a comprehensive concept of operations and the identification of its logistical and equipment requirements; the establishment of a trust fund to assist ECOMOG; the deployment of United Nations military personnel, subject to authorization by the Security Council; and the serious humanitarian situation in Sierra Leone.

III. HUMANITARIAN SITUATION

26. The humanitarian situation in Sierra Leone has continued to deteriorate. In the absence of new supplies of food aid, commercial food is increasingly scarce and expensive in urban areas. This is primarily attributable to the overall decline in the country as a result of the 25 May 1997 coup as well as the scarcity of fuel, which has a direct impact on food prices because of increased transportation costs. In Freetown, the price of the main staple, rice, has tripled since the coup, severely affecting the population. Attempts by the authorities to fix the price of rice at an artificially low level have proved unsuccessful, since wholesalers have merely withheld stocks, preferring to sell in more attractive consumer markets in mining areas or to trade on the black market. The reduced purchasing power of the civilian population since the coup has exacerbated the already precarious situation.

27. In rural areas in the southern and eastern provinces the situation is particularly acute, as food distribution has also been affected by the deteriorating security situation resulting from intensified conflict between the Kamajors and the AFRC/RUF, now known as the People's Army, during December 1997. The benefits of the abundant rice harvest have been negated by looting and the increased incidence of rural "food taxes" imposed on civilians by armed elements, which cause farmers to hoard their harvest rather than risk transporting it to market. In the towns of Bo and Kenema the situation is particularly severe, as the amount of food being imported into those areas is negligible. As a result, the civilian population is entirely dependent on existing supplies.

28. Existing stocks of relief food within Sierra Leone are almost exhausted, as no food aid has entered Sierra Leone since the coup. The resulting virtual halt in food aid distribution has already had an impact on the beneficiaries of vulnerable group feeding programmes, institutions such as hospitals and the internally displaced, currently estimated at 150,000 people. The 5,500 Liberian

refugees in Freetown are particularly vulnerable, since they lack the family support structures available to Sierra Leoneans.

29. Although humanitarian agencies have continued to transport modest quantities of medical and other non-food supplies across the Guinean border, those operations have been insufficient to meet the growing needs of a collapsing primary health care system. Significant quantities of supplies, together with logistics and personnel support, are required to conduct a much-needed child immunization campaign.

30. The requirement that ECOMOG inspect humanitarian shipments at the border of Sierra Leone and Guinea has now been entrusted by ECOWAS to the Guinean army. However, the Government of Guinea has also requested that ECOWAS provide inspectors to supervise the task of the Guinean troops. ECOWAS has requested United Nations assistance in financing this deployment of inspectors, and United Nations agencies have indicated that they will do this on a cost-sharing basis.

31. In view of the concerns expressed in the Security Council and by others, a United Nations inter-agency assessment mission will be sent to Sierra Leone at the beginning of February to undertake a technical analysis of the humanitarian situation, including the humanitarian impact of sanctions, and to consider the difficulties encountered by humanitarian agencies in providing assistance to vulnerable groups.

IV. OBSERVATIONS

32. Although the junta claims that it remains committed to the implementation of the Conakry Agreement, the situation in Sierra Leone remains deeply preoccupying and requires the urgent attention of the international community. In particular, it is important to develop and finalize the necessary deployment, disarmament and demobilization plans if the Conakry Agreement is to be implemented and the constitutional order restored in accordance with the timetable envisaged in the Agreement. It would therefore be premature at this stage to present to the Security Council a full concept of operations or an estimate of force size and structure in respect of a possible United Nations military presence in Sierra Leone.

33. My Special Envoy stands ready to assist in efforts to overcome the obstacles blocking the implementation of the Conakry Agreement. In this context, I welcome the proposed convening in New York of the Ministerial Meeting of the Committee of Five, which could give a much-needed impetus to the process of dialogue as well as to the full and timely implementation of the Conakry Agreement.

34. I also intend to re-establish the United Nations liaison office in Sierra Leone, initially staffed with a political officer, a military adviser and a humanitarian officer under the direction of my Special Envoy and supported by the necessary staff, including a security officer. In due course, the liaison office could be expanded to comprise human rights and information officers. The staff of the office would maintain contacts with the members of the junta and civil society in Sierra Leone. The Special Envoy and his staff would also

facilitate talks with the junta and with ECOWAS and ECOMOG on various aspects of the implementation of the Agreement. I take this opportunity to express my appreciation to the Officer-in-Charge of the United Nations Development Programme in Freetown and to all United Nations staff members there for their steadfastness in remaining at their posts in often trying conditions.

35. At the same time, I invite the Security Council to consider the deployment of a small military liaison cell of up to 10, with the necessary support staff, to assess and report on the military situation within Sierra Leone and coordinate with ECOMOG and with other United Nations agencies in the areas of ECOMOG deployment, in the capital and, conditions permitting, in other areas of the country. I will seek the necessary security guarantees from all parties. In my view, the presence of the military liaison cell, which would operate under the authority of my Special Envoy, would also signal the commitment of the Council and the international community to the implementation of the Conakry Agreement and would serve as an important confidence-building measure. I recommend that the costs related to the military liaison cell be met through peacekeeping assessments, and I intend to present this recommendation to the General Assembly in due course.

36. My Special Envoy and his staff will also maintain the contacts they have established both with the ECOMOG High Command and the junta with a view to assisting in the finalization of a comprehensive concept of operations for deployment throughout Sierra Leone and the disarmament, demobilization and reintegration of Sierra Leonean combatants into civilian life. United Nations planning would be completed on the basis of such a concept as well as the operational data acquired during the visit of the technical survey team.

37. The United Nations will work with the international community to try to generate the logistical, technical and financial support that will be required for ECOWAS to pursue its efforts to carry out the Conakry Agreement. I call upon Member States to stand ready to offer generous assistance in this regard.

38. I note that the ECOWAS Ministers of Foreign Affairs of the Committee of Five on Sierra Leone on 19 December 1997 called upon all countries and, in particular, on ECOWAS member States to adhere strictly to the sanctions. Reports of persistent violations of the Security Council arms embargo are of great concern, as such violations could seriously impede the peace process.

39. The continuing efforts being made by the ECOWAS Committee of Five on Sierra Leone and its Chairman, Chief Tom Ikimi, the Minister for Foreign Affairs of Nigeria, deserve commendation and support. Particular appreciation is also due to the Government of Guinea for the preparations it has been making for the long-awaited launch of cross-border humanitarian operations in Sierra Leone and for the support and assistance it extended to my Special Envoy and to the technical survey team during its visit.

40. At the same time, I am concerned at the plight of civilians affected by the strict enforcement of sanctions on Sierra Leone and by the conduct of hostilities within the country, including in the area around Bo. The report of the inter-agency humanitarian assessment mission that will visit Sierra Leone early in February to analyse the humanitarian situation and the effect of

sanctions on the civilian population should facilitate the early start of cross-border humanitarian relief efforts in order to alleviate the suffering of innocent civilians. I salute the people of Sierra Leone for the forbearance with which they are enduring their ordeal, and wish to assure them that the United Nations, in close cooperation with ECOWAS, will continue to do everything in its power to facilitate the restoration of the constitutional order in their country.

41. I will keep the Security Council informed of further United Nations activity and other developments in Sierra Leone in the weeks to come.

UNITED
NATIONS

S 1098

Security Council

Distr.
GENERAL

S/1998/249
18 March 1998

ORIGINAL: ENGLISH

FOURTH REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN SIERRA LEONE

I. INTRODUCTION

1. The present report is submitted pursuant to the presidential statement issued by the Security Council on 26 February 1998 (S/PRST/1998/5), by which the Council requested me to submit detailed proposals concerning the role of the United Nations and its future presence in Sierra Leone. It covers the developments in Sierra Leone since the issuance of my third report on 5 February 1998 (S/1998/103).

II. IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1132 (1997)

Action taken by the Economic Community of West African States and the Economic Community of West African States Monitoring Group

2. On 5 February 1998, the Economic Community of West African States (ECOWAS) Committee of Five on Sierra Leone came to New York to brief the members of the Security Council and myself on the situation in Sierra Leone. The Chairman of the Committee of Five, the Foreign Minister of Nigeria, Chief Tom Ikimi, said an impasse had been reached in the implementation of the Conakry Agreement. He pointed out that the junta had raised three issues which, in its view, stood in the way of the implementation of the Agreement, namely, the release of Corporal Foday Sankoh, the proposed exemption of the Republic of Sierra Leone Military Forces from the disarmament process and the composition of the ECOWAS Monitoring Group (ECOMOG) which consisted primarily of Nigerian troops.

3. Minister Ikimi noted that because of this impasse, ECOMOG had been unable to deploy in Sierra Leone to carry out the disarmament and demobilization of the Sierra Leonean combatants, and it had therefore not been possible to deploy United Nations military observers alongside ECOMOG.

4. Minister Ikimi requested my support in launching a high-level effort to support ECOWAS through the establishment of a group of friends of Sierra Leone, and expressed the view that the Security Council should endorse the 22 April 1998 deadline for the restoration of constitutional authority and the full implementation of the Conakry Agreement of 23 October 1997.

98-07006 (E) 190398

/...

1099

5. I reaffirmed to the Committee of Five the desire of the United Nations for close cooperation between the United Nations and ECOWAS, and stated that ECOMOG needed to develop a concept of operations on the basis of which the United Nations could finalize its own deployment plan. ECOMOG should also compile a statement of its own logistical requirements in order to attract the necessary support from potential donors.

6. On the same day, responding to an attack by junta forces on their position at Lungi, ECOMOG launched a military attack on the junta, which culminated approximately one week later in the collapse of the junta and its expulsion by force from Freetown after heavy fighting. The fall of the city on 13 February, which was accompanied by widespread looting and some reprisal killings, led to the flight or capture of many soldiers and leaders of the junta. ECOWAS has assured me that the International Committee of the Red Cross (ICRC) has been allowed to visit prisoners detained by ECOMOG in Freetown. However, some of the former leaders of the Armed Forces Revolutionary Council (AFRC), including its Chairman, Johnny Paul Koroma, are believed to be still at large. Acting in concert with the local Kamajors and other traditional hunter militia (known as the Civil Defence Unit), ECOMOG has subsequently taken control of the towns of Bo, Kenema and Zimmi in the south of the country, and Lunsar, Makeni and Kabala in the north. ECOMOG has also reported the capture of Daru, which would mean that the remnants of the junta have now been dislodged from every major town except for Kailahun. Following scattered fighting in the latter part of February, the country now appears to be quiet. A number of foreign aid workers and missionaries taken hostage by armed elements in February were later released unharmed. However, press reports in mid-March indicated that Revolutionary United Front (RUF) members in Kono had murdered civilians and taken 200 hostages, reportedly including foreign nationals.

7. On 18 February, accompanied by the Executive Secretary of ECOWAS, Mr. Lansana Kouyaté, Minister Ikimi visited Sierra Leone to assess the situation on the ground. They interviewed some former junta soldiers now detained by ECOMOG and visited the State House complex and the Parliament buildings. Many of the government buildings were found to have been looted and were in poor condition, and a number of unexploded bombs were scattered about. However, the ECOWAS team, which was enthusiastically greeted by crowds, found that in many respects life had returned to normal in the capital. As noted below, my Special Envoy also visited Freetown on the same day.

8. From 25 to 27 February 1998, the Committee of Five met in the margins of the meeting of the Organization of African Unity (OAU) Council of Ministers held in Addis Ababa to review the situation in Sierra Leone. The Committee issued a communiqué, which was subsequently circulated as document S/1998/170.

9. On 4 March 1998, the members of the Committee of Five returned to New York and met again with members of the Security Council and with me. Chief Ikimi briefed me on his visit to Freetown on 18 February and his subsequent meeting with President Tejan Kabbah in Conakry. Following this meeting, it was announced that President Kabbah would return to his country on 10 March 1998.

10. ECOMOG has also prepared a detailed list of logistical requirements for its operations in Sierra Leone. During the visit to New York of the Committee of

Five, Chief Ikimi requested the assistance of the United Nations and the international community in ensuring that these requirements could be met. That request was reaffirmed by the Chairman of ECOWAS, General Sani Abacha, in his statement at the ceremony held to mark the return of President Kabbah to Freetown on 10 March.

Action taken by the United Nations

11. On 18 February 1998, a few days after ECOMOG had established control over most of the city of Freetown, my Special Envoy, Mr. Francis G. Okelo, led a security and humanitarian assessment mission to the capital and to Lungi comprising United Nations and non-governmental organization officials. The mission determined the most immediate needs of the population. Mr. Okelo handed over a quantity of medicines donated by the World Health Organization (WHO) to local hospitals and began preparations for the re-establishment of a United Nations presence in Freetown. A few days later, the World Food Programme (WFP) delivered 857 metric tons of food to Freetown by ship.

12. Early in February, pursuant to a request by members of the Security Council for a technical assessment of the humanitarian situation in Sierra Leone since the coup d'état of 25 May 1997, an inter-agency mission travelled to the subregion. Its report is contained in document S/1998/155. Further information on the humanitarian situation in Sierra Leone can be found in section III of the present report.

13. Pursuant to the statement issued by the President of the Security Council on 26 February, I have initiated the necessary action to establish a Trust Fund for Sierra Leone. Contributions would help finance logistical assistance to ECOMOG, rehabilitation assistance to the Government of Sierra Leone and activities, including disarmament, demobilization and human rights.

14. On 7 March 1998, my Special Envoy reopened the United Nations office in Freetown, which had been closed shortly after the 25 May 1997 coup d'état and was temporarily relocated in Conakry, Guinea. The office is now being strengthened to comprise civilian political and humanitarian officers, a military adviser and, in due course, human rights and civilian police advisers and public information personnel. The function of the office is to liaise with the Government of Sierra Leone, ECOWAS, ECOMOG and the United Nations and its agencies, as well as non-governmental organizations, and to act as the overall authority for all United Nations activities in the country. My proposals for deploying military liaison personnel as part of the United Nations presence on the ground can be found in section IV of the present report. My Special Envoy will also temporarily retain a small office in Conakry, but he expects to be fully established in Freetown by the end of March, thus paving the way for the return of all United Nations agencies to Sierra Leone.

Action taken by the Government of Sierra Leone

15. On 13 February 1998, President Kabbah called a meeting in Conakry of potential donors, including the European Union, Germany, the United Kingdom of Great Britain and Northern Ireland and the United Nations, to discuss his Government's priorities; the nature of the assistance the international

1101

community could provide; and the urgent provision of humanitarian assistance. The President announced that he had created a task force to prepare the ground for the resumption of work by his Government, to assess damage to the infrastructure and to prepare for the resumption of education. President Kabbah identified the immediate priorities of his Government as the provision of humanitarian supplies and petroleum products, the reactivation of international aid programmes and the disarmament and demobilization of former combatants. Three other areas that required special attention have been identified as the training and restructuring of the police force, the creation of job opportunities for young people and the construction of low-cost housing. President Kabbah also indicated that he intended to streamline his administration and appoint technical experts to cabinet positions.

16. Following the removal by ECOMOG of the military junta from power, President Kabbah issued a statement announcing his intention to submit proposals to Parliament concerning the rebuilding of his country. The President also spoke out against the reprisal killings, which, in some cases, had accompanied the seizure of control from the junta.

17. On 10 March 1998, accompanied by General Sani Abacha, Chairman of ECOWAS and Head of State of Nigeria, as well as the Heads of State of Guinea, Mali and Niger, President Lansana Conteh, President Alpha Oumar Konare and President Ibrahim Bare Mainassara, and the Vice-President of Gambia, President Tejan Kabbah returned to Freetown to resume his office as Head of State of Sierra Leone. He was greeted by large and enthusiastic crowds. Mr. Ibrahima Fall, Assistant Secretary-General for Political Affairs, delivered on my behalf a message of congratulations to the President stating that his return represented the accomplishment of a major objective not only of the people of Sierra Leone, but also of ECOWAS, OAU, the United Nations and the entire international community. I expressed my deep regret at the violence, loss of life and property and immense suffering undergone by the people of Sierra Leone since the coup d'état and extended my condolences to the families of those who lost their lives in opposing it. Furthermore, I informed the President that the United Nations looked forward to working closely with him in helping his Government to reassert its authority and strengthen its capacity throughout the country.

18. In a statement made at the ceremony marking his return to Sierra Leone, President Kabbah declared his intention to embark on the process of national reconciliation and reconstruction of the country, to form a broad-based Government and to appoint a policy advisory committee. In his first meeting with my Special Envoy after his return, President Kabbah stressed the need for an early deployment of United Nations military personnel, the urgent provision of humanitarian assistance and the prompt establishment of the Trust Fund for Sierra Leone.

Military and security situation in Sierra Leone

19. Freetown is now fully under the control of ECOMOG and is increasingly secure. Some unexploded ordnance and landmines have been found, but these are not a threat to security. The peninsula on which the capital stands has also been secured. With the capture of almost every other major town in the country,

and through its deployment further into the countryside in the north, south and east, ECOMOG has established itself successfully across most of the country.

20. Nevertheless, the fact that many of the senior junta leaders, including the former Chairman of the AFRC, Johnny Paul Koroma, have not thus far been apprehended, as well as the continuing violence inflicted on civilians during their retreat from ECOMOG forces by RUF and other armed elements, indicate that the security situation in Sierra Leone is still a source of concern. Though ECOMOG has begun to collect weapons in Freetown, a major disarmament, demobilization and reintegration exercise will be needed to ensure security.

21. ECOMOG has also developed a concept of operations for its deployment throughout Sierra Leone that sets out the preliminary planning for the disarmament and demobilization of Sierra Leonean combatants. In summary, the tasks ECOMOG has set for itself include:

(a) Deployment throughout Sierra Leone;

(b) Manning of selected entry points by land, sea or air in order to ensure that no arms, ammunition or war matériel are brought into the country;

(c) Disarmament of ex-combatants at designated sites;

(d) Establishment of road blocks to check the movement of arms and ammunition and to assist in extending protection to refugees and internally displaced persons;

(e) Conducting patrols to create an atmosphere conducive to freedom of movement and the restoration of established authority;

(f) Providing security for key individuals, United Nations personnel, including military personnel, and non-governmental organizations.

22. The plan calls for the deployment of 15,000 troops in four sectors: western, northern, southern and eastern. The western sector, comprising Freetown and the airports of Lungi and Hastings, is further subdivided, and would support the deployment of seven battalions, an air force detachment and an artillery brigade. This appears to be an ample level of force for the protection of the capital and its airport.

23. In the northern sector, ECOMOG would deploy a brigade headquartered at Makeni, with battalions located at Port Loko, Magburaka and Kabala. In the south, ECOMOG will locate its brigade headquarters at Bo and deploy battalions at Moyamba, Pujehun and Kenema. Naval assets would also be required. The eastern sector is described as strategic in view of its mineral resources, the presence of heavy RUF and Kamajor concentration, and the border with Liberia. ECOMOG therefore considers that operations in the east could prove difficult and risky and demand a robust approach, alertness and deployment in strength. Battalions would be located at Yengema, Zimmi and Kailahun.

24. ECOMOG would also establish a disarmament committee which would be charged, inter alia, with selecting disarmament sites; setting standards and guidelines

1103

for disarmament; conducting the disarmament, coordination of resources and cooperation with other organizations; classifying and transporting recovered weapons and ammunition; disseminating information about the process and providing security for all participants. A ceasefire violations committee and a humanitarian services committee would also be created.

25. My Special Envoy and his staff are actively discussing with the Government and with ECOMOG the further elaboration and implementation of its concept of operations, which provides a suitable basis for the possible subsequent deployment of United Nations military personnel, subject to the authorization of the Security Council. I will revert to the Council with further recommendations on such deployment following a further assessment by my Special Envoy.

Other action taken pursuant to resolution 1132 (1997)

26. Since my previous report, a number of States have written to me, in compliance with paragraph 13 of resolution 1132 (1997), concerning the steps they have taken to give effect to the provisions contained in paragraphs 5 and 6 of the resolution relating to the sanctions imposed by the Council on Sierra Leone. The latest list of those States can be found in a separate report to the Security Council contained in document S/1998/112.

27. In a letter dated 9 March 1998 addressed to the President of the Security Council (S/1998/215), the Chargé d'affaires a.i. of the Permanent Mission of Sierra Leone to the United Nations conveyed a request from his Government for the convening of an urgent meeting of the Security Council to consider the lifting of the sanctions imposed on the importation of petroleum and petroleum products into the country in paragraph 6 of resolution 1132 (1997). On 16 March, the Council adopted resolution 1156 (1998) terminating, with immediate effect, the prohibitions on the sale or supply to Sierra Leone of petroleum and petroleum products referred to in resolution 1132 (1997).

III. HUMANITARIAN SITUATION

28. A number of United Nations humanitarian assessment missions have now been undertaken to Freetown, Kambia, Bo, Kenema and Makeni. These missions determined that the current humanitarian situation in Sierra Leone remains serious. The primary health care system has been devastated by lack of supplies, looting and the exodus of medical personnel at all levels. Widespread neglect of water and sanitation facilities has increased the exposure of hundreds of thousands to disease. The normal distribution of food to vulnerable groups has been disrupted, affecting children in particular. Many children have also suffered exposure to acts of violence by being sent into battle as combatants. The public education system has collapsed; all schools have been closed since the coup d'état last May. The combination of fighting and looting has led to extensive damage to housing and infrastructure in the provincial towns. The number of internally displaced people has increased, and the welfare of some 14,000 Liberian refugees remains a matter of concern, as many fled from their camps during the recent fighting. The majority of Sierra Leoneans who took refuge in Conakry during the fighting in Freetown have returned. However, some 24,000 Sierra Leoneans have arrived in Liberia since mid-February and the

influx continues, albeit at a reduced rate. A further influx of 3,000 refugees from the Kailahun area, still not under ECOMOG control, has been registered by the Office of the United Nations High Commissioner for Refugees (UNHCR) at its camp in Kissidougou, Guinea.

29. United Nations agencies prepared a consolidated inter-agency flash appeal, which was launched on 3 March 1998. Through this appeal, I am seeking financial contributions from Member States in the amount of $11.2 million to meet priority humanitarian needs in Sierra Leone over the next three months. Priority needs include support to agriculture through the provision of seeds and tools, the re-establishment of basic health and education services, the resumption of food aid distributions and the provision of assistance and protection to the most vulnerable groups affected by the current conflict. The flash appeal complements the 90-day programme of the Government of Sierra Leone, which serves as a framework for action following the restoration of democratic civilian rule in the country.

30. The full deployment of ECOMOG and the restoration of the legitimate Government is expected to provide increased opportunities for the humanitarian community to accelerate its activities in response to the humanitarian crisis in Sierra Leone, and will also encourage the return to their homes of internally displaced persons. It is hoped that the international community will contribute generously to the humanitarian programme outlined in the flash appeal, in order to provide the crucial assistance needed to sustain lives and to promote stability in Sierra Leone.

31. Medium-term tasks, such as the assisted repatriation of Sierra Leonean refugees and reintegration of ex-combatants, are not covered in the flash appeal. However, United Nations agencies are already re-establishing their offices in Freetown and are eager to restart their social and economic development programmes, important components of which must be the re-building of the capacity of the Government of Sierra Leone to deliver services, stimulate economic recovery and promote national reconciliation and reconstruction.

Commencement of the repatriation of refugees

32. At the request of President Kabbah, and with the help of a donation of $120,000 from the Government of Japan, UNHCR has begun to prepare for the repatriation from Conakry of up to 5,000 Sierra Leonean refugees, including 200 civil servants who fled Freetown after the May coup d'état and who will be engaged in the administration of the country.

33. ECOMOG control of major towns in southern Sierra Leone is also likely to encourage the early repatriation by road of Sierra Leonean refugees from Liberia. It is further expected that the removal of the junta could lead to the repatriation of the 400,000 Sierra Leonean refugees in the West African subregion.

34. Of the total caseload of Liberian refugees in Sierra Leone, some 2,800 have thus far been re-registered with UNHCR, about half of them requesting repatriation. UNHCR has begun making arrangements for them to be repatriated by sea.

1105

United Nations Development Programme mission to Sierra Leone

35. A multi-unit mission to Sierra Leone dispatched by the United Nations Development Programme (UNDP) has proposed four projects for immediate implementation following their approval by the Government. These are:

(a) A start-up project for the demobilization of various categories of combatants;

(b) Support for national institutions to enable a rapid return to normal functioning;

(c) Resettlement with emphasis on quick-impact micro-projects, reconciliation and youth development;

(d) Awareness-raising in order to help the country come to terms with the problems it faces and to promote national reconciliation and peace-building.

36. The mission is also assisting the Government to prepare a document for a donors' consultation proposed to be held in Brussels on 31 March 1998. UNDP plans to close its Coordination Office in Conakry by the end of March if the security situation continues to stabilize, and to return the staff of its Country Office to Freetown.

IV. OBSERVATIONS AND RECOMMENDATIONS

37. The developments that have taken place in Sierra Leone since the submission of my last report should be seen as positive in the context of the wider situation in which they transpired. The removal of the junta by the action of ECOMOG has opened the way for the re-establishment not just of the legitimate Government, but also of civil order, the democratic process and the beginnings of economic and social development. The return of President Kabbah to Freetown on 10 March therefore presents the people of Sierra Leone and the international community with a challenge and an opportunity which must be grasped with a sense of urgency. We must not let slip the chance to restore Sierra Leone to the ranks of democratic nations and to help strengthen the stability of the subregion.

38. I commend the consistent diplomacy of ECOWAS and, in particular, its Committee of Five on Sierra Leone, and the contribution made by ECOMOG officers and men to the removal of the military junta. I call on ECOWAS and ECOMOG to continue their efforts to bring peace to Sierra Leone in accordance with the relevant provisions of resolution 1132 (1997) and of the Charter of the United Nations. Sierra Leoneans committed to the democratic system also played their part in maintaining a stubborn resistance to the illegal regime. These included not only the members of the Civil Defence Forces, but also countless unarmed civilians who persistently withheld their cooperation from the regime and denied it legitimacy. I salute the courage of the Sierra Leonean people and honour the memory of those who died opposing the junta.

39. I also congratulate President Ahmad Tejan Kabbah on his resumption of his responsibilities as Head of State of Sierra Leone following his return. The United Nations should give his Government every possible assistance in its efforts to promote national reconciliation among his people and to strengthen the authority and capacity of his Government.

40. As I stated in my message to the annual summit meeting of the Organization of African Unity at Harare, and in the special message which was delivered by my Special Envoy, Mr. Ibrahima Fall, on the occasion of President Kabbah's return, Africa can no longer tolerate or accept as faits accomplis coups d'état against elected Governments or the illegal seizure of power by military cliques.

Strengthening the office of the Special Envoy

41. In order to take full and prompt advantage of the changed situation, I wish to propose a comprehensive set of measures to assist the Government and people of Sierra Leone in both their immediate and longer-term needs. As a first step, I intend to strengthen the office of my Special Envoy in Freetown. In order to contribute to the restoration of respect for the rule of law, civil order and human rights in Sierra Leone, I have consulted with the United Nations High Commissioner for Human Rights concerning the possible deployment of human rights observers. In the meantime, a human rights officer will be attached to the office of my Special Envoy at an early date.

42. I am also considering attaching to the office two civilian police officials to advise the Government on police training and procedures in a democratic society. An additional political officer and a military adviser would assist my Special Envoy in his consultations with ECOMOG on the development of planning for disarmament and demobilization, while a humanitarian officer would facilitate the coordination of activities of the United Nations and non-governmental organizations in Sierra Leone and advise my Special Envoy on all issues involving non-governmental organizations. The office will also require a public information programme to disseminate information among the population about its activities, in particular in connection with the disarmament and demobilization of ex-combatants and their reintegration into society.

Deployment of military liaison personnel

43. I also recommend the deployment to Sierra Leone of up to 10 United Nations military liaison officers, whose functions would be as follows:

(a) To liaise closely with ECOMOG and to report on the military situation in the country;

(b) To ascertain the state of and to assist in the finalization of planning by ECOMOG for future tasks such as the identification of the former combatant elements to be disarmed and the design of a disarmament plan.

44. Should the Security Council decide to authorize the deployment of these military liaison officers, as well as the military and civilian police advisers, as indicated in my third report (S/1998/103, para. 35), the costs relating

thereto should be considered an expense of the Organization to be borne by Member States in accordance with Article 17, paragraph 2, of the Charter of the United Nations and the assessments to be levied on Member States should be credited to the special account to be established for Sierra Leone. The related cost estimates will be issued shortly as an addendum to the present report.

45. The military liaison team would complement the role of the military advisers who will, under the authority of my Special Envoy, continue to assist the Government of Sierra Leone to resolve issues related to the disarmament process. The military advisers will also be instrumental in assisting the Government of Sierra Leone in the development of planning for bilateral programmes to restructure and rebuild appropriate security forces for Sierra Leone in the future. In view of the importance of such retraining, I appeal to potential donors to show generosity in providing bilateral assistance.

46. The presence of United Nations military liaison officers, perhaps later supplemented by human rights observers, could also assist in the process of national reconciliation in Sierra Leone. Their close cooperation with ECOMOG in the countryside and their impartial reporting to my Special Envoy would reassure former combatants that they can surrender their weapons in safety.

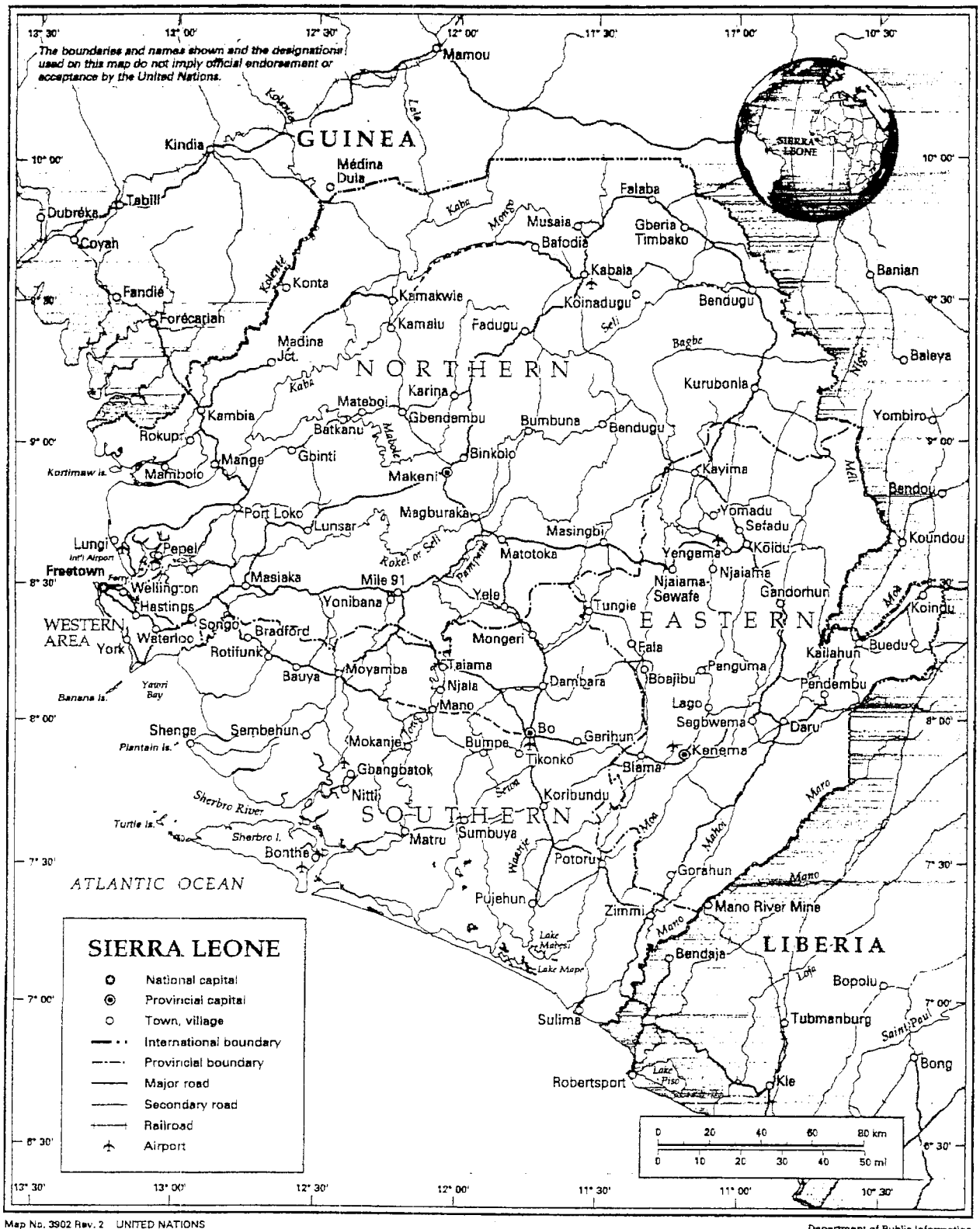
Provision of humanitarian assistance

47. The provision of humanitarian assistance must also proceed expeditiously. The plight of Sierra Leoneans deprived of food, medical care and shelter by the recent fighting and the abuses of junta rule is acute, and it must be addressed as a matter of urgency with all the resources available to the aid agencies. While I remain deeply concerned about the humanitarian situation in many parts of the country, I am encouraged by news that humanitarian needs are beginning to be addressed. Food aid and emergency medical supplies have entered the country through the port of Freetown and have been delivered to some provinces by plane, helicopter and overland in a prompt and coordinated manner.

Contributions to the Trust Fund

48. I call on Member States to display generosity in contributing to the Trust Fund for Sierra Leone which, with the encouragement of the Security Council, I have established. My appreciation goes to the Government of the United Kingdom, which has already announced its readiness to contribute £2 million, and has been actively assisting in the provision of aid to Sierra Leoneans. I also urge all Member States to provide generous assistance to ECOMOG to enable it to meet its logistical requirements and to fulfil its mandate in Sierra Leone.

49. The events that have taken place in Sierra Leone over the past year carry a warning that similar crises may arise and challenge the international community to consider how it should respond to them. Democracy in Sierra Leone may have deep roots, but it is a fragile plant and must be nurtured. The international community must maintain its vigilance and support, not least in the prompt provision of emergency bilateral and multilateral aid. Assistance for the laudable efforts of ECOWAS and the logistical requirements of ECOMOG as it continues its deployment through the countryside will also be required. I trust that such support will be forthcoming.



Map No. 3902 Rev. 2 UNITED NATIONS
January 1997

Department of Public Information
Cartographic Section

1109

UNITED NATIONS

S

Security Council

Distr.
GENERAL

S/1998/486
9 June 1998

ORIGINAL: ENGLISH

FIFTH REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN SIERRA LEONE

I. INTRODUCTION

1. By paragraph 5 of its resolution 1162 (1998) of 17 April 1998, the Security Council authorized the deployment, with immediate effect, of up to 10 United Nations military liaison and security advisory personnel in accordance with paragraph 44 of my report of 18 March 1998 (S/1998/249) to Sierra Leone for a period of up to 90 days, to work under the authority of my Special Envoy, to coordinate closely with the Government of Sierra Leone and with ECOMOG, the Monitoring Group of the Economic Community of West African States (ECOWAS), to report on the military situation in the country, to ascertain the state of and to assist in the finalization of planning by the Government of Sierra Leone and ECOMOG for future tasks, such as the identification of the former combatant elements to be disarmed and the design of a disarmament plan, as well as to perform other related security tasks as identified in other paragraphs of my above-mentioned report.

2. By paragraph 10 of that resolution, the Council requested me to report periodically, including on the activities of those military liaison and security advisory personnel and on the work of the office of my Special Envoy in Sierra Leone, within the reporting time-frame set out in paragraph 16 of resolution 1132 (1998) of 8 October 1997. The present report is submitted in accordance with that time-frame, by which the Security Council requested the submission of a report every 60 days.

II. DEVELOPMENTS SINCE MY LAST REPORT

Action taken by the Government of Sierra Leone

3. Following its restoration on 10 March 1998, the Government of Sierra Leone has acted to consolidate its authority throughout the country as far as possible. On 16 March, President Kabbah, acting with the support of Parliament, proclaimed a state of emergency empowering him to take measures to ensure security and stability. These measures included the right to detain suspects and restrict their movements, the imposition of a curfew and the right to

requisition property. The Government also announced the expulsion of 22 persons and the deprivation of 10 others of Sierra Leonean citizenship for collaborating with the junta and for economic crimes and immigration irregularities.

4. On 20 March 1998, President Kabbah announced that his new streamlined Cabinet would comprise persons of known competence and integrity. The members of the Cabinet, which consists of 15 Ministers, 11 Deputy Ministers and 5 Ministers of State, have all been confirmed by Parliament, as have the President's nominees for the post of Chief Justice and many positions in parastatal bodies. The President has also appointed a Policy Advisory Committee to guide the Government on crucial issues of national interest and to monitor the functioning of the public institutions.

5. The Government has also taken steps to establish a National Commission for Reconstruction, Resettlement and Rehabilitation, responsible for stimulating and coordinating related donor, Government and non-governmental activities. In accordance with its terms of reference, the National Commission would, in close collaboration with domestic and international funding agencies, draw up a two-year national rehabilitation, resettlement and reconstruction plan involving, inter alia, the repatriation and resettlement of internally displaced persons and refugees.

6. On 27 March 1998, the Minister for Foreign Affairs of Zimbabwe, Mr. Stan Mudenge, led a five-person Commonwealth delegation on a visit to Freetown in order to explore ways in which the Commonwealth could assist Sierra Leone in the task of national reconstruction and peace-building. At the conclusion of the visit, the participants announced that they would urge all member Governments of the Commonwealth to assist Sierra Leone bilaterally in every practicable way in its efforts to achieve national reconstruction and reconciliation, and to contribute to the Trust Fund to support peacekeeping and related activities in Sierra Leone.

7. On 21 April 1998, a three-man team of British police experts visited Sierra Leone to advise the Government on the restructuring of the police force and the improvement of its equipment. The team also discussed the recruitment and role of police advisers and relations between the police and armed forces, among other matters. The United Kingdom of Great Britain and Northern Ireland has also provided the Government with communications equipment for the police.

8. From 4 to 8 May 1998, the Government received a multi-donor joint mission by the World Bank, the United Nations Development Programme (UNDP), the African Development Bank (AfDB), the United Kingdom Department for International Development and the European Union (EU) to discuss a range of development-related matters. The joint mission also discussed the demobilization and reintegration of ex-combatants, as described in more detail in section V below.

9. As described in section III below, on 6 May 1998, the Government instituted, in Freetown, the trials of a number of persons accused of plotting, participating in or collaborating with the coup d'état and the illegal junta.

10. On 22 May 1998, President Kabbah, in a comprehensive policy statement delivered at the State opening of the second session of Parliament, outlined major national policies his Government intends to pursue. These include: establishing guidelines for development activities, a framework for the creation of a new army and the restructuring and retraining of the police force; improving relations with neighbouring countries; reviving the national economy; strengthening key sectors of activity; and promoting civic education to sensitize Sierra Leoneans to the true meaning of peace and democracy. The President has also called for national reconciliation.

11. From 30 to 31 May 1998, the Minister of Internal Affairs, Mr. Charles Margai, and the Deputy Defence Minister, Chief Hinga Norman, visited Makeni and Kenema and called on all remnants of the Armed Forces Revolutionary Council/Revolutionary United Front (AFRC/RUF) forces to surrender within two weeks, promising them that they would be protected and treated fairly in accordance with the law.

12. On 4 June 1998, at a summit meeting of the leaders of the three Mano River Union countries, President Conteh and President Kabbah of Sierra Leone met at Conakry to discuss mutual cooperation in the subregion and relations between Liberia and Sierra Leone. Liberia was represented by the Vice-President, Mr. Enoch Dogolea.

Action taken by the Monitoring Group of the Economic Community of West African States

13. Following the expulsion of the illegal military junta from the capital, Freetown, in mid-February and the restoration of the democratically elected Government of President Ahmad Tejan Kabbah in the capital, ECOMOG moved swiftly to secure the area around Freetown, as well as the northern and southern provinces of the country, especially the towns of Makeni, Kambia and Kabala in the north and Bo and Kenema in the south. ECOMOG forces also advanced eastwards towards the Kono and Kailahun districts, where the forces of the former junta were concentrated.

14. Though ECOMOG has continued to make progress, it is severely overextended and its advance has been beset by logistical constraints, as well as by fierce resistance from elements of the AFRC and the RUF, the partners in the former junta. In mid-May, however, ECOMOG seized Koindu and Buedu on the eastern border of Sierra Leone with Guinea.

15. As ECOMOG troops approached, armed former junta elements attacked the local civilian population, killing, raping and mutilating hundreds of them, causing tens of thousands of Sierra Leoneans to flee into Liberia and Guinea in the last few weeks and tens of thousands more to flee into the interior of Sierra Leone. Hundreds of patients have been admitted to hospitals suffering from amputation of limbs and ears and severe lacerations. Humanitarian organizations fear that the actual number of victims may be much larger (see sect. III below).

16. ECOMOG is being supported by units of the Sierra Leonean Civil Defence Force (CDF), which is composed of irregular community-based fighters who fought the junta before the restoration of the legitimate Government. The Civil

Defence Force includes Kamajors, who are regionally based rural militia mainly from the south and parts of the east, as well as Tamaboros from the Koinadugu district, Donsos from the Kono district and Kapras, who are mainly from the Tonkolili district in the north. Though many CDF members are hunters who use traditional weapons, others are primarily farmers or students who joined the armed struggle against the junta. They are armed with a wide variety of weapons and often lack formal training and discipline. Though technically under ECOMOG control, their command and control structures are loose and informal.

17. On 4 and 5 May 1998 at Accra, my Special Envoy attended the seventeenth meeting of ECOWAS Chiefs of Staff convened to discuss the situation in Sierra Leone. At the meeting, the Nigerian Chief of Defence Staff, Major-General A. A. Abubakar, outlined ECOMOG's objectives in Sierra Leone as follows: the attainment of peace, the training of a new Sierra Leonean army, and the disarmament, demobilization and reintegration of Sierra Leonean combatants into society, accompanied by humanitarian assistance. The achievement of these objectives would be followed by the withdrawal of ECOMOG.

18. ECOMOG has deployed three brigades and an independent battalion, altogether comprising approximately 12,000 men, in Sierra Leone and has appealed for a further 6,000 to enable it to carry out its functions more effectively. A number of participants expressed willingness, in principle, to contribute forces to ECOMOG's operations in Sierra Leone. However, the countries concerned stressed that they were not in a position to do so without substantial financial and logistical assistance.

Action taken by the United Nations

19. Beginning on 4 May 1998, pursuant to resolution 1162 (1998), eight military liaison personnel were deployed in Freetown under the authority of my Special Envoy. The military officers, who are led by a Brigadier-General from India, are from Kenya (two), the Russian Federation (two), the United Kingdom (one) and Zambia (two). Two police advisers, one from Namibia and one from Kenya, as well as an adviser on planning for disarmament and demobilization, are expected to be deployed shortly. Some vehicles and communications equipment have also been deployed to Sierra Leone for the use of the officers.

20. The liaison officers have begun to travel through parts of the country to assess the situation with a view to finalizing plans for their deployment and for the disarmament of former combatants. The ECOMOG Force Commander, Brigadier-General Maxwell Khobe, has welcomed their arrival and promised his full cooperation.

21. The office of my Special Envoy has also been strengthened by the addition of a political affairs officer and a human rights adviser. In addition, I have taken steps to strengthen the human rights element of the office of my Special Envoy and have approached a number of Governments on an urgent basis to request them to make available suitably qualified trial monitors.

22. From 26 to 29 May 1998, my Special Representative for Children in Armed Conflict, Mr. Olara A. Otunnu, visited Sierra Leone to assess the plight of children affected by the conflict. During his visit, Mr. Otunnu met with

President Kabbah, Ministers and Parliamentarians, as well as with the Force Commander of ECOMOG, the National Coordinator of CDF and representatives of United Nations agencies and non-governmental organizations. He visited Daru, Segbwema and Kenema, accompanied by the Minister for Social Welfare, Gender and Children's Affairs, Mrs. Shirley Gbujama, my Special Envoy, the United Nations Resident Coordinator and the representative of UNICEF.

23. In discussions with the Government, ECOMOG and CDF, important commitments were made to my Special Representative in relation to the rights, protection and welfare of children. It was agreed that a joint task force for the demobilization of child combatants, comprising the Government, ECOMOG, CDF, the United Nations and international humanitarian agencies, would be constituted. The Government agreed not to recruit children under 18 years of age into a new national army. The Civil Defence Force committed to stop recruiting and initiating children under 18 and to begin the process of demobilization of child combatants within their ranks. Along with ECOMOG, CDF also undertook that children captured in or fleeing from areas held by junta elements would receive special protection. President Kabbah directed that a coordination group consisting of relevant Ministries, United Nations agencies and non-governmental organizations, be established to coordinate an effective national response to the needs of children affected by armed conflict. Following their discussion with Mr. Otunnu, an all-party group of Parliamentarians constituted a caucus to serve as parliamentary advocates for the rights, protection and welfare of children affected by armed conflict in Sierra Leone.

24. At the conclusion of his visit, Mr. Otunnu proposed that the international community make Sierra Leone one of the pilot projects for a more concerted and effective response in the context of post-conflict peace-building.

Military and security situation in Sierra Leone

25. The security situation in Freetown continues to be favourable, with a strong but discreet ECOMOG presence and widespread deployment of the Sierra Leonean police. Schools, banks and markets are functioning normally, some international air links to the airport at Lungi have been restored and food and fuel products are widely available. Nevertheless, ECOMOG has continued to recover weapons in house-to-house searches conducted on the basis of information received about the presence in Freetown of former junta members and common criminals.

26. Despite ECOMOG's initial success in driving the elements of the junta rebels back towards the east of the country, several groups of rebels appear to have broken out of the Kailahun district and have moved northwards and westwards in an apparent attempt to re-establish some of their former bush camps in the north. They have been attacking towns and villages, terrorizing local communities and extorting food from them. The situation in the north is now considered unsatisfactory and food convoys have to be guarded by armed escort.

27. Moreover, in the course of their retreat towards the eastern part of the country, former junta elements inflicted extensive damage and engaged in indiscriminate looting and property destruction. In particular, hospitals in most communities lack beds, drugs and equipment.

28. The United States has contributed $3.9 million to ECOMOG over a four-month period through the logistics services company Pacific Architects and Engineers, which provided services to ECOMOG in Liberia. Some vehicles have already been made available. It is anticipated that this assistance will result in further gains by ECOMOG against the former junta forces. However, this contribution is not expected to assist in the deployment of additional ECOMOG forces, for which further contributions, whether bilaterally or through the Trust Fund to support peacekeeping and related activities in Sierra Leone, will be needed.

29. There are reports that many of the fighters supporting the former junta in the east are in fact Liberian nationals. The Monitoring Group of the Economic Community of West African States believes it has identified some of the dead combatants as Liberians after clashes with junta elements and has reportedly captured more than 100 Liberian fighters in the vicinity of Kailahun and in Kono district.

30. On 5 May 1998, President Taylor wrote to me deprecating the "disturbing allegation" that the Government of Liberia was involved in the conflict in Sierra Leone and stressing his commitment to the maintenance of peace in the region. President Taylor informed me that he had proposed to the Chairman of ECOWAS that ECOMOG "cordon off" the border between the two countries, and said he would welcome the concurrence of the United Nations with his suggestion that United Nations monitors be deployed in the border area.

31. On 7 May 1998, the Liberian Government issued a policy statement reaffirming that it would not permit its territory to be used to destabilize any neighbouring country and stating that President Taylor had approved the deployment of an ECOMOG observer unit at the border between Liberia and Sierra Leone in Lofa County, Liberia.

32. The Government of Sierra Leone has welcomed the issuance of the policy statement and has disclosed that a Liberian delegation visiting Freetown to attend the funeral of the late spouse of the President, Mrs. Patricia Kabbah, had met with President Kabbah and discussed the improvement of relations between the two countries.

33. In some parts of the country, misconduct by some members of CDF, arising from their indiscipline and lack of training, has given rise to complaints from civilians.

III. HUMAN RIGHTS

34. Since early May 1998, a human rights adviser has been attached to the office of my Special Envoy. His main tasks have included the observation of the treason trials and, in close consultation with the Special Envoy and the United Nations High Commissioner for Human Rights, examining modalities to increase the capacity of the office to monitor the human rights situation in Sierra Leone and to assist the Government in meeting its international human rights obligations in a sustainable manner. In carrying out its human rights functions, the office will work closely with all relevant elements of civil society, including national and international non-governmental organizations. Both the

Attorney-General and the Chief Justice of Sierra Leone have offered their full cooperation to my Special Envoy and his staff in the exercise of his human rights functions.

35. The main focus of human rights concerns since my last report has been the attacks on civilians by armed, uniformed groups, which are consistently reported to be members of the rebel forces. They have systematically mutilated or severed the limbs of non-combatants around the towns of Koidu and Kabala, in a zone that stretches as far west as Masiaka, south of Port Loko. The scale of the attacks can be estimated from the accounts of victims who have been admitted to hospital. For instance, in the period from 6 April to 21 May 1998, 225 people were admitted to Connaught Hospital in Freetown with war wounds. All but one were reported to be civilians. Of these, a quarter were amputees and half were victims of deep lacerations. The patients report that for every one person who reached the hospital, some five other victims of attacks are either dead or missing. In the same period, there have been some 500 admissions of war-wounded persons to other hospitals in Sierra Leone.

36. Of those victims who have received treatment, most are male, ranging in age from 8 to 60 years. The youngest amputee admitted to hospital is, however, a six-year-old girl, one of whose arms was completely severed. Victims also report that babies have been taken from their mothers' arms and burned alive. There are numerous reports of rape, including one of the multiple rape of a 12-year-old girl. Doctors at one hospital state that lacerations inflicted on one 60-year-old woman are the result of a failed attempt to behead her.

37. The office of my Special Envoy continues to receive information about human rights abuses perpetrated by forces loyal to the junta in the period before the restoration of the Government. From all parts of the country there are reports of extrajudicial killings, rape, arbitrary detention, including for purposes of sexual abuse, torture of children (especially of child-combatants), forced labour and the looting and destruction of residential and commercial premises and property. It will remain important to document these actions with a view to tackling issues of impunity and as an element in the process of promoting reconciliation and healing of society.

38. Information has also been received regarding widespread acts of extrajudicial revenge killings perpetrated against alleged junta collaborators following the restoration of the Government. In just one town, Kenema, there are reports of some 50 revenge killings. Some of those killed were children, with at least one case occurring in Freetown. There are reportedly still many people in hiding for fear of being subjected to revenge attacks. Reportedly some 100 of those hiding in the Freetown area are children. The Government has given assurances that revenge attacks will be investigated and prosecuted.

39. Reports indicate that elements of the Kamajors are responsible for violation of the human rights and rights under humanitarian law of both combatants and non-combatants. This militia force continues to include large numbers of male children. Concerns have been expressed to the Government on these matters and it has indicated that it is taking action to correct the situation (see paras. 22-24 above).

40. My Special Envoy continues to monitor the implementation of the state of emergency declared by the President on 10 March 1998, under which, inter alia, persons may be detained indefinitely without being charged or tried. There are more than 1,000 such detainees held at Pademba Road Prison in Freetown. The Government has established a screening committee to expedite the process of releasing detainees and bringing others to trial.

41. The Government is prosecuting 59 persons in the regular courts for charges, variously, of treason, murder and arson. Another trial of some 20 people is scheduled to start in the coming weeks, as are a number of courts martial. The civilian trials have, so far, proceeded in conformity with normal criminal procedure. Matters of concern are brought to the attention of the Government. The office of my Special Envoy will continue to observe the trials and will seek to augment its capacity in this regard.

42. On 27 May 1998, a delegation of Amnesty International, which had been studying the situation in Sierra Leone, met with my Special Envoy. The purpose of the Amnesty mission was to examine incidents that had occurred during the period of junta rule, as well as the extent of atrocities currently being committed by the remnants of the junta. Amnesty International is also reviewing the detention and trial in Freetown of persons accused of participating in or collaborating with the junta.

IV. HUMANITARIAN SITUATION

43. The humanitarian situation in Sierra Leone is fluid. In the western area and the southern and eastern provinces (with the exception of Kailahun district), aid agencies have begun to reactivate programmes as they have benefited from improved security and access. In northern and north-eastern Sierra Leone, however, the situation has continued to deteriorate as a result of the activity of the former junta forces described above.

44. The humanitarian consequences of the wave of atrocities are very severe. Government hospitals in Makeni, Magburaka and Kabala and health clinics throughout the north have been overwhelmed by the influx of civilians suffering from amputations and maimings and are hampered by staff shortages and logistical constraints.

45. There has already been an outbreak of measles in two camps in the north and there is a severe risk of further outbreaks of epidemics such as cholera with the imminent onset of the rainy season. Furthermore, the non-governmental organization Action contre la Faim, which operates therapeutic feeding centres in Makeni and Magburaka, has reported a large influx of malnourished children under the age of five. Admissions have doubled during the past week. Malnutrition levels are increasing, and there are indications that the 10 per cent global acute malnutrition threshold, at which an emergency response is required, is being breached. If the security situation in the north continues to deteriorate, there is a serious risk that the harvest will be looted by armed elements, thus further undermining the food security of the rural population.

46. The Office of the United Nations High Commissioner for Refugees (UNHCR) has reported that refugees from Sierra Leone are continuing to flow into Faranah, Kissidougou and Guéckédou prefectures in eastern Guinea at a rate of 300 people per day. Many new arrivals, particularly children, suffer from malnutrition. UNHCR has documented the recent cases of at least 82 victims of rebel atrocities, including 28 who were mutilated. The refugees come mainly from the districts of Kailahun, Kono and Kenema. The influx is taking place despite reported attempts by the remnants of the junta to prevent people from leaving those areas. At the same time, about 40,000 internally displaced persons have flooded into the towns of Masingbi, Makeni, Kabala and Magburaka. Over the past three months, some 237,000 Sierra Leoneans have poured into Guinea and Liberia, bringing the total number of Sierra Leonean refugees in the two neighbouring countries to 530,000 people since the start of the conflict in 1991.

47. On 2 June 1998, UNHCR issued an urgent appeal for $7.3 million to help refugees who have fled from the rebel forces. The amount is designed to cover relief assistance to new arrivals in Guinea and Liberia until the end of the year. This followed a visit to Freetown from 2 to 3 June 1998 by the Assistant High Commissioner for Refugees, Mr. Soren Jessen-Petersen.

48. The humanitarian response to the crisis in the north has been severely constrained by the difficulty of access owing to security risks. Road travel from Freetown to Makeni and Koidu is restricted, since agencies are reluctant to travel by road for fear of attacks. Furthermore, many aid agency staff were threatened by AFRC/RUF elements during the period of the ECOMOG intervention and no relief agency has deployed international staff permanently up-country since then.

49. Nevertheless, the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the non-governmental organization Médecins sans Frontières have sent medicines, bedding and plastic sheeting to the north. The International Committee of the Red Cross (ICRC) and Médecins sans Frontières have offered to coordinate the joint distribution of medical supplies to hospitals in Makeni, Magburaka and Kabala. UNICEF has delivered supplies to Kenema and supported efforts by the local authorities to immunize more than 400 children against measles, and the World Food Programme (WFP) is providing assistance to health institutions.

50. From 5 to 6 May 1998, the Humanitarian Assistance Coordination Unit also co-sponsored a workshop for community leaders in the Bo district concerning the code of conduct that governs the activities of relief workers. The workshop was planned in response to incidents of the commandeering of vehicles by Kamajors and ECOMOG in the area. Non-governmental organizations have since reported that the Kamajors have facilitated the safe passage of relief supplies and it is now intended to conduct similar workshops in other parts of the country, including Kenema.

51. An inter-agency mission led by the United Nations Humanitarian Coordinator on 19 May 1998 to Daru and Segbwema found the situation in the south-east of the country, which had been inaccessible for some months for security reasons, more favourable than expected in some respects. However, large numbers of

unaccompanied children were identified who are in need of family-tracing services, feeding and health care.

52. Mr. Sergio Vieira de Mello, Under-Secretary-General for Humanitarian Affairs, will visit Sierra Leone from 10 to 12 June 1998 in order to observe at first hand the ongoing humanitarian programmes and the current difficulties faced by the humanitarian community.

V. DISARMAMENT AND DEMOBILIZATION

53. Both the Abidjan Agreement of 30 November 1996 between the Government of Sierra Leone and RUF and the Conakry Agreement of 23 October 1997 between ECOWAS and AFRC contain provisions for the disarmament and demobilization of Sierra Leonean fighters and their reintegration into society. In his statement at the State opening of Parliament, President Kabbah called on all remnants of the AFRC/RUF to surrender, offering them assurances that they would be treated humanely in accordance with the Geneva Convention and its additional Protocols. The President also indicated that elements of the Conakry Agreement and the Abidjan Agreement would be taken into consideration in the implementation of the disarmament and demobilization programme. The prompt implementation of such a programme is regarded as essential to the stability of Sierra Leone and of the subregion in general.

54. Following the removal of the junta by force by ECOMOG in February and the subsequent ECOMOG action throughout the rest of the country, the Abidjan Agreement and the Conakry Agreement are considered to have been effectively superseded. However, in the parts of the country that have now been brought under Government control, some aspects of those instruments that govern the disarmament and demobilization of former Sierra Leonean fighters might still be applicable. These include the following categories: members of the former Republic of Sierra Leone Military Forces (RSLMF), including members of AFRC, the country's former army, which has now effectively been dissolved; members of RUF; members of CDF; and child soldiers.

55. Both ECOMOG and the Government have developed plans for the disarmament and demobilization of former combatants and for their reintegration into society. Pursuant to the recommendations of the joint mission described in paragraph 8 above, the Government has adopted a comprehensive framework for the disarmament, demobilization, reinsertion and reintegration of ex-combatants and their families. The plan envisages the establishment of a Sierra Leone veterans assistance board to be chaired by President Kabbah, which would, in close cooperation with ECOMOG, the United Nations and donors, supervise the disarmament and demobilization of an estimated 32,000 former combatants in three phases, provisionally over the next 19 months. A small executive secretariat will be charged with the implementation of the policies of the Board in close coordination with ECOMOG and the United Nations.

56. The demobilization process will begin with a rigorous registration process to ensure that eligible ex-combatants receive identification documents. The first priority is the demobilization of some 5,000 to 7,000 former members of the Republic of Sierra Leone Military Forces already disarmed by ECOMOG and

assembled in camps around Freetown, i.e., at Wilberforce Barracks, Benguema Training Centre and Lungi. ECOMOG has recently reported that the numbers of men at each camp have fallen, apparently because some of the men have been provisionally released. Units of CDF in parts of the country deemed secure by the Government and local authorities will also be demobilized in phase I and will undergo a similar and registration exercise. Some CDF units have already returned to their communities of origin in preparation for the disarmament process, though many CDF fighters have also recently been moved up to the Daru area, apparently to join the offensive against the former junta forces at Kailahun. On 25 March 1998, President Kabbah formally requested the international community to provide food for the maintenance of the 7,000 ex-combatants for a two-month period.

57. Preliminary estimates indicate that there are some 1,000 disabled soldiers, 500 female ex-combatants and about 2,500 children. Under the plan, all adult ex-combatants will receive the same reinsertion assistance, the level and nature of which will be determined by the Sierra Leone Veterans Assistance Board, in consultation with donors. The reinsertion assistance will be provided in instalments in order to provide a transitional safety net to ex-combatant families, to encourage them to remain in their areas of resettlement and to monitor their reintegration progress. Furthermore, the Government intends to provide a community-based social and economic reintegration assistance to assist ex-combatants to return to sustainable and productive lives in their communities. Particularly vulnerable groups of ex-combatants, such as child soldiers and the disabled, will receive specialized assistance.

58. The Government intends to proceed with the disarmament, demobilization, reinsertion and reintegration process as far as possible, notwithstanding continuing fighting in some parts of the country. The rapid demobilization of the encamped RSLMF will reduce the security and cost burden borne by the Government and ECOMOG in maintaining the camps. Insofar as adequate reinsertion and reintegration assistance and effective monitoring systems are put in place as planned, the Government is confident that this process will contribute to national reconciliation and reconstruction.

59. Though the plan envisages specific phases, provisionally scheduled to culminate in January 2000, these depend in part on the willingness of those who are still resisting ECOMOG's advance and terrorizing civilians in the north to surrender. It is not clear at this time whether these men, who appear to include the most violent and ruthless supporters of the former junta, intend to surrender or, if so, under what circumstances this might take place.

60. Another important aspect of the plan that remains to be clarified concerns the source of the funding. The plan is not accompanied by a cost estimate, but an earlier Government assessment of the likely costs arrived at a figure of some $14 million. Since that estimate was arrived at in respect of a more modest operation, the likely cost of the current exercise is likely to exceed it. No commitment has yet been made by donors for the funding of the exercise. However, the Government believes it has made some progress in identifying sufficient funds to continue to feed the surrendered soldiers for the next two months or so.

61. On 5 June 1998, my Special Envoy convened a meeting of United Nations agencies, non-governmental organizations and donor representatives to discuss the coordination of international support and contributions to the disarmament, demobilization and reintegration of the 7,000 ex-combatants.

62. On 12 June 1998, the World Bank, which participated in the multi-donor joint mission mentioned in paragraph 8 above, will send two consultants to Sierra Leone to discuss with all participants the further refinement of the plan, including practical arrangements to make it operationally effective. These arrangements are expected to include the provision of strong technical assistance to the executive secretariat of the Sierra Leone Veterans Assistance Board.

VI. PROPOSED ACTION TO BE TAKEN BY THE UNITED NATIONS

63. In the complex and volatile situation currently prevailing in Sierra Leone, the priority task is to promote stability and security by disarming and demobilizing as many former combatants as possible, as soon as possible. The plan adopted by the Government on the advice of the multi-donor joint mission provides a useful basis to accomplish this goal, though much remains to be done in terms of identifying sources of funding and determining the precise roles to be played by the international community. In general terms, I would envisage that, under the overall authority of the Government, my Special Envoy would ensure that the various donors continued to coordinate their activities closely. Within that framework the United Nations Development Programme (UNDP), working through the United Nations Office for Project Services, and in close cooperation with donors and implementing partners, would carry out the arrangements put in place for disarmament and demobilization prior to the May 1997 coup.

64. In this context, I intend to convene a high-level conference in the near future in order to mobilize assistance for the disarmament, demobilization and reintegration process, and for the reconstruction, rehabilitation of Sierra Leone. The conference would also address the need to provide logistical and other support to ECOMOG in order to improve its capacity to carry out its peacekeeping role, as well as for emergency and humanitarian needs.

65. Moreover, I believe the United Nations could render immediate assistance to Sierra Leone by deploying a limited number of unarmed military observers to assist in tasks of pressing importance. Such a deployment at this stage could lend much-needed impetus to a fragile but vital process, which deserves the support of the international community. It could also assist my Special Envoy to avert further bloodshed among civilians and combatants alike - both ECOMOG and Sierra Leonean - by helping to encourage the surrender of former junta elements in the event that this appeared to be possible. Finally, a more visible United Nations presence could serve to bolster the confidence of the Government and people of Sierra Leone in the commitment to their cause of the international community and encourage more substantial donor support for disarmament, demobilization and longer-term rehabilitation and development.

66. I have therefore developed a concept of operations for a United Nations peacekeeping observer mission, initially for a six-month period, whose immediate objectives would be the following:

(a) To monitor the military and security situation in the country as a whole with a view to assisting the Government and ECOMOG in the subsequent implementation of disarmament and demobilization phases as outlined in the Government's plan;

(b) To monitor the demobilization of former combatants already disarmed by ECOMOG and concentrated in secure areas of the country. This would involve collaboration with ECOMOG in its activities, including the provision of security and arms collection and destruction;

(c) To assist in monitoring respect for international humanitarian law at disarmament and demobilization sites;

(d) To monitor the voluntary disarmament and demobilization of members of CDF in their home regions and to monitor progress in the creation of a new national army;

(e) To observe, as security conditions permit, the situation in the north and east of the country, with a view to assisting in the disarmament and demobilization of surrendering former junta forces;

(f) To continue to provide my Special Envoy for Sierra Leone with regular information concerning the military and security situation in the country as a whole.

67. The mission would be known as the United Nations Observer Mission in Sierra Leone (UNOMSIL) and would be led by my Special Envoy, Mr. Francis G. Okelo, who would be designated Special Representative for Sierra Leone. The Chief Military Observer would be Brigadier-General Subhash C. Joshi (India), who is currently the team leader of the small military liaison cell deployed to Sierra Leone pursuant to resolution 1162 (1998). UNOMSIL would subsume the office of my Special Envoy and its staff and the related cost estimates will be issued shortly as an addendum to the present report.

68. The activities described above would require up to 70 officers, as well as a medical unit of up to 15 persons, with the necessary equipment and civilian administrative support staff.

69. In view of the volatile security situation outside the capital, the deployment would take place in phases, with the first group of approximately 40 military observers being deployed, starting during the month of July 1998, to Freetown, Hastings and Lungi. The timing of subsequent deployments would then depend on the security situation, the progress of implementation of the Government's disarmament and demobilization plan and the availability of the necessary logistical equipment and resources. In this connection, I would call on the Government of Sierra Leone to be prepared to make available to the mission such premises and services as they can. At this stage, I would provisionally anticipate that the second phase of deployment would then take place in August-September, with the final phase beginning in October.

70. The observers would be deployed at each of the three camps where former Republic of Sierra Leone Military Forces are now being detained, i.e.,

Wilberforce Barracks, Benguema Training Centre and Lungi; at the three ECOMOG Brigade headquarters at Hastings, Makeni and Bo; and at a headquarters location to support the Chief Military Observer. During the next phases, subject to the considerations identified above, observers could be deployed outside the immediate area of Freetown, including to the home regions of CDF members returning to undertake voluntary disarmament and demobilization as and when they considered their home communities sufficiently secure.

71. The mission would be provided with adequate air support in order to ensure mobility and security, as well as casualty and medical evacuations. A boat would also be required to facilitate travel and communications between Lungi and Freetown.

72. Should the Security Council agree to these measures, I will establish security arrangements for United Nations personnel with the Chairman of ECOWAS and conclude a status of mission agreement with the Government of Sierra Leone.

73. The deployment described above would require a commensurate expansion in the size of the office of the Special Representative, including information and political officers, as well as the necessary administrative and support staff.

74. I would also propose to increase to four the number of human rights officers attached to the office of my Special Envoy. These officers, under the direction of the Special Representative, and in close cooperation with the United Nations High Commissioner for Human Rights, would have a monitoring role and the task of addressing the country's long-term human rights institution building needs.

75. An increase in the number of civilian police advisers from two to five would also be required. These officers would advise the Government and local police officials on police practice, training and recruitment, in particular on the need to respect internationally accepted standards of policing in democratic societies. They would also monitor the progress of the restructuring of the Sierra Leonean police force.

76. At this point, it is difficult to assess whether an expansion of the mission might be needed six months from now and, if so, what form it might take. My recommendations on this matter will depend on ECOMOG's progress in restoring security throughout the country. If the presence of United Nations personnel in areas of continuing insecurity is considered desirable in order to reduce bloodshed by encouraging armed elements to surrender, or if areas of Sierra Leone now secure come under threat from hostile elements, thought must be given to ensuring the security of United Nations personnel. Although ECOMOG is a capable force and has indicated it would guarantee the security of the observers, it is also a potential target of attacks by the remnants of the junta. Unarmed military observers under its protection might not be regarded as neutral by hostile armed elements and their safety might therefore be jeopardized.

77. For those reasons, I could envisage the possibility, at a future stage, of recommending the deployment of a highly mobile unit of armed United Nations troops, operating in close cooperation with ECOMOG but independent of it, to

protect observers in locations where their security might be at risk, but where their neutral presence may be helpful in encouraging armed elements to surrender. However, I do not believe that the time is ripe to make such a recommendation to the Council at this stage.

78. The deployment of ECOMOG troops at the border with Liberia could help lay to rest allegations of the influx of arms or the provision of armed assistance to the junta by foreign forces. I commend the Government of Liberia for its policy statement reaffirming that it will not permit its territory to be used to destabilize any neighbouring country. Verification that this was the case would, in my view, improve the security climate throughout the entire subregion and improve mutual confidence among its member countries. I hope there will be further discussions between the Heads of State of the subregion on these matters.

79. I therefore intend to pursue with President Taylor his proposal for the deployment of a small contingent of United Nations military observers at the border with Sierra Leone, in order to assist in verifying that Liberian territory is not being used to destabilize Sierra Leone and that foreign forces are not assisting the remnants of the former junta there. I will also discuss the matter with President Kabbah and with the Chairman of ECOWAS and revert to the Council in due course.

VII. OBSERVATIONS AND RECOMMENDATIONS

80. Since my last report, the situation in Sierra Leone has in some respects improved considerably. Since its restoration on 10 March 1998, the Government has moved rapidly to reassert its authority throughout much of the country. President Kabbah has nominated a compact Cabinet of acknowledged experts in their fields, all of whom have been confirmed by Parliament, as well as a Chief Justice.

81. However, in the eastern part of Sierra Leone and parts of the north, the remnants of the former junta continue to resist ECOMOG forces and attack Sierra Leonean civilians. I join with the Council in deploring the continued resistance to the legitimate Government, in calling on the supporters of the junta to lay down their arms, and in condemning the mutilations, rapes, looting and other atrocities carried out by junta elements against the civilian population. I also align myself with the commendation expressed for ECOWAS and ECOMOG in the presidential statement adopted on 20 May 1998 (S/PRST/1998/13) for the important role they are playing to restore peace and security in Sierra Leone, and support the call for Member States to provide technical and logistical support to assist ECOMOG to continue to enhance its ability to carry out its peacekeeping role and contribute to bringing an end to the atrocities being committed against the people of Sierra Leone. In this context, I welcome the logistical assistance provided by the United States. I am also grateful for the contribution made by the United Kingdom, and invite other Member States to make contributions to the Trust Fund to support peacekeeping and related activities in Sierra Leone.

82. It is clear that there are a significant number of victims of rebel atrocities who remain in the bush or who are otherwise unable to receive medical attention. I applaud the efforts of United Nations humanitarian personnel, ECOMOG and the non-governmental organizations in locating and aiding victims. However, more must be done as a matter of urgency, including the provision of additional medical and surgical capacity, including hospital beds. In the longer term, the agencies and the non-governmental organizations concerned will need to offer support in the form of prosthesis services for all amputees and psycho-social treatment of traumatized victims and their families. In this context, I welcome the intention of ICRC to dispatch a surgical team to Sierra Leone to augment local medical facilities.

83. I call on the Government of Sierra Leone to continue to show the necessary resolve to adhere to international human rights standards and its own distinguished legal traditions in ensuring that those accused of the gravest crimes against the State and its people receive fair trials. I am aware that the Government has held to this course so far in the face of strongly voiced public contempt for the accused.

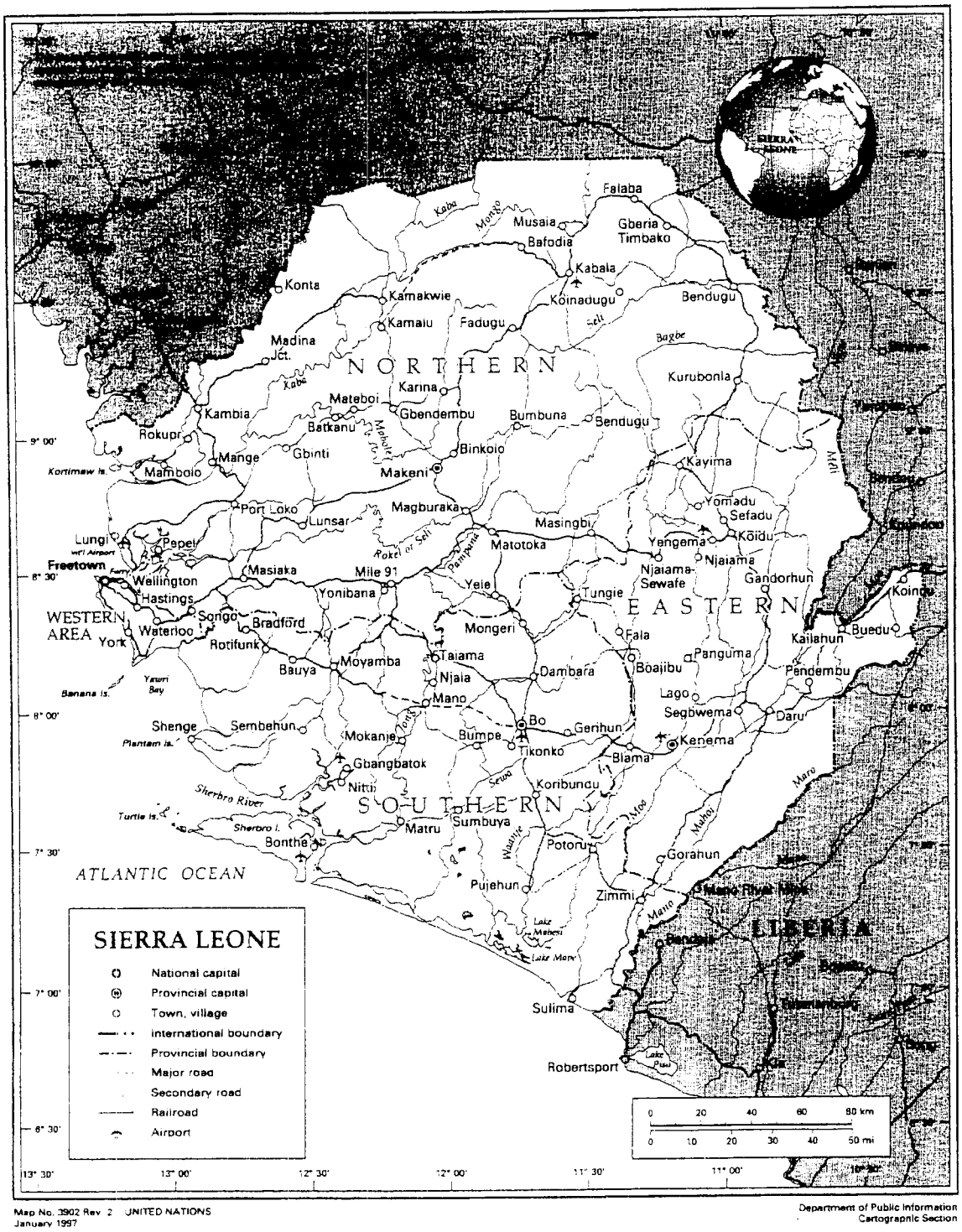
84. I express my appreciation to those Member States and others who have contributed to the flash appeal for humanitarian assistance and for various humanitarian projects.

85. I recommend that the Security Council establish an observer mission in Sierra Leone, to be known as the United Nations Observer Mission in Sierra Leone (UNOMSIL), with the mandate and concept of operations described in paragraphs 66 to 71 above and with the necessary augmentation of civilian and civilian police staff as set out in paragraphs 73 to 75 above.

86. During the six-month period of the mandate, I would keep the situation closely under review and would make further recommendations to the Council concerning a possible extension or expansion of the mission as the circumstances permitted.

87. I support the recommendation of my Special Representative for Children in Armed Conflict that Sierra Leone be made one of the pilot projects for a more concerted and effective response in the context of post-conflict peace-building.

88. Finally, I wish to express my appreciation to my Special Envoy and to all United Nations staff in Sierra Leone for their efforts over the past several weeks.



Map No. 3902 Rev. 2 UNITED NATIONS
January 1997

Department of Public Information
Cartographic Section

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1998/750
12 August 1998

ORIGINAL: ENGLISH

FIRST PROGRESS REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

I. INTRODUCTION

1. By paragraph 19 of its resolution 1181 (1998) of 13 July 1998, the Security Council requested me to submit an initial report within 30 days of the adoption of the resolution and every 60 days thereafter on the deployment of the United Nations Observer Mission in Sierra Leone (UNOMSIL) and its progress in carrying out its mandate, and also to inform the Council on plans for the later phases of the deployment of UNOMSIL when security conditions permit these to be implemented. The present report, which is submitted pursuant to that request, describes developments since my fifth report on the situation in Sierra Leone (S/1998/486) dated 9 June 1998.

2. The present report is also submitted in accordance with paragraph 10 of resolution 1162 (1998) of 17 April 1998 and paragraph 8 of resolution 1171 (1998) of 5 June 1998.

II. SITUATION IN SIERRA LEONE

Activities of the Government of Sierra Leone

3. Since my last report, the Government of Sierra Leone has continued to strengthen its authority and improve its organization and functioning, including through the adoption, following a wide-ranging parliamentary debate, of a budget for the remainder of 1998. On 7 August, President Kabbah visited the provincial towns of Bo, Kenema and Makeni. Some 45 of the 52 paramount chiefs have returned to their districts in the south of the country.

4. Significant improvements have occurred in relations between Sierra Leone and Liberia. On 22 and 23 June, a Liberian delegation led by Senator Kekura Kpoto visited Freetown to deliver a special message from President Taylor to President Kabbah concerning ways to promote peace between Guinea, Liberia and Sierra Leone, the Mano River Union countries. The delegation also denied allegations that the Liberian Government was supporting the remnants of the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF), and expressed concern that some Liberian dissidents were reported to be

planning to use Sierra Leone as a base from which to attack Liberia. At the conclusion of the meeting, President Kabbah issued a statement reaffirming his commitment to subregional peace and security and calling for strict adherence to the existing non-aggression pact and good neighbourliness treaty contained in the Mano River Union Agreement.

5. On 1 July 1998, during my visit to Abuja, together with the President of Nigeria, General Abdulsalam Abubakar, I jointly convened a meeting between President Taylor and President Kabbah, the Heads of State of Liberia and Sierra Leone. The two Heads of State reached agreement at that meeting on a number of confidence-building measures to improve relations between their countries. The Presidents, inter alia, strongly condemned the continued rebel activities in Sierra Leone, as well as the horrendous atrocities committed there, and agreed to exchange official visits. The communiqué issued at the end of the meeting was circulated as document S/1998/629.

6. On 20 July 1998, President Kabbah paid a one-day visit to Monrovia at the written invitation of President Taylor to attend the Liberian National Reconciliation Conference. The meeting of the two Presidents was held in the presence of the Reverend Jesse Jackson, Special Envoy of the President of the United States of America to Africa. In a joint communiqué issued after the meeting, President Taylor and President Kabbah again condemned all atrocities and violations of human rights committed by combatants in Sierra Leone against civilians, as well as the continued rebel activities in that country. They reaffirmed their commitment to non-aggression against the territorial integrity of each other's country and pledged to continue their cooperation towards peace and security in the subregion. Both leaders renewed their call to the United Nations and the Economic Community of West African States (ECOWAS) to deploy observer units on the Liberia/Sierra Leone border and agreed to coordinate border security activities. President Taylor accepted an invitation from President Kabbah to visit Sierra Leone at a date to be announced.

7. In a later development, the Government of Sierra Leone has denied any involvement in an alleged plot to overthrow the Government of Liberia, which has been widely reported in Monrovia.

8. On 25 July 1998, the Nigerian Government released the leader of RUF, Corporal Foday Sankoh, to Sierra Leonean custody in Freetown. The Government of Sierra Leone has now detained Corporal Sankoh and issued a public statement calling on his supporters, who are still fighting, to surrender to ECOMOG, to my Special Representative or to any religious organization by 8 August 1998. The Government statement called for an end to fighting and urged Sierra Leoneans to turn their attention and energies to the elimination of poverty, disease and illiteracy. In a television appearance with the Sierra Leonean Minister of Information, Corporal Sankoh appealed to the remnants of RUF to halt atrocities against the people of Sierra Leone and to surrender to United Nations observers or to the Military Observer Group of ECOWAS (ECOMOG). A subsequent Government statement issued on 3 August reiterated the 8 August deadline for the amnesty. There has been no significant response to the Government's call.

9. Following the visit to Sierra Leone of my Special Representative for Children and Armed Conflict, Mr. Olara A. Otunnu, in May, the Government has

accorded special attention, and has welcomed efforts by United Nations agencies, to promoting the welfare, rights and protection of children and to addressing challenges posed by the "youth crisis" and the high growth rate of the population. In July, Vice-President Albert Joe Demby publicized the 1998 edition of the UNICEF report, The Progress of Nations, while the Minister of Finance, Development and Economic Planning, Mr. James Jonah, delivered a radio address on World Population Day, in which he highlighted the Government's intention to rehabilitate and reconstruct all war-affected areas, increase the rate of economic growth faster than population growth and reduce poverty.

Activities of the Military Observer Group of the Economic Community of West African States and the military and security situation in Sierra Leone

10. Since the end of June, the military and security situation in Sierra Leone has improved somewhat as reports of atrocities committed by elements of the former junta have markedly declined. Despite the onset of the rainy season, ECOMOG, has maintained its pressure on Kailahun district, the remaining stronghold of the former junta in the eastern part of the country. At the same time, ECOMOG positions in Koidu, also in eastern Sierra Leone, have repeatedly come under mortar attack during the last few weeks and the situation in the north-east remains volatile and unpredictable, as was shown by the rebels' capture and brief occupation of Kabala.

11. Security in Freetown has generally been good. However, on 19 July 1998, a gun battle lasting approximately one hour broke out in Freetown between ECOMOG and a band of 15 men described as robbers. The men were all captured the same day without bloodshed.

12. In the countryside, elements of the former junta are concentrated around Kailahun and Koidu in relatively large numbers, while smaller groups have been operating in northern and central Sierra Leone. Sometimes these groups have harassed ECOMOG units and the civilian population, perpetrating atrocities and destroying property, but on a much smaller scale than was the case in June. Attacks by ECOMOG, including air strikes, are thought to have inflicted significant casualties on the rebels and broken them up into smaller groups, curtailing their activities. Reported shortages of food and ammunition among the rebels have increased the risk that they could attack ECOMOG convoys and isolated settlements in order to resupply themselves. The southern part of the country and the area around Freetown in the west have been calm, except for the incident described above.

13. On 27 July 1998, apparently after seizing weapons and ammunition in an attack on ECOMOG units at Bendugu in north-eastern Sierra Leone, junta supporters attacked ECOMOG troops in the town of Kabala. The attack, which was preceded by a feigned offer to surrender, was well-coordinated and launched from three sides. The rebels succeeded in taking the town and temporarily driving out the ECOMOG defenders. At about the same time, the rebels attacked a civilian bus about 10 kilometres south of Kabala, killing seven passengers.

14. By 31 July, ECOMOG troops moved back in force into Kabala as rebel forces withdrew. The rebels caused extensive property damage, including the destruction of some 200 houses, plundered the town and extorted money from the

civilian population, whom they threatened to use as human shields in the event of a counter-attack. No mutilations have been reported.

15. During the past few weeks, ECOMOG has inducted fresh troops into the Kenema sector in south-eastern Sierra Leone, with a view to reinforcing its presence near Kailahun. The deployment of an additional brigade, comprising three battalions, has enabled ECOMOG to mount more aggressive patrols, at times in conjunction with the Sierra Leonean Civil Defence Force. ECOMOG has also reinducted former Republic of Sierra Leone Military Forces (RSMLF) personnel, amounting to approximately three battalions, or 2,500 men, alongside its own troops to assist with the protection of supply lines and, in some cases, in combat duties. The provision of logistical assistance to ECOMOG, thanks to the bilateral contribution of the United States of America, has helped to improve operational capacity. ECOMOG has also been withdrawing exhausted troops with a view to rotating them. Nonetheless, ECOMOG, with an estimated 10,000 troops in theatre, is still overstretched and in need of significant additional logistical support, in order to contain the rebels and restore and maintain order in the eastern and northern parts of the country.

16. While the Civil Defence Force is nominally under the command and control of ECOMOG, reports continue to be received of unruly or criminal behaviour on the part of some members of the Force outside their own home districts. Strains that developed between ECOMOG and the Civil Defence Force in some places appear to have been successfully resolved or contained through the intervention of senior commanders. Some members of the Force have also been accused of human rights violations and criminal acts, including looting, confiscation of vehicles and civil disturbances, although allegations of summary killings and the torture of prisoners have dropped sharply since the end of May, apparently as a result of intervention by the Government and ECOMOG. The Civil Defence Force has made a commitment to end its practice of recruiting and initiating child soldiers, who comprise a high proportion of their ranks and who have been sent into combat.

III. ACTIVITIES OF THE UNITED NATIONS

Deployment of UNOMSIL

17. Pursuant to the creation of UNOMSIL by the Security Council by resolution 1181 (1998), I wrote to the President of the Council on 16 July 1998 to inform him of the countries that were contributing observers to the mission (see S/1998/673 and S/1998/674) and of the appointment of Brigadier-General Subhash C. Joshi (India) as Chief Military Observer. In accordance with paragraph 9 of resolution 1181 (1998), I took advantage of the presence of President Kabbah at the special conference on Sierra Leone, held at Headquarters on 30 July 1998, to propose to him the terms of a status of mission agreement. As I informed the President of the Security Council in my letter of 3 August 1998 (S/1998/714), the Minister for Foreign Affairs of Sierra Leone, Mr. Sama Banya, at once replied indicating his Government's acceptance. As I also mentioned in my 3 August letter, on the basis of the Government of Sierra Leone's programme for the disarmament, demobilization and reintegration of former combatants, issued to participants at the special conference, I have

written to the Chairman of ECOWAS proposing arrangements by which ECOMOG would be responsible for the security of United Nations personnel in Sierra Leone.

18. In accordance with resolution 1181 (1998), the eight military liaison personnel already deployed in Sierra Leone since May 1998 pursuant to resolution 1162 (1998) have now been redesignated United Nations military observers. The additional 32 officers who are in the process of being deployed, including those in the first phase, are from China, Egypt, India, Kenya, Kyrgyzstan, New Zealand, Pakistan, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and Zambia. As of 10 August 1998, a total of 26 officers have been deployed in Sierra Leone, with more to come over the next few days (see annex). The medical unit is expected to arrive in the country by 20 August.

19. As indicated in my report of 9 June and as outlined in the Government plan mentioned in paragraph 17 above, one of the priority tasks of the military observers, in accordance with the mandate set out in resolution 1181 (1998), is to monitor the demobilization of former combatants already disarmed by ECOMOG and concentrated in secure areas of the country, primarily at Lungi. In addition, in order to continue to monitor and report on the military and security situation, two observers are already deployed at Bo and two at Makeni, with the headquarters of ECOMOG brigades based there.

20. The Chief Military Observer and his staff will continue to be based at Freetown and an observer team will cover the area around the capital, including Hastings. The largest deployment outside Freetown will be at Lungi, with smaller teams deployed to the ECOMOG brigade headquarters at Bo, Kenema and Makeni, as the security situation permits and as the Government makes progress in the implementation of its disarmament and demobilization plan. Further deployments are planned in due course to cover locations in the north, south and centre of the country, co-deployed with ECOMOG units, including in Sumbuya, Sulima, Zimmi, Joru and Kabala. Eventually, as order is restored to the parts of the country where fighting has been taking place and subsequent phases of deployment take place, it is envisaged that United Nations observers would also be co-deployed with ECOMOG units at Kailahun and Koidu.

21. As I informed the Council in my report of 9 June (S/1998/486, paras. 78-79), I have pursued with President Taylor the possibility of an eventual co-deployment of United Nations military observers with ECOMOG troops at the border between Liberia and Sierra Leone. This proposal was reiterated in the communiqués following the meetings between President Taylor and President Kabbah at Abuja on 1 July 1998 and at Monrovia on 20 July 1998. My Special Representative will, at the appropriate time, dispatch a small team of observers from Freetown to examine the feasibility of such a deployment and I will revert to the Council accordingly.

22. In accordance with resolution 1162 (1998), a civilian police adviser, Deputy Commissioner Maritz du Toit (Namibia), was deployed in Sierra Leone in July. Following the adoption of resolution 1181 (1998), four more advisers will be deployed as soon as possible. Their role will be to assist in restoring the confidence of the Government and people of Sierra Leone in the police force, which incurred widespread public contempt for its role in supporting the junta,

and to advise the Government on training and re-equipment needs. The United Nations civilian police will work closely with a team of police advisers deployed at the request of the Government from Commonwealth countries.

23. Since his arrival, Deputy Commissioner du Toit has established close relations with the Government and with his counterparts and has paid extensive visits to Sierra Leonean police stations within and outside the capital. He has also met with the Commonwealth police advisers to discuss cooperation between the Commonwealth and the United Nations in the conduct of their respective mandates.

Special Conference on Sierra Leone

24. As outlined in my report of 9 June 1998 (S/1998/486, para. 64), on 30 July 1998 I convened a high-level conference at Headquarters to mobilize assistance for the disarmament, demobilization and reintegration plan, for the provision of logistical support to ECOMOG, for immediate humanitarian needs and for the reconstruction and rehabilitation of Sierra Leone. The conference was preceded by an organizational meeting on 24 June.

25. President Kabbah, accompanied by the Minister of Finance, Development and Economic Planning, Mr. James Jonah, and the Minister for Foreign Affairs, Mr. Sama Banya, made a statement before the Conference, setting forth his plans for national reconciliation and rehabilitation, including improvements in internal security and the Government's plan for the disarmament, demobilization and reintegration of Sierra Leonean former combatants. Representatives of some 55 countries, including the Ministers for Foreign Affairs of the Gambia, Guinea and Liberia, the Minister of State for Foreign Affairs of the United Kingdom of Great Britain and Northern Ireland, the Vice-Minister for Foreign Affairs of China, the Deputy Minister for Foreign Affairs of Ghana, the Assistant Secretary of State for Africa and the Assistant Secretary for Population, Refugees and Migration of the United States of America attended the Conference. Other participants included the Secretary-General of the Organization of African Unity and the Secretary-General of the Commonwealth, as well as the Executive Secretary of ECOWAS. United Nations specialized agencies and the relevant departments also sent representatives. The ECOMOG Force Commander, General Timothy Shelpidi, addressed the Conference on ECOMOG's needs.

26. Participants agreed on the need to establish an international contact group to mobilize and coordinate further support for Sierra Leone. I am presently reporting in greater detail on the conference, directly to the President of the Security Council, in a letter to be circulated as a document of the Council.

IV. DISARMAMENT AND DEMOBILIZATION

27. In a letter dated 11 August 1998 (S/1998/741), the Government of Sierra Leone conveyed to the President of the Security Council the programme for the disarmament, demobilization and reintegration of former combatants adopted by the Government of Sierra Leone. The programme describes in detail the institutional structures established by the Government to carry out its provisions, the financial management arrangements, the implementation schedule

and the roles of UNOMSIL and ECOMOG in the reinsertion and reintegration of former combatants. The disarmament process will be carried out by ECOMOG, with the monitoring of UNOMSIL, in accordance with its mandate as set out in resolution 1181 (1998).

28. The essentials of the Government's disarmament, demobilization and reintegration plan were described in my report of 9 June (S/1998/486, paras. 53-62). The objective of the exercise is to consolidate the security of the State through the disarming, demobilization and reintegration into society of an estimated total of 33,000 former combatants (8,000 RSLMF and RUF and 25,000 CDF) in three phases between July 1998 and June 2001, at an estimated cost of $33.6 million, of which $1[illegible].3 million would be required for phase one. It is anticipated that the first phase would comprise the demobilization of the disarmed former RSLMF and RUF personnel now in detention and an estimated 5,000 CDF combatants. Particular emphasis will be devoted to the psychosocial reintegration of former child combatants from all sides.

29. The programme will be implemented under the guidance of the National Committee on Disarmament, Demobilization and Reintegration, under the chairmanship of President Kabbah and comprising representatives of the Government, ECOMOG, donors and my Special Representative on behalf of the United Nations community. The Committee will operate, in collaboration with other Government departments, donors and non-governmental organizations (NGOs), through an Executive secretariat responsible for overall programme planning and implementation, as well as the transparent and accountable administration of the programme and the monitoring and evaluation of its progress.

30. Following the formal adoption by the Government of the programme, the National Committee has commenced work and the members of the Executive secretariat, which will be assisted by a technical adviser, have been nominated. On 16 July 1998, a team representing the Committee, including the Ministers of the Interior and Information, the National Security Adviser and my Special Representative, visited the camp site at Lungi where more than 4,000 disarmed former members of RSLMF are currently detained by ECOMOG, awaiting demobilization and reintegration. The object of the visit was to explain the disarmament, demobilization and reintegration process to the disarmed men and to the local community. Similar visits to other locations are planned for the future.

31. RSLMF has effectively been disbanded and is in a state of disgrace as a result of its participation in the illegal military coup of May 1997 and the subsequent junta rule. Though consideration is being given to reconstituting the Sierra Leone armed forces, it is considered unlikely that many of the ex-RSLMF personnel will be accepted for membership in it. The men detained at Lungi appeared to be well-treated, disciplined and receptive to the prospect of demobilization and rehabilitation. They were also aware of the intense hostility felt towards them by the general public and none have attempted to escape. Recently, some of the former RSLMF personnel have been reinducted into the ECOMOG force to assist in military operations.

32. One aspect of the reintegration process that has given cause for concern is the hostile attitude of the general public to former RSLMF personnel.

Resentment at the atrocities inflicted by the junta and its supporters is so widespread as to pose a threat to the physical safety of anyone associated with the junta. As I have reported earlier, a number of revenge killings have been reported throughout the country since the recapture of Freetown in February. My Special Representative will assist the Government in carrying out a vigorous sensitization and education campaign to increase public acceptance of former army personnel undergoing reintegration, an effort that could also be supported by donor contributions.

V. HUMAN RIGHTS

Abuses committed during and since the junta period

33. The human rights adviser working with my Special Representative for Sierra Leone has continued to compile accounts of atrocities committed both during and after the period of junta rule. Though some of these have yet to be rigorously examined, there is strong evidence of the systematic and widespread perpetration of multiple forms of human rights abuse against the civilian population, including rape. In recent weeks, elements of the former junta have continued to shell population centres such as Koidu and Daru and have used civilians as human shields in their military operations. There have been numerous instances of arbitrary execution, including of women and children, followed in some cases by mutilation of the bodies.

34. Though incidents of mutilation appear to have greatly declined since the end of June, it is feared that for each of the 600 or so persons attacked since March 1998 who survived and sought medical attention, at least 4 others are either dead or unaccounted for. The victims of these attacks are still making their way in small numbers to medical centres.

35. A survey of 9 of Sierra Leone's 150 chiefdoms indicates that some 700 civilian war-related deaths have occurred since February, including 200 in one village, Yifin, in late April. About 1,600 people have suffered war-related injuries in these chiefdoms since February, of whom 30 per cent are children. In Koidu, a reliable source has stated that 663 bodies were buried following the fighting in the area in mid-June. A significant percentage of the dead were women and children. At the same time, the killing of some 44 of the 144 paramount chiefs during that period indicates a deliberate attempt to target them.

36. The rebels are estimated to hold several thousand civilian captives, including women and children. They are used as porters, human shields and for forced sexual activity. Abductions continue to be reported in the north. It is believed that many RUF/AFRC fighters were themselves abducted as children and subjected to brutal initiation ceremonies.

37. Rebel forces tend to destroy property and homes in the villages they attack. Though no precise figures are available, there are indications of extensive damage to the housing stock in all areas that they have ravaged. The study of the 9 chiefdoms referred to above found that 1,619 homes had been destroyed. A survey of 3 other chiefdoms identified 600 destroyed houses and,

on 12 July alone, in a village near Masingbi, some 40 houses were destroyed. As noted above, the rebels also destroyed property in Kabala at the end of July.

38. The rebel campaign of terror and their military activities have resulted in the displacement of at least 350,000 people since February. Some 250,000 of these are now in Guinea and Liberia and the remainder are internally displaced in Sierra Leone. The persistence of the rebellion not only prevents their return, but also causes grave humanitarian problems for a significant element of the displaced population, as described in more detail below.

Treason trials and the administration of justice

39. The State is prosecuting 58 persons in the regular courts on a range of charges including treason, murder and arson, and two further trials are scheduled to begin soon. All defendants, if found guilty, face the possibility of the death penalty. The trials are proceeding against a background of widespread public anger and a desire for quick justice.

40. The court martial of 38 soldiers has begun before a judicial panel comprising Sierra Leonean army officers and presided over by a Judge Advocate who is an ECOMOG officer. Early concerns regarding procedure were speedily rectified by the Government after they had been raised by UNOMSIL, which continues to monitor both the courts martial and the proceedings in the regular courts. UNOMSIL is also continuing to persuade the Government to establish a channel for judicial appeals from court martial findings.

41. The Government concedes that the judicial system in Sierra Leone is entirely inadequate. Outside Freetown, the courts are not functioning at all and the traditional court system has collapsed. Sustained support will be needed to restore the judicial system in keeping with Sierra Leone's distinguished legal traditions.

42. There are six functioning prisons in Sierra Leone, but prisoners are also held in an unverifiable number of other facilities, including military camps. Most detainees in civilian facilities are being held pursuant to the emergency powers legislation introduced by the Government shortly after its restoration in March 1998. Conditions in many facilities are overcrowded and unsanitary and the food and medical care are inadequate. About 2,000 prisoners are being held in Freetown.

43. Reliable reports are being regularly received of poor discipline within the Civil Defence Force. In various locations throughout the country they have been accused of harassing the local population and engaging in extortion. It has also been reported that the initiation of new members, including children between the ages of 15 and 17, occurred near Magburaka during the third week of July. ECOMOG has established a complaints procedure to investigate any allegations of harassment of the local population by ECOMOG troops.

44. UNOMSIL has commenced a human rights technical cooperation needs assessment and has already identified widespread requirements, many of which should be addressed as a matter of urgency. These include the need for human rights education for government officials, traditional leaders, police officers,

teachers of civic education, lawyers, journalists and NGO personnel. It is also necessary to provide technical support to the Government and the National Commission for Democracy and Human Rights to facilitate the application of human rights principles to State policy and practice. United Nations military observers will also receive training in aspects of international humanitarian law relevant to their duties.

VI. HUMANITARIAN SITUATION

45. The humanitarian situation in Sierra Leone continues to give cause for concern, especially in the light of the poor response to the Inter-Agency Appeal for Humanitarian Assistance to Sierra Leone. To date, only 5 per cent of the $20.5 million requested has been received. Humanitarian organizations in Sierra Leone continue to face fundamental questions on the modalities for the delivery of relief assistance in an environment characterized by unpredictable hostilities and systematic human rights abuses. The effort to balance the rights of civilians in need of assistance with the requisite level of operational security has required the constant review and modification of the United Nations and NGO codes of conduct and protocols for humanitarian agencies operating in Sierra Leone, in order to reflect the current situation.

46. Despite the ongoing debate, humanitarian assistance continues to have a significant impact on the dire health and nutritional status of hundreds of thousands of war-affected Sierra Leoneans. The most significant humanitarian activities since my last report include efforts to address the serious humanitarian crisis at Masingbi in north central Sierra Leone, the influx of spontaneous returnees from Liberia and the repatriation by the Office of the United Nations High Commissioner for Refugees (UNHCR) of Sierra Leonean and Liberian refugees. The United Nations Humanitarian Assistance Coordination Unit in Freetown now estimates that the number of internally displaced persons since the ECOMOG intervention in February 1998 has grown to more than 166,000. The recent clashes between rebel forces and ECOMOG around Kabala have provoked further displacements.

47. A rapid nutritional assessment carried out in Masingbi by the NGO, Action Contre la Faim, for children under the age of five revealed a global malnutrition rate of 39 per cent. Owing to insecurity in the Masingbi area during July, humanitarian organizations were forced to suspend operations and withdraw to Makeni. However, the United States NGO, CARE, succeeded in distributing assistance to more than 16,000 beneficiaries. Internally displaced persons continue to flow into Masingbi at a rate estimated at between 50 and 100 persons a day.

48. In collaboration with the Ministry of Health, the United Nations Children's Fund (UNICEF) is supporting the health care delivery system in Masingbi as well as in western Kono district, where they are providing drugs and basic medical equipment. The latest data on morbidity from Masingbi and Kono district have shown that the measles outbreak that was prevalent in the area is now under control as a result of the vaccination campaign carried out by the Ministry of Health and UNICEF.

49. Masingbi remains a critical focus for humanitarian intervention in terms of shelter for the current rainy season and coordination of other sectoral activities. The NGO, Concern Worldwide, has recently agreed to support shelter activities, while UNICEF and Action Contre la Faim will collaborate on water and sanitation matters. Food distributions by CARE and health activities by UNICEF, NGOs and the Government have had a significant impact in contributing to reducing the death rate in Masingbi and its environs from 899 deaths during June to 29 in July.

50. A joint Government, UNHCR and the World Food Programme (WFP) mission to Pujehun district in southern Sierra Leone has confirmed that there has been an influx of returnees from Liberia, who are thought to be crossing the border at the rate of some 90 per day. The most urgent needs of the returnees are food, health and shelter, which are to some extent being met by WFP and by NGOs.

51. UNHCR has continued to repatriate Sierra Leonean refugees to Freetown. A total of some 7,500 Sierra Leoneans, mainly from Guinea and Gambia, have been assisted in returning home. Furthermore, it is planned to bring 3,000 Sierra Leoneans home by air from Guinea during the month of August. UNHCR has also repatriated some 440 Liberian refugees from Sierra Leone.

52. A United Nations Humanitarian Assistance Coordination Unit database has been established to detail the condition of more than 166,000 internally displaced persons, the number of people displaced since the ECOMOG intervention in February 1998. However, this figure represents only a portion of the total number of internally displaced persons in the country. UNHCR estimates that, during the same period, more than 250,000 Sierra Leoneans have sought refuge in neighbouring countries.

53. A mission to Kabala, undertaken only days before the 27 July attack, estimated that some 18,000 civilians were residing in the town, including a large number of internally displaced persons from Kono district. As a result of the hostilities, unconfirmed reports indicate that the majority of the civilians were displaced to villages to the north and north-west of Kabala. It has been reported that large numbers of civilians were abducted from Kabala, as has been the practice of the RUF in the past. Furthermore, all reports indicate that all relief goods, medical supplies and logistics for humanitarian efforts were looted or destroyed during the brief occupation. Now that the situation has calmed, the humanitarian community is assessing the damage and making efforts to meet the needs.

VII. OBSERVATIONS AND CONCLUSIONS

54. The decision by the Security Council to create UNOMSIL and to expand its functions has been warmly welcomed by the Government and people of Sierra Leone, and the early signing of the status of mission agreement between the Government and UNOMSIL has also been of great assistance in providing a firm basis for our activities there. The adoption by the Government of Sierra Leone of a comprehensive programme for disarmament, demobilization and reintegration of former combatants, containing clearly defined roles for ECOMOG and the United Nations, has set the tone for UNOMSIL's future efforts.

55. The deployment of the first phase of UNOMSIL's 70 military observers and their equipment is also well under way. I am grateful to the troop-contributing countries for the dispatch with which they have acted in making these personnel available.

56. In my report of 9 June (para. 69), I identified three criteria which would govern subsequent deployments of military observers: the security situation, the progress of implementation of the Government's disarmament and demobilization plan and the availability of the necessary logistical equipment and resources. As I indicated then, I am keeping all three criteria under very close review and will keep the Council informed of all relevant developments while preparing for the next phase of the deployment. I am heartened by the progress made by ECOMOG in improving the security situation in the countryside, especially in eastern Sierra Leone, and renew my call to donors to contribute to ECOMOG's logistical requirements.

57. In this context, I am gratified by the success of the special conference on Sierra Leone, held at Headquarters on 30 July 1998, and look forward to working closely with the international contact group to be established to coordinate further support for Sierra Leone. In the meantime, I reiterate my call to donors to contribute to the Inter-Agency Appeal for Humanitarian Assistance to Sierra Leone in order to assist Sierra Leoneans in meeting their most basic and urgent needs.

58. The sharp reduction in human rights violations perpetrated by elements of the former junta since the end of June is to be welcomed, but I remain deeply concerned about the plight of innocent civilians in the country, who may still be suffering from the depredations of the rebel forces or at risk from future attacks. In parallel with the efforts being made by ECOMOG to restore law and order throughout the countryside, I continue to believe that every effort should be made to end the threat posed by the rebels.

59. For this reason, I believe that the disarmament, demobilization and reintegration plan adopted by the Government, and to be implemented with the assistance of ECOMOG and UNOMSIL, represents the best hope in the immediate future for consolidating the stability of the country and bolstering the authority of the Government throughout the territory of Sierra Leone. I therefore reiterate the plea I made on 30 July at the special conference for the donor community to lend every possible assistance to the Government in carrying out its plan. I welcome the commitment of the Government and the Civil Defence Force not to recruit children under the age of 18 as soldiers or to send them into combat, and urge them to implement their undertaking to demobilize any children currently under arms as soon as possible.

60. The development of technical capacity by the Government in the field of human rights deserves support. The results of a technical cooperation needs assessment performed by the office of my Special Representative reveal training needs. I encourage donors to assist the Government in meeting these needs.

61. Pursuant to resolution 1181 (1998), I will continue to keep the situation in Sierra Leone under close review and report to the Council on developments there and on the progress made by UNOMSIL.

62. I would like to express my appreciation to my Special Representative, Mr. Francis G. Okelo, to the Chief Military Observer, Brigadier Subhash C. Joshi, and to the civilian and military personnel of UNOMSIL for the efforts they are continuing to make to deploy the United Nations Observer Mission in Sierra Leone in accordance with the mandate provided by the Security Council.

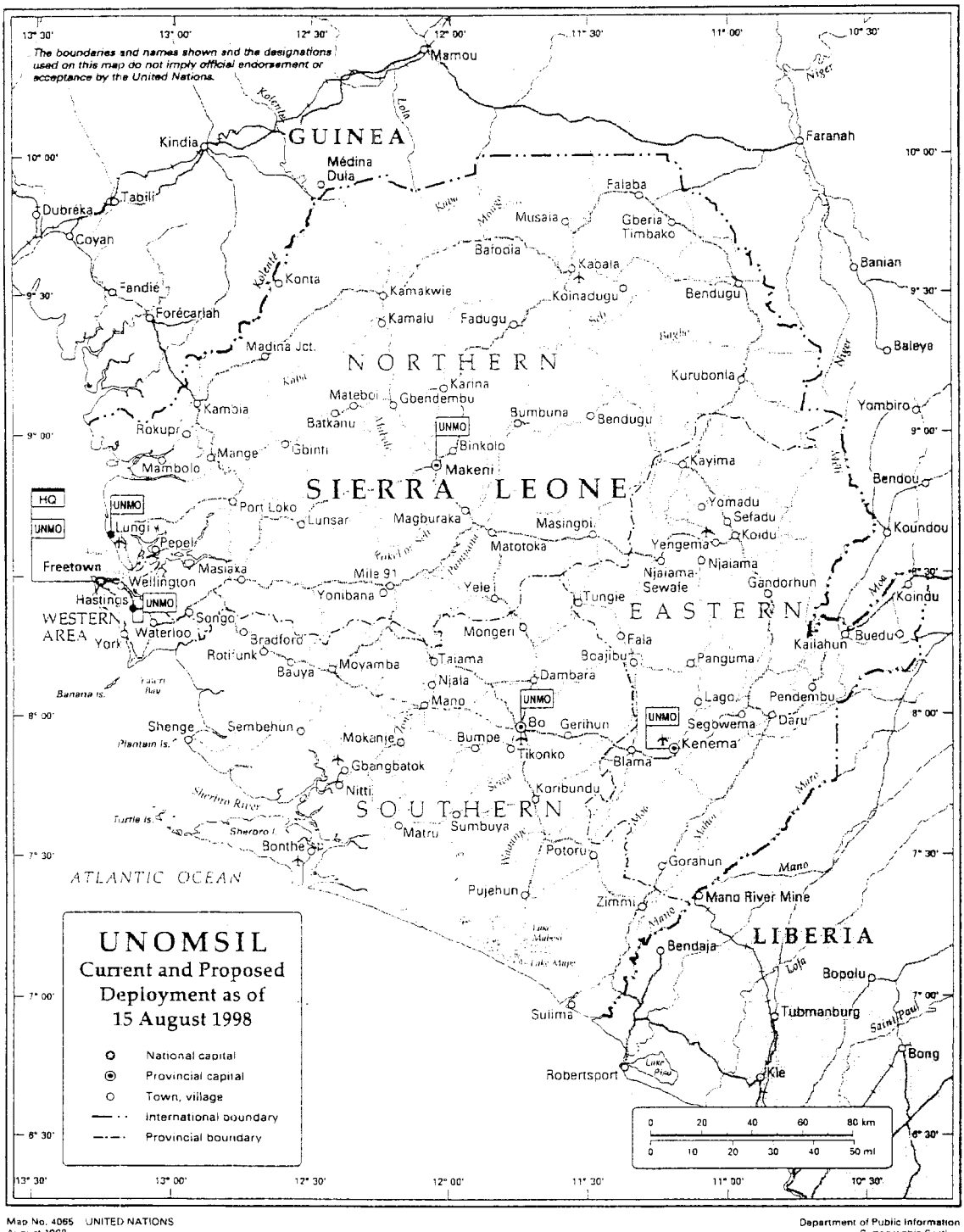
ANNEX

The United Nations Observer Mission in Sierra Leone

Contributions as at 10 August 1998

Country	Currently in position
China	3
Egypt	-
India	5
Kenya	2
Kyrgyzstan	-
New Zealand	2
Pakistan	5
Russia	5
United Kingdom	2
Zambia	2
	26*

* In addition to the Chief Military Observer, India.



UNOMSIL
Current and Proposed Deployment as of 15 August 1998

- National capital
- Provincial capital
- Town, village
- International boundary
- Provincial boundary

Map No. 4065 UNITED NATIONS
August 1998

Department of Public Information
Cartographic Section

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1998/960
16 October 1998

ORIGINAL: ENGLISH

SECOND PROGRESS REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

I. INTRODUCTION

1. By paragraph 19 of its resolution 1181 (1998) of 13 July 1998, the Security Council requested me to submit an initial report within 30 days of the adoption of the resolution and every 60 days thereafter on the deployment of the United Nations Observer Mission in Sierra Leone (UNOMSIL) and its progress in carrying out its mandate, and also to inform the Council on plans for the later phases of the deployment of UNOMSIL when security conditions permit these to be implemented. The present report is submitted pursuant to that request and describes developments since my first progress report on UNOMSIL (S/1998/750), of 12 August 1998.

II. POLITICAL DEVELOPMENTS

2. The Government and Parliament of Sierra Leone have continued to take steps to extend their authority and to reform and strengthen national institutions, with a view to increasing efficiency and eliminating corruption and duplication, as well as enhancing security and stability.

3. On 2 September 1998, President Ahmad Tejan Kabbah outlined plans for the creation of a new national security system, based on the reconstitution of national armed forces, the reform of the police force and the integration of the Civil Defence Forces (CDF). Under this policy, the new armed forces would comprise a total of 5,000 troops under effective civilian management and constitutional control.

4. Another prominent issue is the handling of the trial of the leader of the Revolutionary United Front (RUF), Corporal Foday Sankoh. After Corporal Sankoh had been brought back from Nigeria and placed in Government custody, RUF announced on 17 August 1998 a terror campaign against civilians, CDF and the Economic Community of West African States Monitoring Group (ECOMOG) if the Government failed to release Corporal Sankoh within seven days, suggesting that peace negotiations could resume only thereafter. However, the Government has made it clear that Corporal Sankoh will stand trial and that there will be no resumption of negotiations or peace talks in view of the failure of RUF and the

1142

junta in the past to comply with the provisions of the Abidjan and Conakry peace agreements.

5. Vice-President Albert Joe Demby and the Deputy Minister for Defence and CDF Coordinator, Chief Hinga Norman, have temporarily relocated their offices to Kenema in the eastern province in order to organize and direct the large-scale mobilization of the Civil Defence Forces for the operations aimed at clearing the remaining rebel-controlled areas. The Vice-President has reaffirmed the Government's determination to pursue the military option against the elements of the former junta. His statement has been reinforced by a call from Chief Norman to all CDF members to report for combat duty.

Relations between Sierra Leone and Liberia

6. In my report of 12 August, I mentioned the improvements that had occurred in the relations between Sierra Leone and Liberia. Since then, relations between the two countries, after a period of improvement following the meeting of President Kabbah and President Taylor in Abuja in July, have recently experienced complications arising in part from the continuing armed conflict in the east of Sierra Leone.

7. On 13 October 1998, President Kabbah informed me of alleged preparations by Liberia for the dispatch of fighters for an incursion into Sierra Leone. The allegations were vigorously denied by President Taylor. United Nations military observers also detected no evidence of an armed incursion from Liberia. On 16 October the two Presidents were reported to have spoken by telephone, and to have described the matter as "a misunderstanding that has been clarified". The two leaders were reported to have agreed to be in regular telephone contact in order to work towards strengthening relations. I welcome this constructive approach.

Follow-up to the Special Conference on Sierra Leone

8. Following the Special Conference on Sierra Leone held at United Nations Headquarters on 30 July 1998, the Government of Sierra Leone has established a 10-member working group charged with following up on the commitments and pledges made at the Special Conference. The Working Group met for the first time on 28 August 1998 and discussed possible steps for approaching donor countries and funding agencies that had agreed to support the reconstruction of Sierra Leone. As called for by the Special Conference, the Government of the United Kingdom of Great Britain and Northern Ireland has taken the initiative of convening an international contact group on Sierra Leone in London early in November. The Working Group will meet again beforehand, probably in late October, to assess the progress made.

III. MILITARY AND SECURITY SITUATION

Rebel activities

9. Since my last report, the security situation in Sierra Leone has experienced considerable fluctuations. A relatively quiet phase in July was

followed by some volatility in late August and September, marked by a considerable increase in rebel attacks. These were accompanied by a resurgence of atrocities of the nature and scale last observed during the period from April to June, including the complete destruction of villages, and the torture, mutilation and execution of large numbers of civilians. These disturbing developments are reflected in more detail below.

10. The rebel build-up has been most significant in the north and brought the area of rebel activity closer to the centre of the country. Activity around the Koinadugu area has also intensified, as well as around Kambia and Kabala. The current concentration of rebels in the north-west indicates that they may be preparing for a major strike against Makeni or Port Loko. Such operations would sever ECOMOG's main supply route between Guinea, Freetown and Makeni and provide the rebels with a foothold close to the capital city. On 8 October, the rebels attacked Mange, between Port Loko and Kambia on the road between Lungi and the Guinean border, but were driven off. The situation in Freetown itself has remained safe and stable, and the whole of the southern province has remained free of rebel activity.

Civil Defence Forces/ECOMOG offensive into Kailahun district

11. On 1 October 1998 the Civil Defence Forces, with strong ECOMOG support, launched an offensive to capture one of the rebels' main strongholds in Kailahun district and thus disrupt their operations elsewhere in the country. The effects of the offensive are starting to be reflected in a reduction of the intensity of rebel activities in the north. Reports of the dispersal of the rebel stronghold at Koinadugu have also been received. Continued logistics support to ECOMOG is needed from the international community in order to ensure the effectiveness of those operations.

12. Several countries in the region have already pledged to contribute some of the additional 6,000 ECOMOG troops required to assist ECOMOG troops already in the country, whose number has been estimated at 10,000 to 12,000. The Governments of Côte d'Ivoire, the Gambia, Guinea, Mali and the Niger have indicated their readiness to provide contingents, stating that they could be deployed if the international community is prepared to bear the costs of transporting them to Sierra Leone. My Special Representative, Mr. Francis G. Okelo, has initiated discussions on this matter, and the Chief Military Observer of UNOMSIL has been meeting with contingent commanders from the countries involved concerning their deployment and related expenses for in-country maintenance and other needs.

Deployment of the Mission

13. At the end of August 1998, UNOMSIL completed the first phase of the deployment of its military component, consisting of 40 military observers, the Chief Military Observer and a medical team of 15 personnel. In addition to mission headquarters in Freetown, UNOMSIL has deployed military observers to five team sites, namely, the three provincial capitals Bo, Kenema and Makeni, the main demobilization site at Lungi, and Hastings airport (see map). The observers have been well received by the communities and have established good relations with the local authorities as well as with ECOMOG and CDF personnel.

Though there have been occasional restrictions on their movement for security reasons, the observers have not so far experienced any disruption in their operations or threats to their personal safety.

14. Over and above their tasks of closely monitoring developments in the military situation, the military observers play an important role in the monitoring of international humanitarian law and promote humanitarian assistance through the investigation of incidents. They also provide security advice to humanitarian personnel and liaise between them and ECOMOG, CDF and the local authorities. They have been frequently called upon to intervene with ECOMOG and CDF on behalf of other United Nations agencies and non-governmental organizations.

15. Pursuant to paragraph 9 of resolution 1181 (1998), I wrote on 3 August 1998 to General Abdulsalami A. Abubakar, Head of State of Nigeria, to propose that, in conformity with the disarmament and demobilization programme adopted by the Government of Sierra Leone, ECOMOG forces assume responsibility for the security of United Nations personnel in Sierra Leone. On 28 September 1998 General Abubakar replied, stating that ECOWAS was perfectly amenable to the proposals set out in my letter, which therefore constituted the terms of an agreement between our two organizations. General Abubakar confirmed in his letter that the ECOMOG mandate in Sierra Leone included the protection of all United Nations personnel and all staff of humanitarian and aid agencies.

IV. DISARMAMENT, DEMOBILIZATION AND REINTEGRATION

16. As described in my report of 12 August, the disarmament, demobilization and reintegration programme targets an estimated total of 33,000 ex-combatants, most of whom are members of the Civil Defence Forces, and is scheduled to be completed in three phases by June 2001. The first phase covers the demobilization of former Republic of Sierra Leone Military Forces (RSLMF) and RUF personnel who were captured and disarmed by ECOMOG and later encamped at Lungi. Their screening and registration commenced on 2 September. UNOMSIL deployed additional military observers to the Lungi team site to assist in several aspects of the registration, including the initial assessment of the candidates. While these activities go beyond the monitoring role of UNOMSIL, the additional effort was required to ascertain the identity and eligibility of the ex-combatants since UNOMSIL was not present during the initial disarmament by ECOMOG. The exercise was completed on 25 September with a total of 2,145 persons screened and registered. The full demobilization of those ex-combatants is scheduled to be completed in December 1998.

17. While the registration and screening process was implemented fairly smoothly, the pace of the programme lags behind the original goals since it is now being implemented against the background of a continued war effort. Since most of the ex-RSLMF soldiers, amounting to four battalions, who had been encamped at Lungi have been reinducted by ECOMOG, the number of individuals to be demobilized during the first phase of the programme has been considerably reduced. It is expected, however, that these soldiers, who are currently fighting alongside ECOMOG, will eventually undergo the disarmament, demobilization and reintegration process. In addition, though 5,000 members of

the Civil Defence Forces were expected to be demobilized during the first phase, there is no indication to date that any CDF units have started the process, although in some areas registration exercises have been initiated.

18. As I mentioned in my last report, there is still concern about the hostile attitude of the general public towards former RSLMF personnel, which could potentially derail the reintegration process. Given the continued volatility of the overall security situation, it is important to ensure that former soldiers are not cast out of society because they may, as a group, turn into a destabilizing factor in the long run. A sensitization campaign under the auspices of the Ministry of Information, Communications, Tourism and Culture is now under way to increase public acceptance of ex-combatants. Successful reintegration will also depend on the benefits extended to those communities to which ex-combatants return in order to avoid the perception of a preferential treatment for the former soldiers.

19. A major challenge also remains concerning the start of the pre-discharge orientation programme which is to follow the screening and registration process. An initial programme of pre-discharge activities will be established at Lungi by the Executive Secretariat of the National Committee on Disarmament, Demobilization and Reintegration. These will include workshops for community sensitization, attitudinal education for ex-combatants, and general information on reinsertion and reintegration.

20. Regarding the future of the disarmament, demobilization and reintegration process, the Executive Secretariat of the National Committee has already indicated its intention to open a disarmament and demobilization centre in the interior in preparation for the next phase of the programme. A team composed of National Committee staff, UNOMSIL and the United Nations Children's Fund (UNICEF), in collaboration with ECOMOG, is currently undertaking reconnaissance visits to identify suitable sites for the exercise.

V. HUMAN RIGHTS

Human rights abuses

21. Since my last report there has been a resurgence of human rights abuses committed by the rebel forces. During the month of September, UNOMSIL received an escalating number of reports of mutilations, amputations, summary executions, abductions and house burnings. For instance, in just a single week, 20 villages were attacked and destroyed in four small chiefdoms in the north-west of the country. The attacks were preceded by the destruction of the principal local population centre, Kamalu, on 6 September. Forty people, including children, died in that attack. Photographic evidence suggests that a number of the dead had first been subjected to forms of extreme torture and sexual abuse; others appear to have been burned alive. It is reported that no less than 50 people were abducted. The rising incidence of mutilations and amputations is also illustrated by the admission to hospital of 14 amputees following just one attack on Kokuna on 27 September. From a number of locations UNOMSIL has received reliable reports of other forms of atrocities, including the detention

of elderly or incapacitated men in huts which were then set on fire and the carving of slogans, such as "AFRC", into the flesh of victims.

22. It remains difficult to estimate the exact number of rebel attacks and the casualties inflicted, not least because of the inaccessibility of many of the targeted locations and the high number of victims who never reach medical assistance. There is also very little reliable information regarding the plight of the captives of the rebels and of villagers living in areas under their control. However, interviews with former captives and escapees from those regions report such abuses as multiple rape of women, summary executions and slave labour. In the coming months, the four members of the UNOMSIL human rights unit, in cooperation with the military observers deployed in the provinces, will try in a systematic manner to compile and assess information regarding the human rights situation within the areas under rebel control.

23. There is also continued concern about the ongoing armed deployment of under-age boys and, in some locations, their continued initiation into the Civil Defence Forces. The renewed attention drawn to these matters by the Executive Director of UNICEF, Ms. Carol Bellamy, during a visit to Sierra Leone on 1 and 2 October, has greatly assisted efforts to end the recruitment and deployment of child soldiers by CDF units.

24. The discipline of many CDF units has improved significantly. Nevertheless, there are reports of interference by some CDF elements with the delivery of humanitarian supplies and acts of harassment against the civilian population. Reports of the prevalence of child prostitution in some heavily militarized areas of the countryside have, moreover, been substantiated. Together with UNICEF, the UNOMSIL human rights unit is seeking to assist the Government and ECOMOG in addressing this problem. Some reports have also suggested that certain ECOMOG personnel do not consistently ensure full respect for provisions of international humanitarian law, such as those regarding the protection of non-combatants in combat situations and the proper treatment of combatants during surrender or capture. UNOMSIL is encouraging the ECOMOG leadership to raise awareness among all troops to ensure full respect for all relevant aspects of international humanitarian law. The mission's human rights unit stands ready to assist ECOMOG with technical advice if needed.

Treason trials

25. The State is currently prosecuting, for treason and related charges, some 40 people in two civilian trials. A court martial was concluded on 12 October, and further trials are scheduled to commence in the coming weeks. A separate civilian trial of RUF leader Foday Sankoh commenced on 24 September 1998. Given the highly-charged atmosphere surrounding the trial, the Attorney-General has requested the assistance of the UNOMSIL human rights adviser on several occasions to ensure that Corporal Sankoh's rights are respected. However, the Government's failure so far to persuade a Sierra Leonean lawyer to represent Corporal Sankoh is a cause for concern. All the accused face the possible imposition of the death penalty. Already, 16 civilians and 34 of the defendants in the court martial have been sentenced to death. Under Sierra Leonean law, only the civilians have the right to appeal their sentences to the Sierra Leone Court of Appeal and, ultimately, to the Supreme Court. If the sentences are

upheld throughout the appeals process, there is still the possibility of a pardon should the Head of State decide to exercise the prerogative of mercy under national law. A further avenue of consideration of the sentences is available by virtue of Sierra Leone's ratification of the First Optional Protocol to the International Covenant on Civil and Political Rights, whereby individuals may petition the United Nations Human Rights Committee.

26. So far, UNOMSIL and observers from the International Bar Association have found that the civilian group trials are being conducted in a manner which appears to comply with international procedural standards. It is also apparent that the Government is largely committed to conducting transparent and fair trials. It remains a matter of concern that those tried by court martial are deprived of their right to judicial review of the judgements and sentences. UNOMSIL is also concerned as to whether the manner in which a number of defendants were repatriated to Sierra Leone from neighbouring countries was in accordance with applicable international standards. The concerns of UNOMSIL continue to be conveyed to the Government in a timely and forthright manner. On 15 October 1998 the United Nations High Commissioner for Human Rights wrote to President Kabbah, asking him to intervene in the process to show mercy.

Training initiatives

27. The UNOMSIL human rights unit also plays an important role in improving coordination and exchange among the different public and private institutions involved in human rights work in Sierra Leone. Moreover, special attention is given to the provision of technical assistance to help the Government meet its reporting obligations under the international human rights treaties, commencing with those arising under the Convention on the Rights of the Child. UNOMSIL also seeks to facilitate national efforts to re-establish a functioning judicial system in provincial areas.

28. In line with the institution-building aspects of the UNOMSIL human rights mandate, the Mission has started several training initiatives in close collaboration with the Government and with national and international human rights non-governmental organizations and the National Commission for Democracy and Human Rights. In September, UNOMSIL has successfully undertaken the training of the National Commission's human rights monitoring committees, and it has facilitated the first inter-non-governmental organization human rights training workshop. The Mission's human rights unit is also facilitating preparations for a major human rights monitoring and training programme to be implemented in November and provides a human rights module as part of the ongoing programme of retraining the police force.

29. These activities aim to strengthen local capacity to monitor, report on and promote human rights in the country, by both Government representatives and members of civil society. It is particularly important that training initiatives should be continued and consolidated.

1148

VI. CIVILIAN POLICE

30. In accordance with resolution 1181 (1998), UNOMSIL has to date deployed a total of three civilian police advisers, and two additional officers are under recruitment. In carrying out their mandate, the civilian police advisers work closely with the UNOMSIL human rights unit and the Commonwealth Police Development Task Force for Sierra Leone, which is advising and assisting the Government in police training.

31. In order to assess the current situation, the UNOMSIL advisers have undertaken visits to different police regional headquarters, divisional headquarters, departments, courts, police stations and posts, assisted in determining work methods, logistical and training needs, and identified a number of problem areas. In addition, they met with President Kabbah, the Chief Justice, various Members of Parliament, ambassadors, the commanders of ECOMOG and the Civil Defence Forces and various non-governmental organizations to discuss their activities in assisting the Sierra Leone police force. UNOMSIL has distributed to all concerned a report containing preliminary findings and recommendations.

32. The reform of the police force in Sierra Leone poses great challenges. As a result of the wanton destruction caused by the rebel war, many police stations in the country have been severely damaged or destroyed, and equipment vandalized. Parts of the country are without police presence, since many officers were killed or abandoned their posts during and after the conflict. Moreover, little or no training has been available for years, which has affected not only the skill level and capacity for policing but also the quality of leadership and strategic planning. Notwithstanding the rapid expansion of the force over the last few years, the police suffer from inadequate logistical support, lack of equipment, unattractive salaries and poor conditions of service. No vehicles or other means of transport are available to ensure the effective mobilization of officers to prevent and investigate crimes. This situation is exacerbated by the breakdown of the general law enforcement system. Outside Freetown, the courts are hardly operational except for the magistrates courts in Bo, Kenema and Makeni, and detention facilities are in poor condition.

33. The Government has outlined the principles and priorities which will guide the reform process, including specific steps based on the recommendations made by the UNOMSIL civilian police advisers and the Commonwealth Task Force. Moreover, a police mission statement has been announced, emphasizing the need to balance respect for human rights with law enforcement and to take account of local concerns through community consultation by the police force. Implementation of the reform process began in August, and a three-year draft plan, for the period 1999-2001, is currently under discussion. Strong emphasis is being placed on the development of police training initiatives, some of which are already being implemented.

34. While the progress made to date is impressive, resource constraints present serious obstacles to the effective and fast implementation of the reform. The Governments of Germany and the United Kingdom have already provided funds and equipment in support of these efforts, but further donor assistance will be required.

VII. HUMANITARIAN SITUATION

Humanitarian crisis

35. A humanitarian crisis of serious proportions is developing in isolated areas of Sierra Leone, particularly the north-east. Since the incursion of former junta elements into Kabala at the end of July 1998, humanitarian agencies have been unable to assess needs there because of unpredictable security. The countryside between Kabala and Koidu, up to the border with Guinea, is also out of reach owing to insecurity and inadequate roads and airstrips. Similar conditions apply, inter alia, to the area east of Kambia in the north-west and in the Kailahun district.

36. Continuing insecurity has resulted in increased displacement of populations. During the reporting period, some 14,000 Sierra Leoneans were displaced from south Kenema district into Kenema Town. At the same time, the number of needy beneficiaries in Masingbi has swollen from 16,000 to more than 35,000. The United Nations Humanitarian Coordination Unit/Office for the Coordination of Humanitarian Affairs estimates that up to 250,000 persons have been displaced in the fighting that followed the ECOMOG intervention in February 1998, an increase of about 70,000 persons since my last report. It is feared that a considerable number of internally displaced persons remain unrecorded.

37. The number of Sierra Leonean refugees in Guinea is now 357,000, of which an estimated 217,700 have arrived since February 1998. Most of these fled to the Guéckédou area, but some 7,700 have recently arrived in Forécariah following a rebel attack on 28 September at Kukuna near the border with Guinea. There are also 90,000 Sierra Leonean refugees in Liberia, including 40,000 new arrivals. Another 10,000 Sierra Leoneans have taken refuge in other countries in the region, mainly in Côte d'Ivoire, the Gambia and Senegal, for a total of 457,000 Sierra Leonean refugees in the subregion. So as to determine more accurately the number of refugees in Liberia, the Office of the United Nations High Commissioner for Refugees (UNHCR) will carry out a registration exercise in November 1998.

38. In response to the newly emerging internally displaced person situation in both the eastern and northern parts of the country, UNICEF, in collaboration with non-governmental organizations, is providing high-energy biscuits to counter malnutrition and providing support to malnourished children referred to therapeutic feeding centres and supplementary feeding programmes.

Activities of United Nations organizations and non-governmental organizations

39. The World Food Programme (WFP) continues to provide humanitarian food assistance to vulnerable groups, farmers and institutions in accessible areas of the country. During August and September, WFP distributed over 4,641 tons of assorted food commodities, of which over 76 per cent benefited community farmers in their efforts to grow more food and become self-sufficient. Over 22 per cent of the quantity distributed during the reporting period went to support vulnerable groups escaping from the war as well as therapeutic and supplementary feeding programmes. WFP targeted an estimated 62,000 vulnerable persons, over

70,000 farmers, 12,600 nutritionally vulnerable persons and 6,823 refugees in food-for-work and training programmes in August and September 1998.

40. However, food assistance has encountered some constraints in supplies because of unacceptably high levels of losses from recent shipments, practically all in the port area. A meeting with the port authorities and security officers has led to proposals for improvements, and the situation is being monitored closely.

41. The intervention of the World Health Organization (WHO) proved crucial in the confirmation of vibrio cholera 0.1 as the causative agent responsible for the unusual increase in incidences of acute watery diarrhoea syndrome, which has caused a number of deaths. A total of 1,170 cases and 55 deaths were recorded from 19 July to 20 September 1998. The epidemic now appears to be on the decline, with the support of UNICEF and WHO, which have provided medical supplies to combat the outbreak. UNICEF is also coordinating cholera prevention through regular chlorination of wells and protection of water sources.

42. The maternal mortality rate is at a world record high of 1,800 per 100,000 live births and remains a primary concern. UNICEF is targeting 1.5 million children and women by revitalizing more peripheral health units to respond to the increasing demand for services.

43. Following an appeal by the Government of Sierra Leone for UNHCR to assist in the repatriation of refugees from neighbouring countries, a UNHCR delegation visited Sierra Leone from 25 to 27 September. As a result, UNHCR is in the process of opening a new office in Kenema. Additional offices will be reopened in Bo, Segbwema and Zimmi once security permits. Moreover, UNHCR has started to facilitate the return of Sierra Leonean refugees. So far, a total of 11,000 refugees have been repatriated to Freetown where, at the request of the Government, priority has been given to the return of skilled professionals, civil servants and students, who could contribute to the ongoing reconstruction efforts. Finally, it should be noted that in August 10,000 refugees returned spontaneously from Liberia to Zimmi and Kenema and, in late September, according to reports yet to be confirmed, some 20,000 refugees returned from Liberia to Zimmi.

44. The World Health Organization commissioned a consultant in August to assess the magnitude of the problem of increased numbers of victims of amputation and has proposed rehabilitative measures to the Government.

45. To help better plan for relief and longer-term development intervention, the United Nations Population Fund (UNFPA) has begun discussions with the objective of helping the Government to undertake a national demographic and health survey.

VIII. SOCIO-ECONOMIC ASPECTS

46. While a humanitarian emergency still prevails in the north and east of Sierra Leone, the southern and western parts have experienced a certain amount of stability and security. However, they must cope with the continuing influx

of displaced populations and the challenges of reconstruction after the trauma and devastation brought on by the junta. The United Nations development system, under the leadership of the United Nations Development Programme (UNDP), is therefore supporting peace-building efforts within the context of preventive development.

47. To this end, UNDP funds three large-scale programmes, including a programme for support to resettlement, reconstruction and rehabilitation through a preventive development approach. This $4 million programme links emergency humanitarian assistance with the resumption of productive activities for longer-term development. Beneficiaries of the programme include internally displaced persons, returnee refugees, ex-combatants and host communities. UNDP is also funding a $2.5 million programme aimed at raising public awareness of issues of national reconciliation and peaceful coexistence.

IX. FURTHER ACTION TO BE TAKEN BY THE UNITED NATIONS

48. In my fifth report on the situation in Sierra Leone, of 9 June 1998 (S/1998/486, para. 69), I stated that additional deployments of United Nations military observers beyond the first phase would depend on the security situation within the country and the progress made by the Government in carrying out its disarmament and demobilization plan.

49. The security situation in Sierra Leone has not improved significantly since my last report and, in some parts of the country, may have deteriorated. In the last two months the northern province has seen a resurgence of rebel activity, including atrocities, with no sign of weakening in rebel resolve, numbers or organization.

50. Largely for this reason, the progress made by the Government in carrying out its disarmament, demobilization and reintegration programme has been less than was hoped for. The intensification of fighting caused by the launching of the CDF/ECOMOG offensive and the consequent large-scale mobilization of both CDF and re-inducted RSLMF personnel do not at present provide the best conditions for the rapid progress of disarmament and demobilization.

51. On the other hand, should the CDF/ECOMOG offensive lead to large-scale surrenders among the former junta elements and their participation in the disarmament and demobilization programme, it may be necessary to deploy United Nations observers very rapidly.

52. I am therefore keeping the situation under careful review, and intend to deploy additional observers only after taking full account of the security situation. I am, however, prepared to deploy observers rapidly if the situation so permits.

53. Against the background of the continuing military conflict and its effects on security, the need for the Government to improve the functioning of the Sierra Leonean police force has become all the more acute. In view of the success already achieved in implementing its current mandate, I recommend that my Special Representative, assisted by the Mission's civilian police component,

now proceed to seek donor funding for the reform and restructuring of the Sierra Leonean police force, while continuing to work closely with the Government in carrying out the three-year strategic plan referred to in paragraph 33 above.

X. OBSERVATIONS AND CONCLUSIONS

54. The continuing conflict in Sierra Leone imposes immense suffering on the people of that country. I strongly condemn the summary executions, torture, mutilations, rapes, looting and other acts of barbarism carried out by former junta elements and call on them to lay down their arms and surrender. I am particularly outraged by the senseless acts of terror perpetrated against children, such as the amputation of limbs of boys and girls as young as six years of age, and support the efforts to bring to justice the authors of these especially abhorrent crimes.

55. The human rights abuses committed by the rebels also give rise to the humanitarian emergency in Sierra Leone, as they continue to cause the widespread dislocation of local populations. Though United Nations humanitarian personnel and non-governmental organizations have done much to aid the victims of attacks and displacement, more needs to be done as a matter of urgency, especially in regard to the provision of medical and surgical capacity, specific services for amputees and psychosocial treatment for the trauma suffered by the victims and their families. To this end, I reiterate my call to donors to contribute to the Inter-Agency Consolidated Appeal for Humanitarian Assistance to Sierra Leone in order to meet the basic needs of the people.

56. The continuing commitment of ECOMOG has been essential in assisting the Government of Sierra Leone to restore peace and security throughout the country, and the efforts being made to deploy additional troops from ECOWAS countries are welcome. In view of the importance of the present offensive into the east and the wresting of the initiative from the rebels, I appeal to the members of the Security Council and the international community to extend all possible technical and logistical support to achieving the successful conclusion of the conflict in Sierra Leone.

57. At the same time, I am encouraged by the focus of the Government on strengthening democratic control over the reconstituted armed forces. Equally commendable is the thoroughness applied to the restructuring of the police force and its reform in line with the standards of democratic societies. In this context, I should like to express my appreciation to the Governments of Germany and the United Kingdom for the support they have lent to the Government's efforts.

58. The long-term stability of the country will also depend vitally on the successful implementation of the disarmament, demobilization and reintegration programme adopted by the Government. I therefore reiterate the plea I made on 30 July at the Special Conference on Sierra Leone for the donor community to lend every possible assistance to the Government in carrying out its plan. I look forward to working closely with donors to ensure that the commitments made in this and other respects at the Special Conference will be honoured. I wish to commend the United Kingdom for the important role it has played by providing

equipment and logistical support for the screening and registration exercise, and by continuing to provide food and emergency medical assistance to the ex-combatants as well as water to the larger community at Lungi.

59. The Government of Sierra Leone has made commendable efforts to ensure that the procedural aspects of the civilian group trials are in conformity with international human rights standards. However, I must express my concern that those sentenced to death in the recently concluded court martial have no right of legal appeal under Sierra Leonean law. Accordingly, in the light of the human rights issues which arise, I urge the Government, at a minimum, to consider a stay of execution of sentences pending review of the proceedings before relevant international monitoring bodies. I also encourage the Government to continue to take all reasonable steps to ensure that persons facing serious criminal charges are legally represented.

60. I should like to express my appreciation for the generous manner in which the International Bar Association has provided expert trial observers who have worked closely with UNOMSIL. I also encourage the international community to support human rights training programmes, to be carried out in close consultation with the Office of the United Nations High Commissioner for Human Rights, for the benefit of those involved in law enforcement, as well as members of the legal profession and the judiciary.

61. The latest developments in the situation between Sierra Leone and Liberia are a cause for deep concern. I urge the Governments of Sierra Leone and Liberia to continue to exercise maximum restraint, pursue dialogue and implement the confidence-building measures aimed at improving relations between the two countries which they agreed upon in July 1998. In doing so, the two Governments would continue to show their commitment to subregional peace and security and their adherence to the Non-aggression Pact and Good Neighbourliness Treaty contained in the Mano River Union Declaration of 1973. In this context, should both parties agree, the deployment of ECOMOG troops at the border, subsequently accompanied by United Nations military observers, could help to stabilize the situation and restore mutual confidence.

62. Finally, I wish to thank all Member States which have contributed military observers for deployment with UNOMSIL for the speed with which the officers were dispatched. I hope that, under the right conditions and the necessary improvements in security, the second phase of deployment can be implemented with equal success.

63. Pursuant to resolution 1181 (1998), I will continue to keep the situation in Sierra Leone under close review and report to the Council on developments on the ground as well as the continued work of UNOMSIL. In particular, I will examine with great care any realistic proposal to end the armed conflict with minimal further loss of life to combatants and to innocent civilians, and to promote lasting peace and national reconciliation in Sierra Leone.

64. I would like to express my appreciation to my Special Representative, Mr. Francis G. Okelo, to the Chief Military Observer, Brigadier Subhash C. Joshi, and to the military and civilian personnel of UNOMSIL for their work in accordance with the mandate provided by the Security Council.

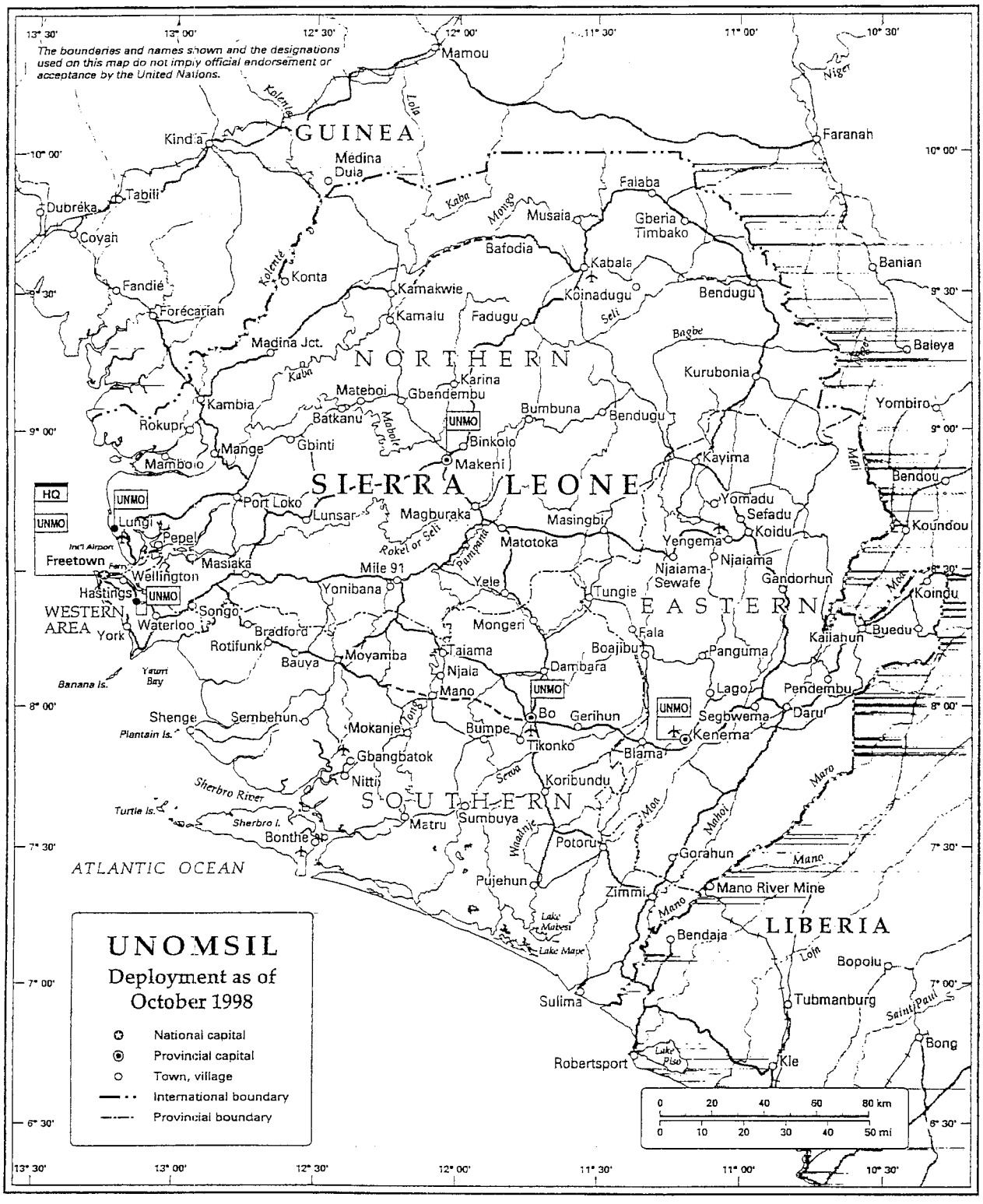
Annex

United Nations Observer Mission in Sierra Leone: contributions as at 1 September 1998

	Military observers	Others[a]	Total
China	3		3
Egypt	2		2
India	6	15	21
Kenya	4		4
Kyrgyzstan	1		1
New Zealand	2		2
Pakistan	5		5
Russian Federation	7		7
United Kingdom of Great Britain and Northern Ireland	7		7
Zambia	4		4
Total	41[b]	15	56

[a] Medical team.

[b] Including Chief Military Observer.



Map No. 4065 Rev. 1 UNITED NATIONS
October 1998

Department of Public Information
Cartographic Section

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1998/1176
16 December 1998

ORIGINAL: ENGLISH

THIRD PROGRESS REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

I. INTRODUCTION

1. By paragraph 19 of resolution 1181 (1998) of 13 July 1998, the Security Council requested me to submit an initial report within 30 days of the adoption of the resolution and every 60 days thereafter on the deployment of the United Nations Observer Mission in Sierra Leone (UNOMSIL) and its progress in carrying out its mandate, and also to inform the Council on plans for the later phases of the deployment of UNOMSIL when security conditions permit these to be implemented. The present report is submitted pursuant to that request and describes developments since my second progress report on UNOMSIL (S/1998/960) of 16 October 1998. The present report is also submitted pursuant to paragraph 8 of resolution 1171 (1998) of 5 June 1998.

II. POLITICAL DEVELOPMENTS

2. Since my second progress report, the Government of Sierra Leone has continued its efforts to consolidate its position, to restore the stability of the country and to improve relations with its neighbours. The Government has launched initiatives to strengthen the civil service and to fight corruption. Sierra Leone is also increasingly active in the regional and international arena.

3. On 30 October 1998, the Government launched a nationwide consultative exercise, organized with the support of the United Nations Development Programme (UNDP), aimed at enhancing the capacity of Government ministries, other national institutions and civil society to take charge of the development process. The consultations exercise is expected to conclude on 14 December with the adoption of a national consensus on major policy issues, including national reconciliation.

4. The Government has also pursued legal proceedings against both military and civilian supporters of the illegal coup of May 1997 by the Armed Forces Revolutionary Council (AFRC). On 19 October 1998, after a court martial had sentenced 34 officers found guilty of treason to death, 24 of them were executed by firing squad. The executions took place despite appeals from the United

Nations High Commissioner for Human Rights and others, including myself, for a stay of execution and the grant of the right of appeal. On 23 October 1998, a jury at the High Court in Freetown found Corporal Foday Sankoh, the leader of the Revolutionary United Front (RUF), guilty of treason and related offences and sentenced him to death by hanging. Corporal Sankoh, who had not been legally represented during his trial, has now selected legal advisers to undertake his appeal following efforts by the Government, with UNOMSIL assistance, to secure legal representation for him.

5. At their summit meeting in Abuja on 30 and 31 October 1998, the Heads of State and Government of the Economic Community of West African States (ECOWAS) agreed to combine the strengthening of its Monitoring Group (ECOMOG) with efforts at dialogue to achieve lasting peace and national reconciliation in Sierra Leone. The Heads of State and Government also expressed gratitude to Ghana, Guinea and Nigeria for contributing troops to ECOMOG in Sierra Leone, encouraged Benin, Côte d'Ivoire, the Gambia, Mali and Niger to deploy the troops they had promised to contribute as soon as possible and appealed to the international community to provide the necessary logistical support. The arrival of these additional troops is still being awaited.

6. On 7 December 1998, the Chairman of the Security Council Sanctions Committee and Permanent Representative of Sweden, Ambassador Hans Dahlgren, arrived in Freetown for a four-day assessment mission. Ambassador Dahlgren met with President Kabbah; the ECOMOG Force Commander, Major-General Timothy Shelpidi; the ECOMOG Task Force Commander, Brigadier-General Abu Ahmadu and others from the United Nations and the international community. During his visit to the front-line areas, the local authorities conveyed to Ambassador Dahlgren their requests for United Nations assistance in controlling the border with Liberia through the establishment of a buffer zone, the deployment of United Nations military observers and assistance to ECOMOG in patrolling the frontier. Ambassador Dahlgren also visited Monrovia.

7. Following his visit to the Gambia on 9 December, President Kabbah reportedly accepted an offer from the President of the Gambia to mediate a peace agreement with the rebels.

Follow-up to the Special Conference on Sierra Leone

8. As called for by the Special Conference on Sierra Leone held at United Nations Headquarters on 30 July 1998, the Government of the United Kingdom of Great Britain and Northern Ireland convened a meeting of the International Contact Group of donors to Sierra Leone in London on 5 November. The objectives of the meeting were to build up international support for Sierra Leone's efforts to restore peace, democracy and human rights; to encourage further assistance to ECOMOG and contributions to the United Nations Trust Fund for Sierra Leone; to try to match specific ECOMOG requirements to donor offers; and to encourage the Government of Sierra Leone to develop political dialogue and national reconciliation beyond the programme for the disarmament, demobilization and reintegration of former combatants and to encourage participation in it.

9. The London meeting, which was opened by Mr. Tony Lloyd, Minister of State for Foreign and Commonwealth Affairs, was attended on behalf of the Government

of Sierra Leone by Mr. James Jonah, the Minister of Finance, Development and Economic Planning, the ECOWAS Executive Secretary, Mr. Lansana Kouyate, and my Special Representative for Sierra Leone, Mr. Francis G. Okelo. The meeting expressed strong support for the dual-track approach (military and diplomatic) agreed upon at the ECOWAS summit on 31 October, by which efforts to strengthen ECOMOG would be accompanied by the opening of dialogue to achieve lasting peace and national reconciliation.

10. The meeting agreed on a series of next steps to be taken by the Government of Sierra Leone, ECOWAS and ECOMOG and the international community. In particular, the Government would pursue the above-mentioned dual track approach for restoring peace and stability in Sierra Leone. Troop contributors would continue their efforts to augment ECOMOG, with the aim of completing the additional deployments by the end of 1998. For its part, the international community would press on with financing and other support to help ECOMOG remain in Sierra Leone and expand its operations, including through contributions to the Trust Fund to Support United Nations Peacekeeping-related Efforts in Sierra Leone, as well as bilateral contributions.

11. It has provisionally been decided that the next meeting of the International Contact Group will be held in New York in January 1999. In Sierra Leone, a Government working group chaired by the Minister of Finance is continuing to follow up on the commitments and pledges made by donors. The membership of the working group also includes UNOMSIL and donor representatives.

Relations between Sierra Leone and its neighbours

12. On 12 November 1998, at the invitation of President Lansana Conte of Guinea, President Ahmad Tejan Kabbah of Sierra Leone and President Charles Taylor of Liberia participated in an extraordinary summit meeting of the Mano River Union in Conakry. The summit was also attended by the Reverend Jesse Jackson, the Presidential Special Envoy for the Promotion of Democracy and Human Rights in Africa, as well as my Special Representative for Sierra Leone and my Representative for Liberia, Mr. Felix Downes-Thomas.

13. In a communiqué issued after the meeting, the three Heads of State announced their decision to rejuvenate the Mano River Union. They further pledged to ensure the strict observance of the 1986 Non-Aggression and Security Cooperation Agreement between Liberia, Sierra Leone and Guinea that had been signed and ratified by the three member States. The three Heads of State agreed to work collectively to restore peace in Sierra Leone and maintain stability in the subregion.

14. After the summit, in a meeting with President Kabbah in Freetown, Reverend Jackson stressed the advantage of negotiations over confrontation and called for a negotiated settlement to the conflict in Sierra Leone. A Liberian delegation, led by the Minister of National Security, concluded a two-day visit to Sierra Leone on 9 December. The Liberian Government subsequently announced that President Kabbah had agreed with President Taylor's request for cooperation on joint border patrols.

Activities of the Mission relating to the security situation

15. While reaffirming its commitment to end the ongoing rebel war as soon as possible, the Government has expressed its readiness to address any grievances the rebels might have on condition that they first stop fighting, lay down their arms and surrender to ECOMOG or UNOMSIL. There has also been discussion in Government circles of a possible offer to provide safe passage to five persons identified as leaders of the two factions comprising the rebel forces - Johnny Paul Koroma and S. A. J. Musa of the AFRC and Sam Bockarie, Dennis Mingo and Eldred Collins of the RUF - to leave the country for a non-neighbouring country of their choice.

16. In this context, UNOMSIL has cooperated closely with the Government and with ECOMOG in following up indications that S. A. J. Musa, along with several of his supporters, might be prepared to surrender to UNOMSIL. Despite suspicions that this reported offer might be a feint, UNOMSIL has made provisional preparations to accept the surrender of individuals or groups of rebels if this can be arranged under proper security conditions. UNOMSIL has also been in contact with S. A. J. Musa to try to secure the release of a Catholic priest, Father Mario Guerra, who was kidnapped near Makeni on 17 November 1998 by elements of the AFRC.

17. Since the establishment of UNOMSIL, my Special Representative has consulted the resident agencies, funds and programmes on a regular basis and has instituted weekly United Nations coordination meetings to address issues covered under the respective mandates of the organizations. Moreover, a joint security committee meets weekly to share and assess information about the situation on the ground. UNOMSIL has also actively pursued close contact with representatives of civil society, including good working relations with local non-governmental organizations and participation in civic events, such as symposia and workshops.

III. MILITARY AND SECURITY SITUATION

Rebel activities

18. On the basis of the information received by UNOMSIL on the strength, organization and activities of the rebels, there appear to be six rebel battalion-type formations comprising approximately 300 fighters each. Two of these are primarily AFRC and are based in the north. The other four, believed to be RUF with some AFRC elements, are deployed around Kailahun. It is believed that the AFRC units receive supplies of arms and ammunition from the Kailahun district.

19. In the north of the country, and especially in the north-west, rebel attacks against civilians have persisted and have recently intensified. In the first few days of December 1998, a large rebel force moving southwards and westwards launched coordinated and well-planned attacks on several locations near the road from Freetown to the Guinean border, including Mange, Lunsar and Masiaka, inflicting heavy casualties on civilians and property damage and causing thousands to flee and take refuge in the capital and surrounding

districts. This rebel force is believed to be under the command of S. A. J. Musa.

20. There is much speculation concerning the motive behind these attacks, which have taken place at a time when Musa has publicly offered to surrender to UNOMSIL. These atrocities are taking place against the background of a rift which appears to have arisen between the AFRC remnants in the north and the RUF in the east. ECOMOG and the Civil Defence Forces (CDF) have done much to disrupt the supply of arms and ammunition from Kailahun to the rebels in the north.

21. In the north-east, the rebel capacity to concentrate and coordinate their forces appears to have eroded since the time of their attack on Kabala in July. The rebel concentration in Koinadugu area was broken up by combined efforts of reconstituted battalions of former soldiers of the Republic of Sierra Leone Military Forces (RSLMF) and ECOMOG, thus reducing the threat to Makeni and to the Koidu-Lunsar road. Repeated rebel attempts to gain control of the diamond-rich Koidu area have been unsuccessful. However, the situation remains unpredictable and the area is still in danger from rebel attacks.

22. In the south-east, rebel attacks during October and November 1998 seemed designed to surround and cut off Kenema both from Freetown and from the Liberian border by controlling the road that links Daru with Joru and Zimmi. UNOMSIL, in close collaboration with ECOMOG and CDF units based at Kenema, is standing by in case the rebels' failure to achieve their objective should lead some of them to open talks with the Government.

23. The south and south-west of the country, including Freetown, have remained calm, though tension in the capital rose during December following a rebel attack on the road linking Masiaka and Rogberi.

Civil Defence Forces/ECOMOG/RSLMF

24. In the north, ECOMOG has shown increased willingness to engage the rebels in the bush, while the CDF, which essentially originated in southern Sierra Leone, has begun to operate in the north. These developments, as well as the reinduction of former RSLMF soldiers into combat alongside ECOMOG, appear to have taken a toll on rebel strength in the north-east. As noted above, an important objective of the pro-Government forces has been to disrupt ammunition supply lines between the main rebel stronghold in the Kailahun district and rebel units in the north of the country. In the south-east, the CEF, with ECOMOG support, has now established fairly effective control of the area south of Kenema after stemming the rebel offensive along the Daru-Joru-Zimmi road.

25. The CDF in both the north and the east has, however, been hampered by serious shortages of ammunition, communications, food, transportation and medicines. In addition to logistical shortages, there have been occasional lapses in coordination between ECOMOG and the CDF. Air strikes launched by ECOMOG to disperse rebel preparations for an attack on Joru on 15 November reportedly caused casualties among a CDF concentration nearby, underlining the need for improved coordination between the two forces.

26. Despite efforts to organize and fund the deployment of reinforcements, ECOMOG also remains overstretched in terms of manpower and requires urgent logistical support. Nevertheless, there are indications that ECOMOG has been concentrating its resources to support operations into Kailahun district, apparently in preparation for more intensive activity now that the rainy season has ended. The Government continues to be fully committed to concluding the war as soon as possible.

Deployment of the Mission

27. Since my second progress report, UNOMSIL's military deployment has remained unchanged, with 40 observers, in addition to the Chief Military Observer, General Subhash C. Joshi (India), and the medical team of 15 personnel (see annex). The observers based at Lungi, Hastings, Makeni, Bo and Kenema have continued to maintain close liaison with local government authorities, ECOMOG and the CDF, to gather information through contacts and regular patrols, and to keep my Special Representative fully informed of developments. The UNOMSIL observers also give advice on humanitarian law in the field, provide security advice to other United Nations agencies, non-governmental organizations and other humanitarian agencies and assist them in their liaison with ECOMOG and the CDF as necessary.

28. In view of S. A. J. Musa's reported offer to surrender and the prospect of ECOMOG's increased activity in the east, UNOMSIL, notwithstanding the continued volatility of the situation in the north, has prepared contingency plans to deploy teams in Kabala, Kambia, Koidu and Kailahun in order to be able to respond rapidly to any willingness on the part of the rebels to surrender. The presence of UNOMSIL observers in these tense areas, to encourage and facilitate humanitarian activities and to monitor the human rights situation, would also be important. Thus, additional observers may have to be deployed expeditiously when conditions permit, within the limits authorized by the Security Council in resolution 1181 (1998).

29. In addition to making regular visits to the military observers' team sites, some members of the medical team, over and above their normal duties, have also undertaken honorary teaching assignments in the local medical college and have offered advice to local hospitals and clinics, especially those treating amputees. These contacts and services are clearly appreciated by the general public.

Creation of a new Sierra Leonean army

30. The Government of Sierra Leone is continuing to develop its plans to rebuild the armed forces under civilian management and the overall democratic control of the Government. Since October 1998, two visits to Sierra Leone have been undertaken by a British joint security sector mission to assess the Government's plans for the creation and training of new armed forces and to produce an assessment of the prospects for assistance from the United Kingdom. The Government has also requested UNOMSIL's assistance in this process, while the Chief of Defence Staff, Brigadier-General Maxwell Khobe, is currently engaged in a sensitization tour of the country to prepare for new recruitment.

IV. DISARMAMENT, DEMOBILIZATION AND REINTEGRATION

31. The first phase of the Government's programme for the disarmament, demobilization and reintegration of former combatants, as described in my last report, was to cover the demobilization of former RSLMF and RUF personnel who were captured and disarmed by ECOMOG and later encamped at Lungi. The total number of ex-combatants so far registered at Lungi is 2,973. Pre-discharge orientation activities have been held since October, but the actual reintegration process, including such programmes as vocational training, will commence as and when the funding contributed for these purposes has been made available.

32. Following the registration of 52 children at Makeni, another group of 33 child ex-combatants, mainly from the RUF, were registered at Lakka near Freetown on 21 November 1998. A further group of 94 children, mainly from the RUF, were registered at Bo on 3 December. There are also some 70 RUF and CDF child ex-combatants to be registered at Port Loko as soon as the security situation improves. Once the registration is completed, social services will take over the reintegration of the children into society. The United Nations Children's Fund (UNICEF) is closely involved with this exercise to ensure the proper treatment of the children during demobilization and reintegration.

33. Following commitments made to my Special Representative for Children and Armed Conflict, Mr. Olara Otunnu, during his visit to Sierra Leone in May 1998, the Executive Committee of the National Committee on Disarmament, Demobilization and Reintegration has agreed to ensure that the CDF do not initiate persons under the age of 18 and that they cooperate with the registration of children already within their ranks. They also agreed to request that ECOMOG release children in detention to UNICEF, UNOMSIL or the Ministry of Social Welfare.

34. A national sensitization programme on this subject has also been under way since early October with full radio and television coverage and a nationwide arts competition on the theme "Join Hands for Peace". The Lungi ex-combatants have embarked on community welfare work in the area, which has been well received by the local community. This, together with the programme of pre-discharge orientation, has gone a long way towards facilitating the acceptance of the ex-combatants in the Lungi area.

35. The National Committee, chaired by President Kabbah, is continuing its activities and its secretariat is functioning well. The Committee has now also identified two additional disarmament, demobilization and reintegration sites at Magburaka and Gerihun and preparations for their opening are under way. However, the pace of the programme continues to lag behind the original goals since the intensity of the war effort has not yet subsided. A further 830 ex-RSLMF soldiers are being prepared for re-induction into combat as a fifth battalion fighting alongside ECOMOG. As with the other four battalions re-inducted from among the ex-RSLMF personnel at Lungi, it is understood that most of these soldiers will undergo the disarmament, demobilization and reintegration process once the war has been concluded. There has been no progress in the demobilization of CDF fighters in safe areas. Apart from the registration of CDF personnel in a few localities, there are no indications yet

that the CDF are ready to begin the disarmament, demobilization and reintegration process, since they are still fighting.

V. HUMAN RIGHTS

Conflict-related human rights abuses and violations

36. Widespread rebel attacks on civilian populations have characterized the period since my last report. Attacks and forms of abuse of civilians exhibited a characteristic modus operandi: amputation of limbs, mutilation, actual or attempted decapitation, rape, burning alive of men, women and children, destruction of homes, abduction and looting. In one typical incident, at the end of October, five farmers were burned alive by rebels in a house some ten miles from the town of Alikalia, in the north-east. In early November, the entire northern township of Bafodia was destroyed. At the end of November, the northern town of Yifin was again devastated in a rebel attack, during which up to 50 youths were abducted.

37. During September and October 1998, the incidence of hospital admissions for amputations and mutilations reached levels similar to those during May and June, with 71 admissions in just two hospitals in the west of the country and an unverifiable number in other regions. It is likely that the hospital admission figures are much lower than the actual levels of civilian fatality and injury. During November, although the overall number of atrocities reportedly fell, there was an escalating rate of reports of actual and attempted decapitation. Particularly since late October, rebel elements have indicated that attacks were motivated by a desire for revenge against the sentencing to death of Corporal Foday Sankoh.

38. Since my last report, there have been further complaints regarding the behaviour of certain CDF contingents. One incident, investigated and confirmed by UNOMSIL, involved the killing by the CDF of four captured alleged rebels at Romeni, near Port Loko. UNOMSIL has indicated to the Government of Sierra Leone its willingness to assist in the training of key CDF personnel regarding provisions of human rights and humanitarian law applicable to their activities. There have also been reports of inappropriate behaviour by certain elements of ECOMOG, including unlawful detention. My Special Representative has taken this matter up with the Force Commander of the Monitoring Group.

39. Since my last report, there have been frequent reports of children being sent into combat environments, notwithstanding indications of some ECOMOG commanders refusing to allow under-age CDF combatants to serve under them. However, on 25 November, the Government reiterated its commitment to non-recruitment and demobilization of combatants aged under 18.

Treason trials

40. In the absence of an appeals process under court martial proceedings, most of the 34 military personnel sentenced to death in the first court martial sought recourse through petitioning the United Nations Human Rights Committee pursuant to the provisions of the Optional Protocol to the International

Covenant on Civil and Political Rights. Despite the Committee's formal request for a stay of execution pending its consideration of the petitions, 24 officers were executed by firing squad on 19 October 1998. On 4 November, the Human Rights Committee adopted a strongly worded decision and requested the submission of a report by Sierra Leone pursuant to the provisions of article 40 of the International Covenant. At the request of the Committee, I brought its decision to the attention of President Kabbah in a letter to him dated 16 November 1998. In the same letter, I appealed to President Kabbah to give every consideration, once the appeals process had been exhausted, to extending mercy to those who had been condemned to death.

41. Two separate group treason trials ended, on 21 October and 5 November 1998, respectively, with the sentencing to death of a further 26 civilians, with right of appeal. Among those given prison sentences was a former Head of State of Sierra Leone, Joseph Momoh. All of those convicted have appealed their sentences.

Technical cooperation

42. UNOMSIL continues, within the limits of its resources, to advise and assist the Government and civil society in matters relating to the protection of human rights and fundamental freedoms. This includes advising the Government on how to meet its reporting obligations under the Convention on the Rights of the Child, as well as under the International Covenant on Civil and Political Rights. For instance, UNOMSIL has facilitated the donation to the Government of law books for use by the legal profession and has hosted a seminar on judicial reporting for the Sierra Leone media. The human rights component has also provided other forms of advice to the United Nations community in Sierra Leone.

43. Human rights technical assistance and training support continues to be extended to the National Commission for Democracy and Human Rights, the Sierra Leone police force and civil society, including the community of non-governmental organizations, as well as UNOMSIL military observers. During November 1998, UNOMSIL facilitated the most ambitious human rights monitoring and reporting skills training programme ever implemented in Sierra Leone, with 70 participants from all parts of the country. The trainees will now replicate the training nationwide. Other training activities since my last report include facilitation of the project of human rights training for religious leaders, primarily implemented by the World Conference for Religion and Peace and partially funded by the Office of the United Nations High Commissioner for Human Rights.

44. In order to offer a broad range of human rights related services, UNOMSIL has sought funding under the 1999 consolidated humanitarian appeal for Sierra Leone for four human rights projects: to enhance monitoring capacity regarding rebel activities, to provide enhanced human rights training for the police and for the humanitarian community and to further strengthen the capacity of civil society to monitor human rights. Other project proposals, in course of completion in close consultation with the Government and other stakeholders, address the human rights training and resources needs of the judiciary, legal profession and prison personnel.

45. On 24 November 1998, the Government of Sierra Leone reaffirmed its regulations on the manner in which the media may report on conflict-related issues. The regulations are based on the provisions of the state of emergency instituted in March 1998, elements of which may not be in compliance with applicable provisions of international human rights law. On 9 December, the Government arrested three journalists on charges related to these regulations. UNOMSIL is monitoring the situation.

VI. CIVILIAN POLICE

46. UNOMSIL has now deployed its full complement of five civilian police advisers and they are working closely with advisers deployed by the Commonwealth and with the Government of Sierra Leone and the police force in the reform and restructuring process.

47. Policing suffered a major setback during and immediately after the junta period. Many police officers had collaborated with the junta and others were killed or forced to flee, leaving much of the country without a police service. Following the reinstatement of the Government, the poor relationship between the police and public obliged the Government to undertake a comprehensive restructuring of the police force. Although policing activities have now returned to normal, many police stations are still not functional and will have to be rebuilt. Policing has not been reintroduced in certain areas of the country owing to rebel activity and/or the shortage of funds to reconstruct buildings. The CDF has established its own police force in some of the areas under its control, which operates independently of the Sierra Leonean police force.

48. The reintroduction of policing throughout the country also requires the retraining of police officers, a process hampered by a shortage of funds. The provision of minimal financial assistance would allow the introduction of limited training programmes. Towards this end, UNOMSIL civilian police have assisted in the development of a decentralized training programme, the production of training manuals and the conduct of refresher training.

49. After the introduction of the Government Policy Statement, the Police Mission Statement and the Strategic Development Plan (1998-2001), the civilian police advisers, in collaboration with the Commonwealth, have held detailed discussions with the Sierra Leonean police force on the restructuring process, the importance of respect for human rights, the role of the police in a democratic society and the disciplinary code of conduct. After consultations with all concerned, and with the financial support of the Department for International Development of the United Kingdom, pilot projects have been introduced in certain police areas to improve communications and equipment and to introduce effective and efficient policing based on local needs and community involvement.

50. As part of the effort to improve the effectiveness of the Sierra Leonean police force, restructuring has begun in the departments of human resources management, personnel development, financial and logistical accountability, operations and crime management, with the aim of streamlining and restructuring

the departments and ensuring that police officers are carefully selected, properly trained, directed by highly motivated officers and financially and logistically supported so as to be able to render acceptable service.

VII. HUMANITARIAN SITUATION

51. Since my second progress report, humanitarian agencies have managed to maintain the delivery of relief assistance to populations fleeing insecurity in the north and east of the country. Most of the displaced are concentrated in a string of settlements between Makeni and Koidu in the centre of the country, in Kenema in the east and in Freetown. Fighting in the east has limited access to populations around Kenema, while hostilities in the north-west near the end of the reporting period have curtailed access there, as well as road access to Makeni. Growing insecurity along the arterial road network bodes ill for continued access and the delivery of assistance.

52. Displacement of civilian populations continued during the period under review. By mid-November, the United Nations Humanitarian Assistance Coordination Unit estimated that 308,695 persons had been displaced since February 1998, an increase of 58,000 internally displaced persons since my last report. The hostilities, which have continued since mid-November, have driven approximately 6,000 additional persons from their homes. As fighting continues into the dry season, the optimum period for military operations, the humanitarian community is concerned that access will continue to be constrained while displacement increases.

53. In an effort to further ensure the impartiality of relief operations and advocate for access, the Sierra Leonean humanitarian community came together at a workshop held from 19 to 23 November that resulted in a revised code of conduct for humanitarian agencies. The UNOMSIL human rights component also participated in the elaboration of the revised code, which is designed to reinforce a self-regulatory and coordinated approach for the delivery of humanitarian assistance and to ensure that the parties to the conflict recognize and observe the impartiality and inviolability of humanitarian principles.

54. Despite the prevailing hostile environment and logistical constraints, the humanitarian community has been able to avert potential humanitarian disasters through the provision of a wide range of relief programmes to the most affected war victims in Masingbi, Kambia, Kenema and Freetown.

55. A good harvest is expected in most secure areas as a result of the distribution of agricultural support packages to vulnerable farmers. Discussions are taking place in all agencies with respect to their 1999 food aid programmes, which are expected to equal the 1998 levels.

56. The delay in the issuance of transport clearances to food aid agencies by ECOMOG continues to constrain the movement of humanitarian food aid to vulnerable groups. There has also been an increase in harassment, abuse and intimidation of aid workers at some security checkpoints. Instances of ECOMOG personnel commandeering aid vehicles, including a World Food Programme (WFP) truck at Masingbi, have been raised with ECOMOG by UNOMSIL. Interventions

relating to a similar situation at the port in Freetown have led to significant improvements. Ms. Catherine Bertini, the Executive Director of WFP, will visit Sierra Leone from 10 to 12 December 1998 to assess food security issues in the country and the requirements for WFP assistance.

57. UNICEF undertook mass immunization campaigns in Freetown, Bo, Kenema, Makeni, Kambia, Port Loko and Kabala, covering an estimated 1.1 million people, about 25 per cent of Sierra Leone's population. UNICEF and the United Nations Population Fund (UNFPA) are supporting the Ministry of Health and Sanitation in trying to reduce the maternal mortality rate, which currently averages 1,800 per 100,000 live births. A UNFPA consultant is in the country to examine various aspects of UNFPA's planned activities and issues of coordination between the relevant United Nations agencies and the Ministry of Health.

58. A World Health Organization (WHO) consultant has been working with the Ministry of Health to address future outbreaks of cholera. WHO has also provided drugs and supplies intended to further strengthen the Ministry's preparedness to cope with public health challenges. As a result, the cholera outbreak referred to in paragraph 41 of my last report is now under control. No deaths have been recorded since mid-October.

59. On 14 November 1998, President Kabbah launched activities for the forthcoming National Immunization Days, which will target polio. WHO and UNICEF, along with other agencies, are providing financial and technical support to the polio eradication drive. The first round of immunizations will take place on 19 December and the second round on 2 February. WHO has also taken steps to deal with outbreaks of meningitis.

60. The Office of the United Nations High Commissioner for Refugees (UNHCR) has continued to facilitate the repatriation of students and professional civil servants to Sierra Leone. During October and November, UNHCR repatriated about 1,660 Sierra Leoneans from Guinea. In close consultation with the Government and others, UNHCR is continuing to develop a reintegration strategy for returnees and internally displaced persons.

61. United Nations agencies, in consultation with the Government, national and international non-governmental organizations and donors, have completed the 1999 consolidated inter-agency appeal for Sierra Leone in the amount of $28 million. The 29 projects in the appeal range from immediate life-saving needs to longer-term projects aimed at creating a favourable environment for the promotion of peace and sustainable socio-economic development. The appeal was released in Geneva on 3 December by the Office for the Coordination of Humanitarian Affairs and will be launched on 17 December 1998.

VIII. ECONOMIC AND SOCIAL ASPECTS

62. On 23 November 1998, the European Union signed an agreement with the Government of Sierra Leone to provide 111.5 million European currency units ($124.88 million) to help rebuild its economy. The funds, to be disbursed over five years, are to support rehabilitation of infrastructure, the development of social and public sectors and good governance. The aid will include eight

million European currency units ($8.92 million) in risk capital, provided by the European Investment Bank, for projects in power supply, mining and private sector investment.

63. On 27 November, the Government presented the budget and statement of policies for the financial year 1999 to Parliament. The budget, which is being debated by Parliament, focuses on continuing the process of rehabilitating basic infrastructure and rebuilding dislocated institutions, as well as pursuing stabilization and economic reform policies.

64. The Executive Board of the International Monetary Fund has approved the Government's request for assistance under the post-conflict emergency assistance policy for Sierra Leone in the amount of approximately $15 million.

65. According to Government data, there are encouraging signs of a steady recovery in economic output. This is reflected in the 0.7 per cent growth rate in the gross domestic product in real terms, compared to negative 22 per cent for the same period last year. Increased activity in the manufacturing, services and construction sectors reflect the return of consumer and investor confidence. On the other hand, output in mining and agriculture continues to be depressed owing to persistent insecurity, especially in the east and north.

66. The generally weak economy has contributed to the continued pressure on the exchange rate. Gross external reserves have dwindled to 1.8 months of imports in 1998 compared to 5.7 months in the corresponding period for 1997. Consequently, the exchange rate, which had strengthened from 2,340 leones to the dollar in January 1998 to about 1,630 in March, depreciated to 1,850 leones in January 1998 to about 1,630 in March, depreciated to 1,850 leones in November. It is anticipated that increased donor support, particularly balance-of-payments assistance from the international financial institutions, the European Union and the Department for International Development of the United Kingdom, will reduce the pressure on the exchange rate. The Government's economic management policies have helped contain inflation and restore confidence in the private sector, bringing about the present decline in the inflation rate to 12.5 per cent as at December 1998.

IX. FINANCIAL ASPECTS

67. The General Assembly, by its resolution 53/29 of 20 November 1998, appropriated an amount of $22 million gross for the establishment and operation of the Observer Mission for the period of 13 July 1998 to 30 June 1999. This amount includes $9.1 million gross for the period from 14 January to 30 June 1999, equivalent to some $1.6 million gross per month, subject to the decision of the Security Council to extend the mandate of the Observer Mission beyond 13 January 1999.

68. Should the Council decide to extend the mandate of the Observer Mission as recommended in paragraph 76 below, it is anticipated that the estimated additional requirements of some $0.6 million gross arising during the 1998-1999 financial period in connection with the modest expansion of civilian staff of UNOMSIL recommended in paragraphs 78 and 79 below, would be met from resources already provided by the General Assembly.

69. As at 30 November 1998, the total outstanding assessed contributions for all peacekeeping operations amounted to $1,642.2 million.

70. Pursuant to the Council's Presidential statement of 26 February 1998 (S/PRST/1998/5), on 26 March 1998 I established the Trust Fund to Support United Nations Peacekeeping-related Efforts in Sierra Leone. As at 11 December 1998, voluntary contributions to the Trust Fund totalled $1.79 million from the Governments of the United Kingdom of Great Britain and Northern Ireland ($0.83 million) and Japan ($0.96 million). In addition, the government of the Kingdom of the Netherlands has pledged to the Fund an amount of $1 million.

X. OBSERVATIONS AND RECOMMENDATIONS

71. Despite the progress made by the Government in consolidating its authority, I am disturbed at the continuing attacks inflicted by the rebels on civilians in the north and the atrocities and abductions that accompany such attacks. I condemn these serious violations and abuses of human rights and international humanitarian law and call again on the RUF and the AFRC to desist from attacks against their unarmed compatriots and to lay down their arms and surrender.

72. The elaboration of a dual-track approach to the resolution of the conflict following the ECOWAS summit of 31 October 1998 and the London meeting of the International Contact Group of 5 November is a welcome development, and UNOMSIL will work with the Government to pursue this approach. ECOMOG, the CDF and the re-inducted Republic of Sierra Leone Military Forces personnel have done much to defend the Government and people of Sierra Leone against rebel attacks and should continue to do so. At the same time, I call on the Government to explore ways to encourage the rebels to lay down their arms and surrender in order to avoid more bloodshed.

73. Clear evidence has emerged during the national consultative process described in paragraph 4 above to demonstrate that the people of Sierra Leone are willing to reconcile themselves with the rebels, on condition that they accept the authority of the Government, lay down their arms and surrender. UNOMSIL will continue to offer its services to the Government in facilitating such surrenders, provided this can be done under acceptable security conditions. UNOMSIL is also prepared to work with the Government concerning assurances that those who surrender will be humanely treated, in accordance with internationally accepted standards, and that any rebels who face criminal prosecution for their acts receive a fair trial.

74. I am particularly encouraged by the outcome of the extraordinary summit meeting of the Mano River Union on 12 November 1998, at which President Kabbah, President Taylor and President Conte agreed to continue to strengthen the Union and improve their mutual relations. The importance of this subregional approach to the strengthening of stability and security in all three countries cannot be overemphasized. I look forward to further steps by all three Governments to prevent the use of their territory by armed groups who would seek to undermine stability and would use their territory for the illegal transit of weapons and ammunition, especially where this is in violation of United Nations resolutions. I am prepared to assist, through my Special Representative in Sierra Leone and

my Representative in Liberia, in developing and implementing a viable strategy for a subregional approach.

75. The onset of the dry season in Sierra Leone has opened the way for more effective action by ECOMOG, the CDF and the re-inducted personnel of the RSLMF. In order to maintain the pressure they have exerted to split the rebel forces, the military forces assisting the Government need to continue to receive adequate logistical support. In this context, I would like to express my appreciation to those Governments that have already made contributions to the Trust Fund to Support United Nations Peacekeeping-related Efforts in Sierra Leone and to encourage others to make similar contributions or to consider providing the necessary assistance bilaterally to ECOMOG or to individual ECOWAS countries.

76. UNOMSIL has proved its value to the Government and people of Sierra Leone as they pursue their recovery from the illegal seizure of power by the military junta, in May 1997, and all its nefarious consequences. In particular, the deployment in the countryside of United Nations military observers has demonstrated to the Government and people of Sierra Leone the commitment of the broader international community to the restoration of order and peace in the country under the legitimate Government. UNOMSIL has also provided crucial support for humanitarian operations in the countryside. I therefore recommend to the Security Council that the mandate of the United Nations Observer Mission in Sierra Leone be extended for a further period of six months, until 13 July 1999.

77. The uncertain security situation in parts of the country and the delays to which the government's disarmament, demobilization and reintegration programme have consequently been subjected make it premature at this stage to proceed with further deployments of United Nations military observers, as authorized by resolution 1181 (1998). However, in view of the prospect that rebel fighters might begin surrendering as a result of the military operations directed against them in the east and the north, and the Government's willingness to accept their surrender under the conditions outlined above, UNOMSIL will continue to stand ready to deploy the additional observers rapidly as and when they may be required. I will keep the Security Council fully apprised of any developments in this regard and of any action I decide to take in response.

78. However, in order to address the growing demands on the ground and to be able to assist the Government and people of Sierra Leone in their efforts to normalize the situation, I am planning a modest expansion of the civilian staff of UNOMSIL. In particular, the enormity of the human rights abuses the rebels have perpetrated on the people of Sierra Leone and the large scope of human rights tasks to be performed have underlined the need for a strong human rights component. The deployment of five additional human rights officers in the provinces, in addition to the five now operating in the country, would do much to assist the Government to maintain and improve its commitment to the protection of human rights and fundamental freedoms in Sierra Leone. I also urge Member States to consider contributing bilaterally to UNOMSIL's human rights activities in Sierra Leone.

79. UNOMSIL could also help the government develop more fully a dialogue with the rebels in keeping with the dual-track approach. To this end, I intend to deploy three additional public information officers to develop radio programmes and other information activities aimed at reaching out to rebels in the countryside to persuade them to surrender and generally to pursue the goal of national reconciliation. The additional public information staff could also help to explain the role of UNOMSIL and the international community. At the same time, the addition of another political officer in the Office of my Special Representative would assist him to coordinate these activities.

80. The restoration of stability in Sierra Leone will be a long and arduous process and will continue to require military support as well as various other forms of assistance. In particular, the Government needs assistance in its efforts to establish a new professional armed force under civilian control, as well as an effective and well-motivated police force. The commitment of all Sierra Leoneans to achieving peace through dialogue and national reconciliation will also be essential. The United Nations, through UNOMSIL, is ready to play its part in that process.

81. In conclusion, I wish to express my appreciation to my Special Representative, Mr. Francis G. Okelo, the Chief Military Observer, Brigadier-General Subhash C. Joshi, and all the military and civilian personnel of UNOMSIL. My thanks also go to the Government of Sierra Leone and to ECOMOG, as well as to Sierra Leonean civil society, for their continuing cooperation with the United Nations.

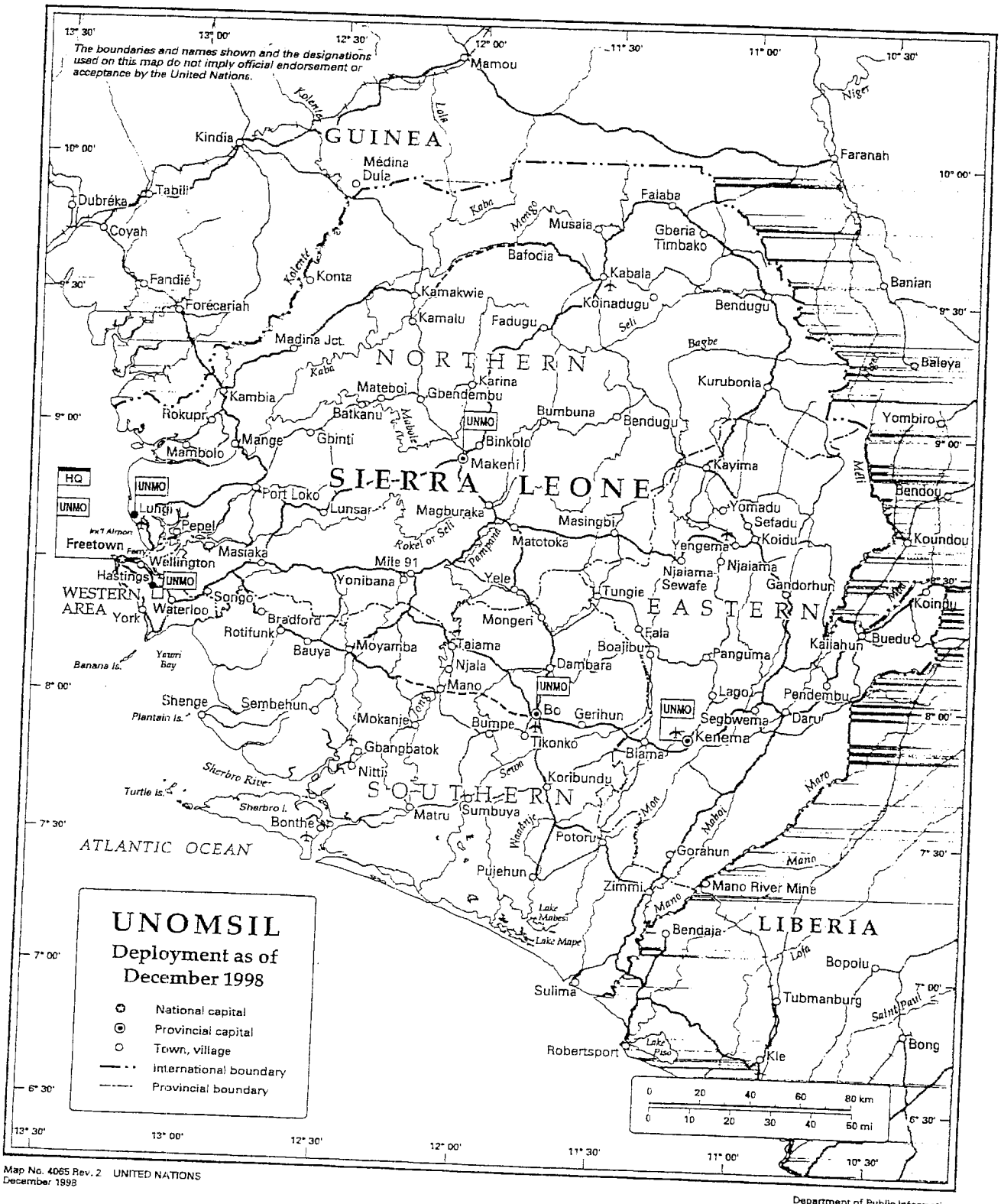
Annex

United Nations Observer Mission in Sierra Leone: contributions as at 10 December 1998

	Military observers	Others[a]	Total
China	3		3
Egypt	2		2
India	6	15	21
Kenya	4		4
Kyrgyzstan	1		1
New Zealand	2		2
Pakistan	5		5
Russian Federation	7		7
United Kingdom of Great Britain and Northern Ireland	7		7
Zambia	4		4
Total	41[b]	15	56

[a] Medical team.

[b] Including Chief Military Observer.



Map No. 4065 Rev. 2 UNITED NATIONS
December 1998

Department of Public Information
Cartographic Section

1174

UNITED NATIONS

S

Security Council

Distr.
GENERAL

S/1999/237
4 March 1999

ORIGINAL: ENGLISH

FIFTH REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

I. INTRODUCTION

1. On the basis of my reports dated 16 December 1998 (S/1998/1176) and 7 January 1999 (S/1999/20), the Security Council, on 12 January 1999, adopted resolution 1220 (1999). By paragraph 3 of that resolution, the Security Council requested me to keep the Council closely informed on the situation in Sierra Leone and to submit a further report, by 5 March 1999, with recommendations on the future deployment of the United Nations Observer Mission in Sierra Leone (UNOMSIL) and the implementation of its mandate. The present report is submitted in accordance with that request.

II. MILITARY AND SECURITY DEVELOPMENTS

Rebel attack on Freetown and its aftermath

2. As described in my report of 7 January 1999 (see S/1999/20, para. 10), rebel fighters belonging to the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) attacked Freetown on 6 January 1999. The rebels attacked the city from the east and penetrated as far as the centre, which they held for four days before being forced to withdraw by a counterattack. The fighting resulted in the deaths of between 3,000 and 5,000 persons, including rebel fighters, soldiers of the Economic Community of West African States Monitoring Group (ECOMOG), members of the Civil Defence Force (CDF) militia who were defending the capital and large numbers of civilian inhabitants. Many civilians were severely mutilated by the rebels. Up to 150,000 people were displaced in and around Freetown, and the rebels burnt down large numbers of public buildings and homes. A fuller description of the atrocities is contained in section IV below.

3. After fierce fighting, ECOMOG forces located in the western part of Freetown, reinforced from the main ECOMOG base at Lungi, managed to expel the rebels and regain control of the city. However, several thousand rebels are thought to remain in the Peninsula Mountains surrounding Freetown, despite ECOMOG and CDF efforts to dislodge them. It is also believed that unknown numbers of rebels might have infiltrated the city and remain there ready to

99-05880 (E) 040399

/...

launch further attacks. Consequently, the security situation in Freetown, despite recent improvements, should still be considered volatile. On 24 February, ECOMOG succeeded in expelling the rebels from Waterloo, although they remain in a position to cut the main road from Freetown to Bo and Kenema.

4. The rebels are now thought to control much of the north of the country, though ECOMOG has, with varying success, contested rebel control around Lunsar, Port Loko and Kambia, and retains possession of Kabala and Bumbuna. In the south, ECOMOG has repulsed several rebel attacks on Kenema. Around Bo, the second largest city in Sierra Leone, the situation remains calm but tense. Rebel forces reportedly rely on some foreign mercenaries, including Europeans and Liberians, and are reported to be receiving weapons from outside the country.

5. During the crisis, which began in mid-December, ECOMOG received several thousand reinforcements from Nigeria, Ghana, Guinea and Mali. However, some doubt has been cast over the longer-term future of ECOMOG in Sierra Leone in the light of statements made by candidates in the Nigerian elections. The contribution of Nigeria to ECOMOG has been so central that ECOMOG's military viability could be threatened if that contribution were reduced. Though efforts to create a Sierra Leonean army deserve further support, the army is unlikely to be able to bear the burden alone, at least for the foreseeable future.

6. UNOMSIL evacuated all its international personnel, many of its vehicles and much of its equipment immediately prior to the 6 January attack, as did other United Nations agencies, Governments and many non-governmental organizations (NGOs) represented in Sierra Leone. The relocation was followed by a substantial reduction in the number of staff, in particular military and civilian police. The remaining staff will stay in Conakry until the security situation is considered acceptable. My Special Representative, Francis G. Okelo, and members of his civilian and military staff, including the Chief Military Observer, Brigadier-General Subhash Joshi (India), have paid brief visits to Freetown to study the situation first-hand and to maintain contacts with the Government of Sierra Leone and with ECOMOG, as well as with civil society. On 3 March, following improvements in the security situation, it was decided to permit the return of a limited number of United Nations personnel as soon as possible. The security situation will continue to be kept under close review.

Disarmament and demobilization

7. Following the rebel offensive in December and January, ex-soldiers in the disarmament and demobilization camp at Lungi were relocated by the Government in Freetown. The majority of them appear to have either joined the rebels or disappeared, while some lost their lives during the rebel attack on Freetown. On 4 February 1999, the National Committee on Disarmament, Demobilization and Reintegration held an emergency meeting to examine the situation regarding ex-combatants. During the meeting, the Vice-President stated that there was no change in the Government's policy on disarmament, demobilization and reintegration. As of February 1999, approximately 1,000 of the 3,000 ex-combatants originally at the Lungi Demobilization Centre had reported to ECOMOG and now are temporarily located within Freetown. At the meeting it was

decided that these ex-combatants should be accommodated and cared for separately. It welcomed the offer by the Department for International Development of the Government of the United Kingdom of Great Britain and Northern Ireland to provide food and medical treatment for ex-combatants in the disarmament, demobilization and reintegration programme and to assist in measures to improve the camp security. The Department for International Development has also been providing food, at Lungi Garrison, for 600 dependants of ex-combatants in the programme. The meeting also agreed that ex-combatants would be relocated to Lungi following an overall improvement in the security situation.

8. It may be noted that the two remaining UNOMSIL medical doctors have provided medical assistance to some of the ex-soldiers in the disarmament, demobilization and reintegration programme. This humanitarian gesture has been appreciated by the Government, ECOMOG, ex-soldiers in the programme and the public.

Civilian police

9. As described in my earlier reports, prior to the rebel attack on Freetown, UNOMSIL civilian police had undertaken a wide range of activities to promote the reconstitution of the police force in Sierra Leone. During the rebel attack on Freetown, more than 200 policemen and members of their families were killed, and police equipment and infrastructure were destroyed, including the Criminal Investigation Department headquarters and all its files, records and documentation. The Pademba Road prison was also broken into and all of the prisoners escaped, a situation which poses a serious security threat. This has significantly impaired the Government's efforts to maintain law and order in the city. As a result, the Government's plans to reorganize the police force will require substantial external assistance.

III. POLITICAL DEVELOPMENTS

Activities of the Government of Sierra Leone

10. The Government of Sierra Leone has continued to refine its policy with regard to negotiations with the rebels, and to take initiatives accordingly. On 7 January 1999, President Ahmad Tejan Kabbah met with Corporal Foday Sankoh, the leader of RUF, in an effort to arrange a ceasefire. On 16 January, the President issued a statement reiterating his readiness to pursue political dialogue and repeating his offer of amnesty to the rebels.

11. On 7 February 1999, President Ahmad Tejan Kabbah delivered a radio broadcast in which he again indicated his readiness to engage in a dialogue with the rebel leaders, and to allow Foday Sankoh to meet other RUF leaders, provided that RUF accepted the legitimacy of the Government. The President stated that the Abidjan Peace Agreement of November 1996 (S/1996/1034) could be used as a frame of reference for such a dialogue.

12. On 21 February, President Kabbah addressed the people of Sierra Leone in a nationwide radio broadcast in which he called on the Security Council,

especially its permanent members, to exert pressure on those States and individuals who continue to supply the weapons and logistics which are being used to kill Sierra Leoneans. President Kabbah stated that it was no longer enough for the Council to condemn the activities of the rebels, but to consider the possibility of taking further action, not excluding the threat of force, against the rebels in order to give effect to the Council's previous demands that the rebels cease all violence and seek genuine dialogue for the restoration of lasting peace and stability in Sierra Leone. President Kabbah also reasserted his Government's determination to defend the territory of Sierra Leone. President Kabbah's address has been circulated as a document of the Security Council (S/1999/186).

13. On 25 February, the Minister of Information, Communications, Tourism and Culture reaffirmed the Government's commitment to dialogue with the rebels, stressing the crucial importance of seeking the views and suggestions of the civil society and expressing the Government's readiness to review the Abidjan Peace Agreement in the light of the prevailing situation.

14. On 28 February, President Kabbah again addressed the nation in a radio broadcast in which he agreed that Foday Sankoh and RUF members could hold their internal consultations in Lomé or Bamako. He stressed that, following these consultations, the RUF leader should be returned to Freetown to resume his appeal against his conviction for treason and related offences (see S/1998/1176, para. 4). The President also called for the immediate release of all civilians being held in detention by the rebels, including children and women whom they had abducted during the recent attack on Freetown.

Activities of the United Nations

15. In the aftermath of the rebel attack, my Special Representative, in close consultation with the Governments of Sierra Leone and of a number of countries of the Economic Community of West African States (ECOWAS), initiated or participated in a series of diplomatic efforts aimed at strengthening ECOMOG while opening up dialogue with the rebels. Following the initial involvement of the Government of Togo, the current Chairman of ECOWAS, and the Government of Côte d'Ivoire, my Special Representative visited Abuja, Lomé and Accra towards the end of January in order to help coordinate the ECOWAS response to the crisis.

16. These diplomatic activities culminated in the meeting, in Conakry, on 29 January, of the Heads of State of the three troop-contributing countries of ECOMOG: Ghana, Guinea and Nigeria. At that meeting, President Rawlings, President Conte and President Abubakar agreed on the need to convene an ECOWAS summit meeting on Sierra Leone, to be followed by a visit by representatives of the ECOWAS Committee of Six on Sierra Leone to New York to brief the Security Council. The Committee of Six on Sierra Leone comprises those three countries, as well as Togo, Côte d'Ivoire and Liberia. The three Heads of State also instructed their Ministers for Foreign Affairs to develop a strategy for pursuing the dual-track approach outlined in paragraph 15 above.

17. Following a visit to Freetown, from 13 to 16 February, for consultations with the Government, my Special Representative met with representatives of RUF

in Abidjan on 21 February to ascertain the RUF commitment to the dialogue and the peace process and to discuss how best to expedite the internal RUF consultations pursuant to President Kabbah's offer of a dialogue. These discussions also dealt with a number of issues, including the venue, format and duration of the internal RUF consultations; a ceasefire; respect for human rights; and the provision of humanitarian assistance. The outcome of these preliminary discussions is now being reviewed by the Government of Sierra Leone and other members of ECOWAS. Should agreement be reached on a venue for talks outside Sierra Leone, it would be necessary to temporarily lift the ban on the travel of RUF leaders imposed by Security Council resolution 1132 (1997) of 8 October 1997.

Relations between Sierra Leone and Liberia

18. In response to repeated allegations that the Government of Liberia was supporting the Sierra Leonean rebels (see S/1999/20, paras. 14 and 15), the Liberian Government issued a statement, circulated as document S/1999/193, on the conflict in Sierra Leone. In the statement, the Government reaffirmed its recognition of the Government of President Ahmad Tejan Kabbah as the legitimate Government of Sierra Leone, and stated further that it had not and would not support, nor be a party to, any attempt to destabilize the Republic of Sierra Leone or any other country.

19. The Government of Liberia also announced in its statement that it had launched an effort to repatriate and offer amnesty to Liberians fighting in Sierra Leone and, as a matter of urgency, requested the United Nations to assist the Governments of Sierra Leone and Liberia in identifying, documenting and processing Liberians fighting in Sierra Leone for an organized repatriation. The Government of Liberia also renewed its request to the Security Council to approve the deployment of United Nations monitors along with ECOMOG forces at the Liberia/Sierra Leone border in the light of repeated allegations of illegal shipments of arms to the rebels.

IV. HUMAN RIGHTS

20. In late January and early February, UNOMSIL human rights officers visited Freetown to conduct an assessment of the situation there. The assessment team travelled extensively within the city and interviewed numerous people, including victims of mutilations and other human rights violations. Members of the team witnessed violations during their visit. UNOMSIL human rights officers have also continued to monitor the situation in the rest of the country and have undertaken a range of technical assistance activities.

21. The team found that the ultimate responsibility for the fighting, for most of the civilian casualties and for the related humanitarian emergency in Freetown rested with the rebel forces. Though it was impossible to state with precision the actual number of civilian casualties, most estimates put the total casualty figure at between 3,000 and 5,000, including rebel fighters and ECOMOG and CDF combatants. It is feared that at least 2,000 of those casualties were civilian inhabitants of Freetown. Many civilians were killed while being used by the rebels as human shields in combat, or because they reportedly refused to

1179

come out into the streets to demonstrate in favour of the rebels. Many were killed while trying to protect family members from death or rape, or while trying to protect their property from looting and destruction.

22. Much of the killing seems to have been arbitrary and to have been carried out by child fighters or rebel fighters under the influence of drugs or alcohol. However, there is also evidence that some of the murders were targeted, including, reportedly, the murder of 200 police personnel. The Solicitor General was killed during the fighting, as were the Resident Minister for the North, an adviser to President Kabbah and at least two journalists. Other victims who appear to have been deliberately targeted include senior officials of the Sierra Leonean National Commission for Democracy and Human Rights, the Council of Churches and the National Commission for Rehabilitation, Reconstruction and Reintegration, as well as Nigerian nationals.

23. According to medical sources interviewed by the human rights assessment team, many hundreds of civilians were treated for the amputation of limbs or other forms of mutilation, including some 70 at Connaught Hospital alone. It is feared that hundreds of other victims of mutilation did not survive to seek treatment. Victims of amputation and mutilation included men, women and children, some as young as six years old. The mutilations were usually inflicted with machetes or axes. During February, there was a sharp drop in reported incidents of mutilation by rebel elements in areas where they are located.

24. There have been reports of widespread rape and other forms of sexual abuse by rebel elements in Freetown and Makeni. In Freetown, eyewitnesses reported incidents of violent group rape of young women and girls rounded up by the rebels for that heinous purpose. Many rape victims were reported to have been subsequently abducted, mutilated or killed.

25. A significant number of the rebel combatants were children. Reports were received of death and injuries being inflicted by boys as young as eight to 11 years old.

26. The rebels abducted a large but unverifiable number of people in Freetown and other places they attacked. By mid-February, child care agencies reported that some 2,000 children had gone missing in Freetown alone since 6 January. Agency staff said they had witnessed the abduction by rebels of some 300 of these children. Escapees reported that abducted boys were selected for training as fighters, or used as porters. Women and girls were taken for sexual purposes or to cook food. A small number of prominent Sierra Leonean personalities and foreigners were also abducted, including the Roman Catholic Archbishop of Freetown. Foreign abductees included several Indian workers, Roman Catholic nuns of Indian and Kenyan nationality and one Spanish and one French journalist. Though some managed to escape, at least eight abductees were killed and two seriously injured. Rebels continue to hold Roman Catholic Mission personnel abducted at Makeni and Kambia.

27. Rebel forces were also responsible for the deliberate widespread destruction of civilian property and public utilities in Freetown and other locations, such as Makeni and Kambia. In the centre of Freetown, about

20 per cent of the housing stock was destroyed, with as much as 90 per cent destroyed in the eastern outskirts of the city. Some public facilities appear to have been deliberately demolished, including police stations, the Pademba Road prison, the Nigerian High Commission and UNOMSIL headquarters. The residences of human rights activists, lawyers, journalists and Government officials were also targeted, as well as churches, mosques and hospitals.

28. Eyewitnesses interviewed by the assessment team also reported summary executions of alleged rebels or rebel sympathizers by ECOMOG soldiers. Persistent reports were received of executions in various parts of Freetown, sometimes carried out after a cursory interrogation. One alleged victim of summary execution was an eight-year-old boy caught in possession of a pistol. Members of the assessment team witnessed an execution at Connaught Hospital on 3 February by men in ECOMOG uniforms. Members of CDF are also accused of mistreating civilians during the crisis in Freetown. ECOMOG jets attacking Freetown during the fighting are also reported to have caused civilian casualties. ECOMOG soldiers also detained and physically mistreated national staff members of a number of humanitarian NGOs and the International Committee of the Red Cross, apparently accusing them, without evidence, of being rebel collaborators. ECOMOG High Command has subsequently indicated to my Special Representative their intention to investigate these allegations and to take corrective action as necessary.

29. UNOMSIL continues to provide technical assistance to the National Commission for Democracy and Human Rights and the National Forum for Human Rights to assist them in carrying out their human rights monitoring, reporting and advocacy activities within Sierra Leone. It also works closely with the humanitarian community to ensure that they integrate issues of human rights into their current activities.

30. Facilitated by UNOMSIL, a Human Rights Committee for Sierra Leone has been temporarily established in Conakry, comprising the Sierra Leonean National Commission for Democracy and Human Rights, the National Forum for Human Rights, United Nations agencies, humanitarian organizations and UNOMSIL. The Committee is facilitating the active participation of the human rights community in the process of peace-building in Sierra Leone. In the coming weeks, if possible, significant activities of the Committee will be re-located to Freetown.

V. HUMANITARIAN SITUATION

31. Since my previous report, the humanitarian situation in Sierra Leone has drastically deteriorated, following the latest round of fighting, which culminated in the rebel attack on Freetown on 6 January 1999. The number of refugees in neighbouring countries has increased to an estimated 450,000, with an estimated 700,000 internally displaced persons. With ECOMOG expanding its hold on the capital, the number of known vulnerable displaced persons in Freetown is now estimated at 200,000, out of which some 60,000 have sought refuge in the national stadium. Many more are living in abandoned churches and schools.

1181

32. Following a recent eight-day tour of the region that included Côte d'Ivoire, Sierra Leone, Guinea and Liberia, the United Nations High Commissioner for Refugees, Sadako Ogata, has called for more support for repatriation programmes in the region. She also discussed plans with Guinean authorities to move 50,000 Sierra Leonean refugees away from the Guinean border to prevent the camps from becoming rear bases for the rebels. The European Union and the United States of America have promised 4 million dollars to aid this operation. The estimated number of Sierra Leonean refugees in Guinea today stands at 350,000.

33. UNOMSIL has facilitated the delivery of humanitarian aid by making its helicopter and fixed-wing aircraft available, to the extent possible, to United Nations agencies and international NGOs.

34. Outside Freetown, OXFAM has identified 30,000 displaced persons living in the Lungi peninsula. Further up country, approximately 50,000 internally displaced persons, who were reported to have fled Kenema during heavy fighting between the rebel forces and ECOMOG in early February 1999, appear to be returning to the area. While there are no reliable reports from further inland because of the insecure situation, thousands more are believed to have fled into the bush.

35. The suffering of vulnerable civilian populations is exacerbated by increasing levels of malnutrition, especially among children under five years of age. Preliminary surveys show that in some areas, as many as 25 per cent of the children are suffering from acute malnutrition. Furthermore, appalling sanitation conditions are rampant and health care is inadequate. Diarrhoeal diseases are on the rise in almost all the accessible areas. In addition, the disruption of routine vaccination activities has increased the risk of epidemics. The town of Kailahun is believed to be the origin of the more than 400 measles cases now being identified among displaced persons in Kenema. While a vaccination campaign has begun in Kenema, with 10,000 doses of antigen provided by UNICEF, many children are out of reach of the humanitarian community. Meanwhile, doctors and nurses at Connaught Hospital and elsewhere are struggling to treat about 500 victims of amputation and mutilation requiring extreme surgery. Lastly, approximately 1,750 children have been reported missing by their families. Very few have been reunited, while many are believed to be trapped in inaccessible areas.

36. The humanitarian community's ability to provide relief to these populations continues to be impaired by the ongoing hostilities and resultant insecurity. Following the widespread looting and destruction of humanitarian offices, warehouses, vehicles and relief supplies, humanitarian activities remain drastically reduced. Approximately two thirds of the country, roughly all of the territory north of Port Loko, Bo and Kenema, remains inaccessible by road. This has confined humanitarian interventions to the peninsula and the southern and western provinces, leaving thousands of Sierra Leoneans without basic assistance. The provision of humanitarian assistance to the needy is today being carried out, at great cost, by air. Meanwhile, the World Food Programme (WFP) has warned that if the roads to Freetown are not opened soon, allowing the free flow of commercial imports and food from upcountry, food shortages in the city could become more acute within one to three weeks.

37. Despite these constraints, the international humanitarian community has continued operations in accessible areas, particularly in the south where programmes continue in Bo, Kenema, Pujehun and Moyamba. From Conakry, international humanitarian staff continue to make day trips into the capital while national staff maintain a permanent presence in the city, where they work in collaboration with their governmental humanitarian counterparts. The humanitarian community's capacity to carry relief supplies and personnel to accessible areas of the country has been improved by the leasing of a helicopter for that purpose by the European Community Humanitarian Office and the United States Office of Foreign Disaster Assistance (ECHO/OFDA).

38. In order to streamline operations, a 60-day humanitarian plan of action is being finalized by the international humanitarian community in consultation with the Government. The plan is based on five basic operational requirements. These include: full access by all humanitarian organizations to communications equipment; cooperation between the Government and humanitarian agencies; unhindered access for humanitarian assistance; effective coordination with military and security forces; and the establishment of a forward logistics base at Lungi Airport. Because the plan uses existing assets, considerable progress has already been achieved. Approximately 140,000 metric tons of food has been distributed to vulnerable groups in Freetown with an additional 100,000 reaching accessible upcountry populations. A total of 21 clinics and four hospitals in Freetown are fully operational with support from United Nations agencies and partners, and more than 1,300 rolls of plastic sheeting and 40,000 blankets are now available in Freetown for distribution.

39. The humanitarian community is committed to continuing its work of providing assistance in spite of insecurity and the difficult working environment. Relief workers and the civilian population need your support in continuously calling on all parties to the conflict to re-commit themselves to respecting international humanitarian law by: recognizing the neutrality and impartiality of all humanitarian organizations; fully guaranteeing the absolute safety and security of humanitarian personnel, including relief items and equipment; and calling upon the Government of Sierra Leone to confirm its willingness to permit the unimpeded flow of humanitarian assistance to all parts of the country.

VI. FINANCIAL ASPECTS

40. The General Assembly, by its resolution 53/29 of 20 November 1998, appropriated an amount of $22 million for the establishment and operation of the Observer Mission for the period ending 30 June 1999. The resources provided by the Assembly covered the Observer Mission's start-up costs as well as its maintenance at the full strength authorized by Security Council resolution 1181 (1998) of 13 July 1998.

41. Therefore, should the Council decide to extend the mandate of UNOMSIL, as recommended in paragraph 51 below, the cost of maintaining the Observer Mission during the extension period will be well within the resources already provided by the General Assembly.

1183

42. As at 15 February 1999, unpaid assessed contributions to the UNOMSIL special account amounted to $12.5 million. As at the same date, the total outstanding assessed contributions for all peacekeeping operations amounted to $1,666.6 million.

43. With regard to the Trust Fund to Support United Nations Peacekeeping-related Efforts in Sierra Leone, contributions received as at 28 February 1999 amounted to some $2.1 million, with authorized expenditure amounting to some $0.1 million.

VII. OBSERVATIONS AND RECOMMENDATIONS

44. Sierra Leone continues to face an extremely complex and difficult situation fraught with serious risks. Though ECOMOG has succeeded in driving the rebels from Freetown and restoring order in its immediate vicinity, the capital is still threatened by rebel forces in the peninsula.

45. I unreservedly strongly condemn the merciless murders, inhuman mutilations and other appalling human rights violations perpetrated by the rebels on the innocent civilian inhabitants of Freetown, and the widespread property damage they have inflicted. In the light of some allegations that members of pro-Government forces may also have been guilty of violations, I hope that the Government will fulfil its assurances that such allegations will be investigated and welcome its assurances that these forces will adhere to international human rights standards in the future.

46. Concern over violations of human rights and the prevention of further violations stand at the heart of the Sierra Leonean conflict. For that reason, and in view of the scale and enormity of the violations inflicted recently in Freetown, I intend to deploy an additional human rights officer to UNOMSIL. This will enable the human rights component to expand its reporting and deepen its coverage of human rights abuses in Sierra Leone, as well as to maintain its technical cooperation activities with Sierra Leonean human rights organizations.

47. ECOMOG is to be congratulated on its success in repelling the rebels from Freetown and restoring a measure of order to the city. I also commend the Government of Mali for providing additional troops to ECOMOG and donor Governments, in particular the Netherlands, Canada, the United Kingdom and the United States of America, for the logistical support they have provided and continue to provide to ECOMOG.

48. In the meantime, I would urge the international community to continue to support ECOMOG logistically and to consider the provision of prompt bilateral assistance to the Government of Sierra Leone in the creation of a new Sierra Leonean army to defend the country. The Governments of Nigeria and the United Kingdom have taken the first steps in this regard.

49. The possible partial withdrawal of Nigerian forces from ECOMOG following the elections in that country and the consequent effects on ECOMOG's military effectiveness in Sierra Leone could require a major reappraisal of the situation. In particular, the dual track approach pursued so far, which

combines support for ECOMOG military action to maintain law and order with a willingness to negotiate with the rebels, may need to be reviewed. The Security Council may wish to consider the implications of this important new potential development.

50. I intend to pursue further with President Taylor some of the suggestions contained in the statement of the Government of Liberia (S/1999/193). Since practical obstacles to the proposal to deploy United Nations monitors at the border between Sierra Leone and Liberia remain, as deployment of the ECOMOG forces required to protect them is unlikely, the steps taken by the Government to encourage the repatriation, disarmament and demobilization of Liberian fighters in Sierra Leone are welcome.

51. President Kabbah's decision to allow the leader of RUF, Corporal Foday Sankoh, to meet with rebel leaders in order to develop a coherent set of political demands, which would form the basis of subsequent negotiations with the Government, is a bold and valuable initiative. The United Nations will continue to facilitate the conduct of talks through the provision of its good offices as required.

52. The preliminary meeting my Special Representative held with representatives of RUF in Abidjan on 21 February may have helped lay the groundwork for further negotiations, which might be based on the Abidjan Peace Agreement signed in November 1996 by the Government and RUF. In order to proceed, RUF must recognize the legitimacy of the Government, agree to a ceasefire, renounce violence, especially attacks on civilians, and permit humanitarian access to the areas they control under conditions of adequate security.

53. As I indicated in my report of 7 January (S/1999/20, para. 37), UNOMSIL has been substantially scaled back since its relocation to Conakry and now comprises only a small core of essential civilian and military personnel under the leadership of my Special Representative (see annex). The recent decision of the Government to allow Foday Sankoh to meet with the RUF leaders in Lomé or Bamako opens prospects for the start of a dialogue which should be encouraged. Should negotiations between the Government and the rebels take a favourable turn, UNOMSIL should remain in a position where it is capable of rendering further assistance to the peace process. I therefore recommend the extension of UNOMSIL's mandate for a further period of three months, until 13 June 1999. Its mandate will continue to be to provide information to me, and through me to the Security Council, about the situation in Sierra Leone in its political, military, security, human rights and humanitarian aspects; to continue to liaise closely with the Government of Sierra Leone and with ECOWAS and ECOMOG; to explore, in close consultation with the Government, ways of pursuing dialogue with the rebels aimed at a peaceful settlement of the conflict; to advise me on further actions the United Nations could take in the event of developments in and around Sierra Leone; and to stand ready to take quick action, on the basis of such expansion as the Security Council may authorize, to assist the implementation of any peace agreement.

54. In view of the improvement in the security situation in and around Freetown achieved during the past few days, it is my intention to re-establish UNOMSIL in Freetown as soon as possible. At least initially, the re-establishment will

take place on a small scale and with strict attention to the security situation. I therefore intend to increase the current number of military observers from 8 to 14, and to redeploy the necessary staff to support the relocation to Freetown. In the meantime, the United Nations Development Programme and other United Nations programmes and agencies have also been authorized to re-establish a limited presence in Freetown.

55. I take this opportunity to express my appreciation to my Special Representative, Francis G. Okelo, and his staff. My thanks also go to the Chief Military Observer, Brigadier-General Subhash C. Joshi and the military observers of UNOMSIL, including those who have been repatriated following the relocation to Conakry. The valuable contribution made by the five civilian police advisers, who have now been repatriated, also deserves recognition.

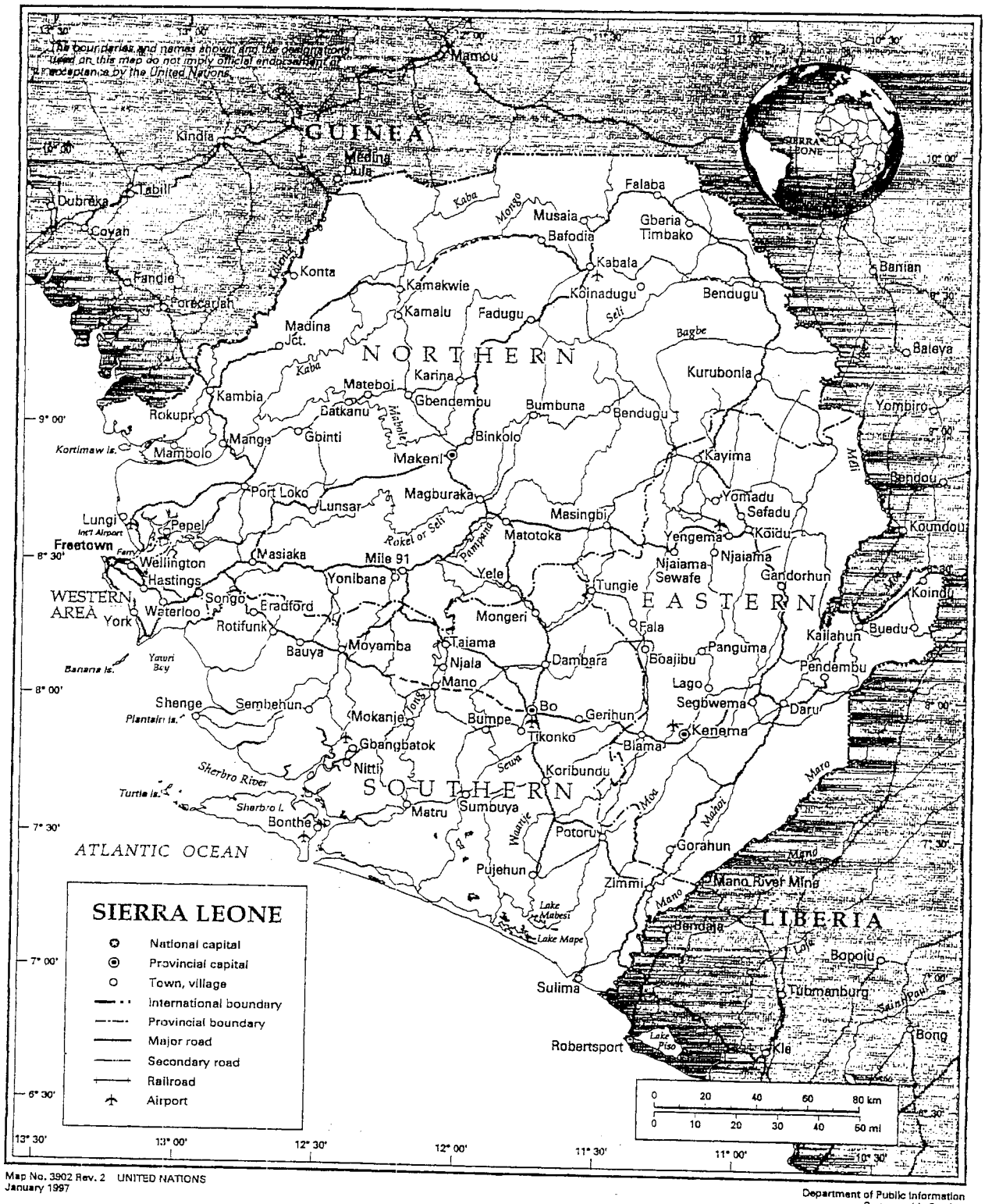
Annex

United Nations Observer Mission in Sierra Leone: contributions as at 1 March 1999

	Military observers	Others[a]	Total
China	–		–
Egypt	–		–
India	2	2	4
Kenya	1		1
Kyrgyzstan	1		1
New Zealand	–		–
Pakistan	1		1
Russian Federation	1		1
United Kingdom of Great Britain and Northern Ireland	1		1
Zambia	–		–
TOTAL	7[b]	2	9

[a] Medical team.

[b] Including the Chief Military Observer.



Map No. 3902 Rev. 2 UNITED NATIONS
January 1997

Department of Public Information
Cartographic Section

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1999/645
4 June 1999

ORIGINAL: ENGLISH

SIXTH REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

I. INTRODUCTION

1. By paragraph 11 of resolution 1231 (1999) of 11 March 1999, the Security Council requested me to keep the Council closely informed on the situation in Sierra Leone and in this regard to submit a report, by 5 June 1999, with recommendations on the future deployment of the United Nations Observer Mission in Sierra Leone (UNOMSIL) and the implementation of its mandate. The present report is submitted in accordance with that request.

II. POLITICAL DEVELOPMENTS

Dialogue process

2. Since my report of 4 March 1999 (S/1999/237), the peace process in Sierra Leone has made significant progress, culminating in the signing of a ceasefire agreement on 18 May 1999 (see S/1999/585, annex) and the start of dialogue between the Government of Sierra Leone and the Revolutionary United Front (RUF) at Lomé on 25 May.

3. The signing of the ceasefire agreement and the inception of talks with RUF to a large extent reflect the outcome of a number of important initiatives undertaken by the Government of Sierra Leone. In early to mid-March, President Ahmad Tejan Kabbah visited several key countries in the subregion, including Côte d'Ivoire, Ghana, Nigeria and Togo, to discuss the situation in Sierra Leone and possible ways forward with the support of the Economic Community of West African States (ECOWAS) and its Monitoring Group (ECOMOG). In a radio address to the nation on 14 March, President Kabbah expressed his appreciation for the assistance provided by those countries and reaffirmed his commitment to the dual-track approach, which involves strengthening ECOMOG while being prepared to talk to RUF and the Armed Forces Revolutionary Council (AFRC).

4. The Government's initiatives were accompanied by considerable diplomatic activity in the subregion on the part of a number of Governments and organizations in the subregion and elsewhere, including the current Chairman of ECOWAS, President Gnassingbe Eyadema of Togo; the ECOMOG troop-contributing

99-16596 (E) 040699

/...

countries, namely Nigeria, Guinea, Ghana and Mali; the Governments of the United Kingdom of Great Britain and Northern Ireland and the United States of America and the United States Presidential Special Envoy for the Promotion of Democracy in Africa, the Rev. Jesse Jackson; and my Special Representative for Sierra Leone, Francis G. Okelo.

5. The opening of talks between the Government and RUF at Lomé on 25 May followed internal consultations there between the RUF leader, Corporal Foday Sankoh, and a delegation of 14 RUF representatives from within Sierra Leone. At the Government's request, UNOMSIL transported Corporal Sankoh from Freetown to Lomé on 18 April. Subsequently, UNOMSIL also transported the 14 other RUF representatives from other parts of Sierra Leone to Lomé via Monrovia with the cooperation and support of the Government of Liberia and the assistance of the United Nations Peace-building Support Office in Liberia. UNOMSIL has also provided some logistical support for the Government of Togo, which is hosting the talks, through the use of the Trust Fund to Support United Nations Peacekeeping-related Activities in Sierra Leone.

6. Although Corporal Sankoh was still pursuing his appeal against his conviction and sentence to death for treason, the Government granted him judicial leave to pursue the dialogue process. On 29 May, the Government and the RUF delegation reached an understanding on the status of Corporal Sankoh. The Government undertook to take the appropriate legal steps to grant him an absolute and free pardon, and Corporal Sankoh said that his delegation would proceed with the dialogue.

7. The internal RUF talks lasted from 26 April to 10 May and resulted in a position paper reflecting the RUF/AFRC views and demands. The position paper calls, inter alia, for a blanket amnesty for all personnel of RUF and AFRC, which had organized the coup d'état in Sierra Leone in May 1997; and the establishment of a four-year transitional Government. The main functions of the transitional Government would include the drafting of a new constitution; the reform of the national security forces and civil service; the encampment, disarmament, demobilization and reintegration of all combatants; and the establishment of a national electoral commission. RUF expressed readiness to convert itself into a political party.

8. RUF stipulated that a neutral peace monitoring group should be deployed as part of the ceasefire arrangements following the signing of a peace agreement. Other demands include the departure of all foreign troops and mercenaries from Sierra Leone within 14 days of the signing of the agreement, and the termination of the Status of Forces Agreement between the Governments of Sierra Leone and Nigeria.

9. On 14 May, the Government of Sierra Leone issued a response to the RUF position paper, stressing the unconstitutional nature of the proposal for a transitional Government. At the same time, the Government emphasized that the proposal for an amnesty for all combatants would be examined with a view to achieving permanent peace, while taking into account gross human rights violations committed against the citizens of Sierra Leone. The government statement endorsed the importance of the transformation of RUF into a political party and pledged the Government's full support for that process.

10. In order to help create conditions conducive to the success of the Government-RUF talks, my Special Representative proposed a cessation of hostilities for the duration of the dialogue process. This proposal was strongly supported by the Government of Togo and resulted in the signing, on 18 May, of an agreement between the Government and RUF to cease fire (S/1999/585, annex). According to the agreement, which came into effect on 24 May, both parties were to maintain their respective positions and refrain from hostile or aggressive acts. Other provisions included the guarantee of safe and unhindered access by humanitarian organizations to all people in need; the immediate release of prisoners of war and non-combatants; and the deployment, subject to the authorization of the Security Council, of United Nations military observers to observe compliance with the ceasefire agreement.

11. The peace talks have started off well, with the two parties expressing their firm commitment to the peace process and determination to work together to resolve the conflict. The dialogue process is being guided by a Facilitation Committee chaired by the Foreign Minister of Togo, with the participation of ECOWAS, the Organization of African Unity (OAU) and my Special Representative. Within Sierra Leone, the dialogue process has benefited from the active involvement of the Parliament and civic groups. Among these, the Inter-Religious Council of Sierra Leone, supported by the World Conference on Religion and Peace, has played a particularly active role. President Kabbah has proposed that the Council, whose role has been appreciated by both sides, should become one of the moral guarantors of a future peace agreement.

12. On 2 June, the Government and RUF decided to ask UNOMSIL to establish a committee to effect the immediate release of prisoners of war and non-combatants in accordance with the 18 May ceasefire agreement. The committee, which is to be chaired by the UNOMSIL Chief Military Observer, comprises representatives of the International Committee of the Red Cross (ICRC), the United Nations Children's Fund (UNICEF), other United Nations agencies and non-governmental organizations.

Relations between Sierra Leone and Liberia

13. There have been continued allegations of arms shipments reaching the rebels in Sierra Leone either through or from Liberia. On 8 April, the ECOMOG Force Commander, Major-General Felix Mujakperuo, announced that ECOMOG had confirmed the involvement of the Governments of Liberia and Burkina Faso in the shipment and delivery of arms to the rebels on 14 and 15 March. The details of this incident and another alleged incident on 20 April were brought to the attention of the Security Council Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone. The Government of Liberia has denied the allegations.

14. Given the persistent tension between Sierra Leone and Liberia resulting from allegations of arms supplies to the rebels, the Security Council requested me, in resolution 1231 (1999), to consider, in coordination with the countries of the Mano River Union and other States members of ECOWAS, the practicality and effectiveness of the deployment of United Nations monitors, along with ECOMOG forces, at the Sierra Leone/Liberia border. Such a presence could improve the security climate and build confidence between the two countries. Accordingly, I wrote to both the Chairman and the Executive Secretary of ECOWAS on 12 April,

seeking their views on the possible deployment of ECOMOG troops and the subsequent deployment of United Nations personnel along the border.

15. In his reply, dated 26 April 1999, the Executive Secretary, Lansana Kouyaté, stated that the Chiefs of Staff of the countries contributing troops to ECOMOG in Sierra Leone, who had discussed my letter at their meeting at Abuja, welcomed the proposal in principle. However, citing the difficult terrain along the border and the consequent need for adequate equipment, Mr. Kouyaté proposed that the United Nations should assist in providing the necessary logistical equipment, including helicopters, communications and ground transportation. He requested the United Nations to dispatch a technical team to discuss with ECOMOG the modalities and requirements of deployment. On 7 May, the Under-Secretary-General for Peacekeeping Operations, Bernard Miyet, invited ECOWAS to indicate how many ECOMOG troops would be required, and the time needed for their deployment, and requested a detailed statement of ECOMOG's logistical requirements. This information can be provided to the Security Council as soon as it is received.

16. There have also been positive developments in the relations between Sierra Leone and Liberia. For example, there is increased contact among civic groups in both countries as demonstrated by the visits to Liberia of the Inter-Religious Council of Sierra Leone and the National Union of Sierra Leone Students. Moreover, a delegation of the Liberian Senate met with President Kabbah in Freetown in early April to offer the support of the Government and people of Liberia for the resolution of the armed conflict in Sierra Leone. The delegation proposed that the three parliaments of the countries of the Mano River Union should work together, under the coordination of Mali, to help to end the conflict.

17. On 27 May, the first annual conference of the Mano River Parliamentary Union opened in Monrovia. Although no Sierra Leonean representative attended the conference, President Taylor stated in his address to the delegates of Liberia, Guinea and Mali that he would do his utmost to ensure peace and security in Guinea and Sierra Leone, since peace in Liberia could be assured only if its neighbours were also at peace.

III. MILITARY AND SECURITY SITUATION

18. The military and security situation in Sierra Leone has remained fluid and complex. Following his assumption of the command of ECOMOG in late March, the new Force Commander, Major-General Felix Mujakperuo, launched an offensive to provide a larger security cordon around Lungi and Freetown. As a result, ECOMOG succeeded in opening the roads connecting Freetown with Lungi, Port Loko and Kambia in the western and north-western parts of the country. Moreover, the clearance of a subsidiary road from Freetown to Bo via Moyamba opened up a land route for supplies to Bo and Kenema. ECOMOG also retains its positions at Kabala and Bumbuna. Since my previous report, ECOMOG's military capabilities have been further strengthened with a substantial increase in communications facilities and air assets.

19. However, RUF/AFRC continue to dominate many areas of Sierra Leone, particularly in the Northern and Eastern Provinces. They also have considerable freedom of movement in parts of the Western Area and the Southern Province, where they retain the capability to interdict ECOMOG lines of communication and carry out raids. The Kono diamond mining area is also still under RUF/AFRC control. Two attacks on Kenema have recently been repulsed, although a large rebel group has advanced to around 15 miles north of the town. Continued reports of arms supply reaching RUF/AFRC indicate that their fighting capacity remains strong. In addition, they have significantly strengthened their anti-aircraft capabilities, an achievement attributed to the use of foreign expertise. The existence of pockets of forces behind the other party's lines, especially around the north-south Bo-Kabala axis, is expected to complicate the monitoring of the ceasefire.

20. Both before and after 24 May, when the ceasefire took effect, rebel activity in the north-west increased considerably, amid mutual accusations by the parties of violations. A rebel group, largely composed of troops of the former Republic of Sierra Leone Military Forces (RSLMF), has been detected in the area north of Occra Hills/south of Port Loko, and there is a large build-up of RUF/AFRC in the area north of Lunsar and Port Loko. This build-up poses a threat to Port Loko/Rogberi and possibly to Lungi, which ECOMOG has warned it will forcibly resist. Prior to the ceasefire, RUF/AFRC attacked some ECOMOG positions in the area of Port Loko, including Port Loko itself, and in the Occra Hills where both sides have suffered casualties. RUF/AFRC also undertook raids on undefended villages, committing atrocities at a scale not seen since their retreat from Freetown in January (see sect. V below). Freetown remains subject to a curfew, albeit at reduced hours, and ECOMOG continues to operate checkpoints to curb rebel infiltration.

Creation of a new Sierra Leone armed forces

21. As detailed in my second progress report on UNOMSIL of 16 October 1998 (S/1998/960), the Government's efforts to improve security involve the creation of a new armed forces of 5,000 troops, the restructuring of the Civil Defence Forces (CDF) and the reform of the Sierra Leone Police Force.

22. On 10 May, the first 562 troops completed three months of elementary training and, at the initiative of the Government of Nigeria, elementary cadet training has been provided for 81 future officers at the Nigerian Defence Academy. The efforts to create a new Sierra Leone army have received significant support from the Government of the United Kingdom, which is providing both training assistance and equipment.

Reconstitution of the Sierra Leone Police Force

23. Another aspect of these efforts concerns the rebuilding of the Sierra Leone Police Force, which suffered severely during the rebel invasion of Freetown, with some 200 officers being killed and many police stations destroyed. With donor assistance, the Government has made considerable progress in reconstituting a functioning police presence in the capital, but reversing the extent of the damage and the collapse of the police structure in most parts of the country will require substantial external assistance.

24. As noted in my earlier reports, the support provided by the Commonwealth Police Development Task Force and the UNOMSIL civilian police advisers had contributed significantly to the Sierra Leone Police Force reform efforts. In April 1999, two Commonwealth police advisers visited Sierra Leone with a view to the eventual resumption of their activities. I will present to the Security Council at an appropriate time in the near future my plans for a resumption of activity in Sierra Leone by United Nations civilian police advisers to render tangible assistance in cooperation with bilateral donors.

IV. DISARMAMENT AND DEMOBILIZATION

25. Since my report of 4 March 1999 (S/1999/237), the disarmament, demobilization and reintegration programme has been at a near standstill. A joint World Bank/British Department for International Development team found in March that some of the original programme assumptions and guiding principles were no longer applicable and that the programme would have to be re-adjusted to reflect the changed political environment and security situation. Based on their recommendations, the pilot phase of the programme, which was designed to accommodate existing ex-combatants as well as those who might surrender before the signing of a new peace agreement, has since resumed. However, any subsequent large-scale disarmament, demobilization and reintegration activity will require the implementation of a peace agreement and the stabilization of the security situation. This matter is still under consideration by the National Committee on Disarmament, Demobilization and Reintegration.

26. The approximately 1,300 ex-combatants, who had been originally part of the disarmament, demobilization and reintegration process at Lungi, continue to be housed under appalling conditions in Freetown. Despite a decision on 12 April by the National Committee on Disarmament, Demobilization and Reintegration to move them to Lungi, ECOMOG opposes their relocation because of continued insecurity in the area. As a result, plans are under way to improve their current living conditions. This matter is also under consideration by the National Committee.

27. Meanwhile, under the framework of its child protection network, UNICEF, in cooperation with ECOMOG and UNOMSIL, has been providing services to children released by RUF/AFRC as part of the overall peace negotiations. Child welfare agencies have also begun developing strategies and policies for child soldiers within the overall framework of the disarmament, demobilization and reintegration programme, while the United Nations Development Programme (UNDP) is reviewing its involvement in the reintegration phase of disarmament, demobilization and reintegration. Other specialized agencies of the United Nations system and humanitarian organizations have started conceptualizing and examining possible links to humanitarian assistance and rehabilitation programmes.

V. HUMAN RIGHTS

28. The reporting period has been marked by a resurgence of rebel atrocities against civilians, most of them reported from the provincial towns of Masiaka

and Port Loko. Based on eyewitness accounts, the human rights abuses by RUF/AFRC have included significant numbers of summary executions, mutilations, limb amputations, abductions and sexual abuse, as well as the large-scale destruction of property. Civilians in the affected areas are also suffering significant humanitarian deprivation.

29. Although there was a drop in the number of reported cases of gross human rights violations during March, escapees from rebel-held territories continued to provide disturbing accounts of abusive rebel behaviour against civilians, including physical and psychological torture and harassment. In Makeni and Koinadugu, escapees reported that RUF/AFRC had imposed punitive food taxes, restricted the movement of civilians and operated a harsh justice system. A UNOMSIL investigation team that visited Masiaka after the town's recapture by ECOMOG/CDF received testimonies of ill-treatment of civilians, some of whom were killed or mutilated after being accused of sympathizing with pro-government forces. Moreover, a large number of boys and male adolescents in the area had the letters "RUF" engraved across their chests with razor blades.

30. During a rebel attack on Port Loko on 7 May, over 20 civilians are believed to have been summarily executed by a group of RUF/AFRC at nearby Mangarma village. Survivors also reported summary executions in other areas around Port Loko, which were attributed in at least two villages to a well-orchestrated rebel strategy carried out at the orders of rebel commanders. In the Masiaka area, the UNOMSIL team observed a number of bodies and received credible reports that eight decapitated bodies and severed heads of civilians had been displayed on the roadside by retreating RUF/AFRC. In one incident in Masumana village between Masiaka and Mile 38, eye witnesses described the murder of several infants by RUF/AFRC.

31. RUF/AFRC forces have also continued their practice of limb amputations, and at least a dozen victims have suffered this form of torture over the past month alone. In Mangarma village, RUF/AFRC reportedly amputated the arms of two of their civilian captives and then instructed them to walk to Port Loko town to alert the Malian contingent of ECOMOG of the RUF/AFRC impending attack. One victim, a male teacher, was hospitalized in Freetown after RUF/AFRC cut off both his arms, as well as his ears and lips.

32. A large number of civilians are believed to have been abducted by RUF/AFRC over the past three months. The abductions have reportedly followed a consistent pattern where RUF/AFRC retreating from a town or village have forced men, women and children to go with them to serve as porters, potential recruits or sex slaves. Most of these abductees are still being held by RUF/AFRC. In Matteh village near Masiaka, the section chief estimated the number of abductees in the area to be in the thousands. Most of the people interviewed in the Port Loko and Masiaka areas said they had lost close family members through abduction. One man told UNOMSIL that 15 members of his immediate family had been abducted by RUF/AFRC.

33. My Special Representative in Sierra Leone has already expressed to RUF/AFRC the deep concerns of the United Nations over the reported abuses of human rights and violations of international humanitarian law. Following the fact-finding visit by UNOMSIL human rights officers to Masiaka, the Special Representative

shared the findings of the mission with Corporal Foday Sankoh, and presented the RUF delegates with an aide-mémoire on human rights issues. RUF has since pledged to set up an internal investigation to probe these allegations and has requested support from the international community.

34. After concerns had been raised by my Special Representative and others regarding human rights violations attributed to ECOMOG and CDF soldiers in the wake of the rebel incursion into Freetown in January (see S/1997/237), the ECOMOG High Command has taken concrete positive steps to address this issue. In April, the ECOMOG Force Commander initiated the formation of a Civil/Military Relations Committee which will, inter alia, investigate allegations of human rights violations against individual members of ECOMOG and CDF and recommend appropriate action to the higher authorities. Membership in the Committee includes representatives of the National Commission for Democracy and Human Rights, the Bar Association, the police, the media, civil society and the Government, with UNOMSIL participating in an observer capacity.

35. In spite of the goodwill exhibited by the ECOMOG High Command, there have been a few reports of ill-treatment of the civilian population by ECOMOG, CDF and Civil Defence Units (CDU). It is also reported that detainees from rebel-controlled areas face a high risk of intimidation and even execution as alleged rebel collaborators. For instance, information has been received of the execution of up to 30 escapees by CDF forces (Kapras) at Kagbantama, near the town of Gbinti in the Northern Province. In a separate report, a woman from Moyamba District in the south-west provided detailed information on an alleged attack on the town of Bradford by CDF forces (Kamajors) in which at least six civilians are believed to have lost their lives. In April, a reliable informant reported the severe beating and detention for two days of a man and a woman in central Freetown.

36. Various sources, including United Nations agencies, report that there is continued widespread recruitment of children by CDF in the Southern and Eastern Provinces, especially at Bo and Kenema. Agencies also report that a number of children who had been demobilized from CDF are known to have been subsequently re-recruited. This is an issue of great concern, especially considering the promise made last year by the Government of Sierra Leone to my Special Representative on Children and Armed Conflict to demobilize and discontinue the practice of recruiting children under 18 years of age into the armed forces of Sierra Leone. My Special Representative in Freetown continues to monitor the situation closely and raises the relevant issues with the Government. Government officials in the Southern Province have reportedly acted to halt underage recruitment by CDF elements.

37. On 27 April, President Kabbah announced the establishment under statute of a new Human Rights Commission for Sierra Leone, replacing the human rights role of the National Commission for Democracy and Human Rights. The body will have some form of adjudicatory authority and considerable implementation powers. UNOMSIL has informed the Government of its support for this initiative and has promised to provide, in collaboration with the Office of the United Nations High Commissioner for Human Rights, the necessary technical assistance.

38. In the context of its technical cooperation activities, UNOMSIL also continues to provide full secretariat support to the Sierra Leone Human Rights Committee, comprising the National Commission for Democracy and Human Rights, national non-governmental organizations and United Nations agencies. Membership also includes the Inter-Religious Council of Sierra Leone and Human Rights Watch. The Committee remains a valuable forum for the exchange of information and for strategy development. In this context, UNOMSIL is assisting the non-governmental organization community to develop positions on the role to be played and issues of human rights within the peace process. Renewed efforts are being made to identify funding whereby the Committee can develop its own institutional identity.

39. The United Nations High Commissioner for Human Rights, Mary Robinson, has accepted the invitation of the Government of Sierra Leone to visit the country towards the end of June, accompanied by a panel of prominent human rights personalities. The purpose of the visit will be to support the peace process, to encourage future programmes for the promotion and protection of human rights in the country, and to draw attention to the plight of children, women and civilians bearing the brunt of the excesses in Sierra Leone. With the coordination of UNOMSIL, which is hosting the visit, a range of civil society actors in Sierra Leone are already exploring ways to maximize the impact of the visit of Mrs. Robinson with regard to both the short- and long-term human rights needs of the country.

VI. HUMANITARIAN SITUATION

40. Since my previous report, an already desperate humanitarian situation has worsened. Rebel gains have increased the number of needy people while at the same time limiting aid workers' access to affected areas. At present, nearly half, or 2.6 million, of the Sierra Leonean population in the Northern and Eastern Provinces is effectively out of the reach of humanitarian agencies. Another 480,000 have become refugees. While the number of internally displaced persons in accessible areas remains relatively constant, at about 370,000, there are many more civilians countrywide who have been directly affected by the war in and around their own homes and villages. Many of these have been forced to live under rebel control and denied their right to sufficient food, shelter and health care. In addition, it is estimated that well over one million civilians countrywide still require some form of humanitarian assistance.

41. Even in government-controlled areas, despite some successes, obtaining access to civilians remains a challenge. For instance, it has been possible to access areas such as Pujehun, Bonthe and Bo districts in the Southern Province as well as parts of Kenema district in the Eastern Province. Additionally, owing to recent ECOMOG advances, agencies have assessed needs in a few towns in the north, such as Yele, by road from Bo. However, it remains impossible to move humanitarian goods to the east and south by road owing to RUF blockades of key junctions on the Freetown-Bo highway. While some aid can reach the provincial capitals of Bo and Kenema by air, the inability to transport food by road has led to a depletion of stocks in these areas. Additionally, the security situation in the immediate environs of Kenema remains unclear, and has prevented humanitarian intervention in many chiefdoms.

42. Given these difficulties, urgent measures are now being taken in cooperation with the Government to explore other ways of transporting food aid. At present, food agencies have leased a ship to transfer food to Nitti port, where it can then be driven by road to Bo. If successful, this route will allow for the supply of food to war-affected people. The World Food Programme has also requested to send food along the Freetown-Bo highway, which was recently re-opened by commercial transporters, but had not received clearance from the Government at the time of the present report. In the meantime, the remaining limited amount of food in these areas has been prioritized for therapeutic and supplementary feeding centres as well as camps for internally displaced persons.

43. Meanwhile, in government-controlled areas, including Freetown and parts of the southern and eastern areas, the humanitarian community has mobilized to provide some form of support to about 370,000 individuals. At present, more than 120,000 registered internally displaced persons living in camps are receiving a comprehensive package of assistance, including food, shelter and health services. However, with more than 80 per cent of the buildings destroyed in some parts of Freetown, many thousands more are squatting in other areas or staying with relatives. A war-ravaged economy, characterized by low incomes and high costs for food and other basic items, has compounded their suffering.

44. To address chronic food insecurity, emergency seeds and tools have been distributed to farmers who lost their property to armed groups in Port Loko, Kenema and Bo districts as well as the Western Area. The United Nations continues to support the Government in its efforts to buy imported rice and to access food on a bilateral basis from donor Governments.

45. Basic support for clinics and hospitals has continued to come from UNICEF, the World Health Organization (WHO) and the medical non-governmental organizations. Some 25 health centres and eight mobile clinics are now functioning in Freetown, with 25 operating in southern Bo, Pujehun and Bonthe districts. Large-scale expanded programme of immunization campaigns have successfully headed off a measles epidemic around Freetown, Kenema and Bonthe, with more than 65,000 children vaccinated in those areas.

46. As of mid-May, UNICEF had registered a total of 3,384 children who had been missing since January 1999 from the Freetown area. More than 500 of these have been traced and reunified with their families. However, abductions of large numbers of children persist. The Child Protection Network continues to trace such incidents and to provide programmes to help unaccompanied children, demobilized child soldiers and other children with special needs.

47. Finally, water trucking, well chlorination and waste management activities in most camps for internally displaced persons have reduced the level of waterborne diseases such as cholera and diarrhoea. Plastic sheeting, nails, wood and kitchen sets have been provided to some urban households and to displaced persons in camps in the west, east and south. The needs in this area, however are considerable and require continued intervention as well as resources.

48. While the humanitarian situation remains dire, the recent ceasefire and initiation of dialogue between the parties to the conflict has been welcomed by

the humanitarian community as the best possible means for resolution of the long-standing crisis. The provision in the recent ceasefire agreement for safe and unhindered access for humanitarian organizations to all people in need is a significant step towards ensuring the countrywide delivery of assistance. However, turning the combatants' humanitarian commitment into a reality requires careful planning, good faith and confidence-building. As noted earlier in the present report, my Special Representative has provided the parties to the conflict with a proposal on humanitarian access, detailing, inter alia, the obligations of the parties under international humanitarian law to provide the enabling environment for humanitarian intervention. This proposal, prepared by the United Nations country team under the guidance of the United Nations Humanitarian Coordinator, is seen as a first step towards building with the parties to the conflict a dialogue on access. In order to further the humanitarian imperative and to ensure the smooth delivery of life-saving humanitarian assistance, it is necessary that:

(a) The issue of humanitarian access must be on an equal footing with, and not contingent upon, the military and political elements of the peace process. Moreover, as the combatants' observance of the right of civilians in need to humanitarian assistance is based upon international law, the concept is non-negotiable and can only be discussed in terms of mechanisms for access;

(b) Given the fragile state of the peace process and the steadily degrading humanitarian situation, it is imperative that the humanitarian community has immediate and independent access to the parties to the conflict, in order to establish working modalities for accessing all Sierra Leoneans in need.

VII. FUTURE ROLE OF THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

49. UNOMSIL currently consists of 24 military observers, including two medical personnel, as well as 29 international and 24 national staff members. This includes 10 military observers recently deployed to assist in the expanded tasks of the Mission. The planned deployment of a further 16 observers during the month of June, together with the necessary support personnel, vehicles, communications and other essential equipment, will restore the mission's military capacity to the level it had attained last December. The security situation permitting, I would then proceed to deploy additional observers up to the limit of 70, with an additional 15 medical personnel, as authorized by the Security Council in its resolution 1181 (1998) of 13 July 1998. In view of the security considerations, the need to improve medical and casualty evacuation capacity and the enhanced monitoring and observation role being played by UNOMSIL, an additional helicopter will be required.

50. UNOMSIL's intensive preparations for the intra-RUF and RUF-Government talks have required my Special Representative and his immediate staff to travel to Monrovia and Lomé, in addition to consulting closely with the Government in Freetown. In view of the likelihood that the peace talks and related activity will require a high level of United Nations involvement, I intend to increase the civilian staff in the office of my Special Representative by two political

officers. The human rights section also needs to be restored to its previous staffing level of five persons in view of the significant human rights monitoring and technical cooperation requirements in Sierra Leone. In this connection, there is a need for forensic experts, and I would ask donors to consider making available their services.

51. UNOMSIL's military component, thus restored to its former strength, will continue to monitor the ceasefire within the limits of its resources. It will also continue to establish, maintain and improve contacts with local RUF commanders with a view to establishing joint military commissions. The functions of these commissions will include identifying and locating forces on the ground; obtaining written assurances from rebel commanders of their commitment to the ceasefire and guarantees of security for United Nations personnel; and generally to build confidence, facilitate contacts and resolve disputes. Provision would also be made for deploying teams of five or six members to Lungi, Hastings, Port Loko and Bo, depending on the security situation. Observers outside Freetown would be co-deployed with ECOMOG to ensure their security.

52. I have given much thought to activities that might be carried out by an expanded UNOMSIL presence in the event of a peace agreement. To that end, I dispatched a military assessment and planning team to Sierra Leone at the end of May to develop a revised concept of operations for a possible enlargement of the Mission.

53. My detailed recommendations to the Council on the size, mandate and configuration of an eventual expanded UNOMSIL will depend on the provisions of any peace agreement that the Government and RUF may sign in Lomé, and on the considerations on the ground, notably security.

54. One important consideration in redefining UNOMSIL's tasks would be the future strength, activities and state of deployment of ECOMOG. While these are not yet known, I would anticipate that ECOMOG would remain in Sierra Leone as a stabilizing influence, with a well-defined mandate that would include ensuring the security of vital areas of the country.

55. At this point, however, I envisage the need for UNOMSIL itself to be prepared to ensure the security of United Nations personnel if it is to deploy effectively to assist in the implementation of an eventual peace agreement. To this end, bearing in mind the likely security situation and the confused and unpredictable nature of the conflict, there might well prove to be a need for the deployment of a sizeable number of infantry and additional observers, along with the necessary equipment and military logistical support. Subject to Council authorization, these troops would be deployed in phases to accomplish a range of possible tasks.

56. These can be more precisely defined only in the light of an eventual peace agreement, but are likely to include the following:

(a) Monitoring and supervising the ceasefire;

(b) Supervising, monitoring and assisting in the encampment, disarmament and demobilization of former combatants;

(c) Providing security to United Nations personnel, including military observers;

(d) Providing assistance to humanitarian efforts;

(e) Providing planning and logistical support for an eventual election.

57. I will revert to the Council with detailed proposals for a revised mandate and concept of operations for its consideration as soon as a peace agreement has been signed. However, in addition to the military requirements outlined above, I would also envisage a significant expansion of the civilian personnel, including those engaged in political, human rights and logistical support functions. Moreover, any enhanced role that UNOMSIL might play, whatever the final shape of the peace agreement, will benefit greatly from the acquisition of a nationwide broadcasting capacity. Experience has shown the clear advantages to a United Nations peacekeeping mission of access to its own radio facility. I would therefore appeal to donors to consider making such equipment available, and would envisage a modest increase in UNOMSIL's public information staff accordingly.

VIII. FINANCIAL ASPECTS

58. As indicated in my previous report (S/1999/237), the General Assembly, by its resolution 53/29 of 20 November 1998, appropriated an amount of $22 million for the establishment and operation of UNOMSIL for the period ending 30 June 1999. With regard to the subsequent 12-month period beginning on 1 July 1999, my budget submitted to the Assembly in February 1999 (A/53/454/Add.1) amounts to $16.4 million and provides for the maintenance of the Mission at the strength authorized by the Security Council in its resolution 1181 (1998). I intend to seek authorization from the Advisory Committee on Administrative and Budgetary Questions to use the budgeted resources once the Council takes action on my recommendation contained in paragraph 71 below as to the extension of the Observer Mission's mandate.

59. Therefore, should the Council decide to extend the mandate of UNOMSIL, the cost of restoring the Mission's military capacity to the level it had attained in December 1998 as well as its subsequent maintenance at the restored strength will be within the resources already provided by the General Assembly and my budgetary projections for the 1999/2000 financial period.

60. With regard to the estimated costs associated with the expansion of UNOMSIL, I shall submit my proposals to the General Assembly at a later date, when my detailed proposals for a revised mandate and concept of operations of the Mission will have been finalized and submitted to the Security Council for its consideration.

61. As at 31 May 1999, unpaid assessed contributions to the UNOMSIL special account amounted to $4.7 million. The total outstanding assessed contributions

for all peacekeeping operations at that date amounted to $1.6 billion. Contributions to the Trust Fund to Support United Nations Peacekeeping-related Efforts amounted to $2.8 million, with expenditures authorized in the amount of $1.1 million.

IX. OBSERVATIONS AND RECOMMENDATIONS

62. Despite the continued unpredictability of the conflict situation in Sierra Leone, I am encouraged by the significant progress that has been made in the pursuit of dialogue between the Government of Sierra Leone and RUF. This is the first time in three years that a political settlement might be within reach to break the cycle of violence that has held the country in its grip since 1991. I welcome the Government's readiness to open talks with RUF, and call upon the latter to seize this opportunity to demonstrate its willingness to show flexibility in the interest of peace in Sierra Leone. In particular, as I stated publicly at the time, I welcome the signing on 18 May of the ceasefire agreement, which has helped to create an atmosphere conducive to the success of the peace talks. I reiterate my call to RUF/AFRC, CDF, the Government and ECOMOG to adhere strictly to its terms. I wish to express my appreciation to all the Governments concerned, in particular the Government of Togo and President Gnassingbe Eyadema, the current Chairman of ECOWAS, for hosting the talks, as well as the national and international organizations which have facilitated the dialogue process.

63. Nevertheless, the killings, mutilations and other human rights abuses perpetrated by rebel forces against the civilian population in Sierra Leone as well as the widespread destruction of property wreaked on a country which already ranks among the poorest in the world are deeply deplorable. Any armed opposition that expects to gain legitimacy and recognition in the eyes of the world must be prepared to renounce and atone for inflicting such suffering on non-combatants. I call upon the RUF leadership to prove its sincere commitment to peace and ensure the compliance of all its fighters with international human rights standards and humanitarian law, including the release of all abductees. In this context, I note the announcement made by the RUF leadership of its intention to investigate abuses committed by its troops and to invite international observers to take part in this process, and call upon them to demonstrate without delay their will and capacity to do so.

64. Concern about the extent of human rights violations in Sierra Leone has received increasing international attention. I welcome the intention of the United Nations High Commissioner for Human Rights, Mary Robinson, to visit Sierra Leone in late June to examine the situation on the ground and to obtain tangible commitments regarding the prevention of abuses and accountability of perpetrators. I am also gratified by the proposal by President Kabbah to establish a national Human Rights Commission in Sierra Leone as well as the creation of a truth and reconciliation mechanism as part of a peace agreement. These are important steps in acknowledging the pain of the victims and restoring national dignity and faith as part of efforts to achieve lasting peace, and these measures should receive all possible support from the donor community.

65. In this context, I also wish to commend the initiative of the ECOMOG Force Commander, Major-General Felix Mujakperuo, in establishing a Civil-Military Relations Committee to investigate allegations of human rights violations by pro-Government forces. These investigations are being undertaken with the full participation of representatives of all sectors of Sierra Leonean society, with the United Nations in an international observer role.

66. In line with the dual-track approach, ECOMOG deserves praise for its continued efforts in support of the Government and people of Sierra Leone, as do the Governments of Nigeria, Guinea, Ghana and Mali for their steadfast commitment towards restoring security and stability in Sierra Leone, with the assistance of donor countries, including Canada, the Netherlands, the United Kingdom and the United States. I call upon the international community to continue supporting ECOMOG logistically and also to assist the process of the rebuilding of the Sierra Leone armed forces.

67. There is also an urgent need to resume the process of disarmament, demobilization and reintegration of the current ex-combatants and to prepare the groundwork for an expansion of such activities as part of a peace agreement. I hope that the Government of Sierra Leone will continue to provide the necessary impetus to the national disarmament, demobilization and reintegration programme and ensure its viability as an incentive for all rebel fighters willing to lay down their arms at this critical juncture in the peace process. It is also important for the Government to work closely with donors on the development of a revised disarmament, demobilization and reintegration plan, with a well-defined operational plan and clear funding arrangements, to be put into effect in the context of a peace agreement.

68. There is an urgent need to consider how RUF/AFRC might be transformed into a legitimate political party in parallel with the process of reintegrating former combatants into society. I would also call for an end to all recruitment of children as soldiers, and would hope that any eventual peace agreement would embody commitments on the part of all parties to demobilize their child participants immediately. Disarmament, demobilization and reintegration programmes should consider giving priority to children under 18.

69. The persistent reports of arms supplies reaching the rebel forces are disturbing. Any support for RUF/AFRC by outside parties serves to perpetuate the conflict in Sierra Leone, whether it be motivated by economic interests or other strategic aims. I reiterate my call to all States to comply strictly with the embargo on the sale or supply of arms and related matériel to non-governmental forces in Sierra Leone imposed by the Security Council in its resolution 1171 (1998).

70. The dire humanitarian situation underscores the need to establish mechanisms to ensure unhindered humanitarian access to all parts of the country and to promote effective coordination and cooperation between humanitarian agencies, the Government and RUF. There is a critical need to facilitate the delivery of humanitarian aid to people in need, which requires the protection of and respect for humanitarian relief workers, goods and properties. Negotiation for humanitarian access should be guided by the code of conduct for humanitarian agencies operating in Sierra Leone. While recognizing the considerable

constraints of the present situation and from lessons learned negotiating humanitarian access in the Sierra Leone context, the humanitarian community is encouraged by the present political climate, and calls upon the international community for its continued support for humanitarian action. Specifically, the international community is urged to continue its support for dialogue with the aim of achieving unhindered humanitarian access to all areas of the country and, once granted, for their continued support of humanitarian assistance.

71. The recent political developments, including the signing of a ceasefire agreement and the start of the dialogue, have significant implications for the work of UNOMSIL. It is critical that the Mission, under the leadership of my Special Representative, should remain in a position to render effective assistance to the peace process in Sierra Leone. I therefore recommend the extension of UNOMSIL's mandate for a further period of six months, until 13 December 1999, along the lines described above. However, I would hope well within that time period to be in a position to revert to the Council with recommendations for an expanded mandate in implementation of a peace agreement.

72. I take this opportunity to express appreciation to my Special Representative, Francis G. Okelo, the Chief Military Observer, Brigadier General Subhash C. Joshi, and the staff and military observers of UNOMSIL for their tireless efforts and dedication to advance the peace process in Sierra Leone.

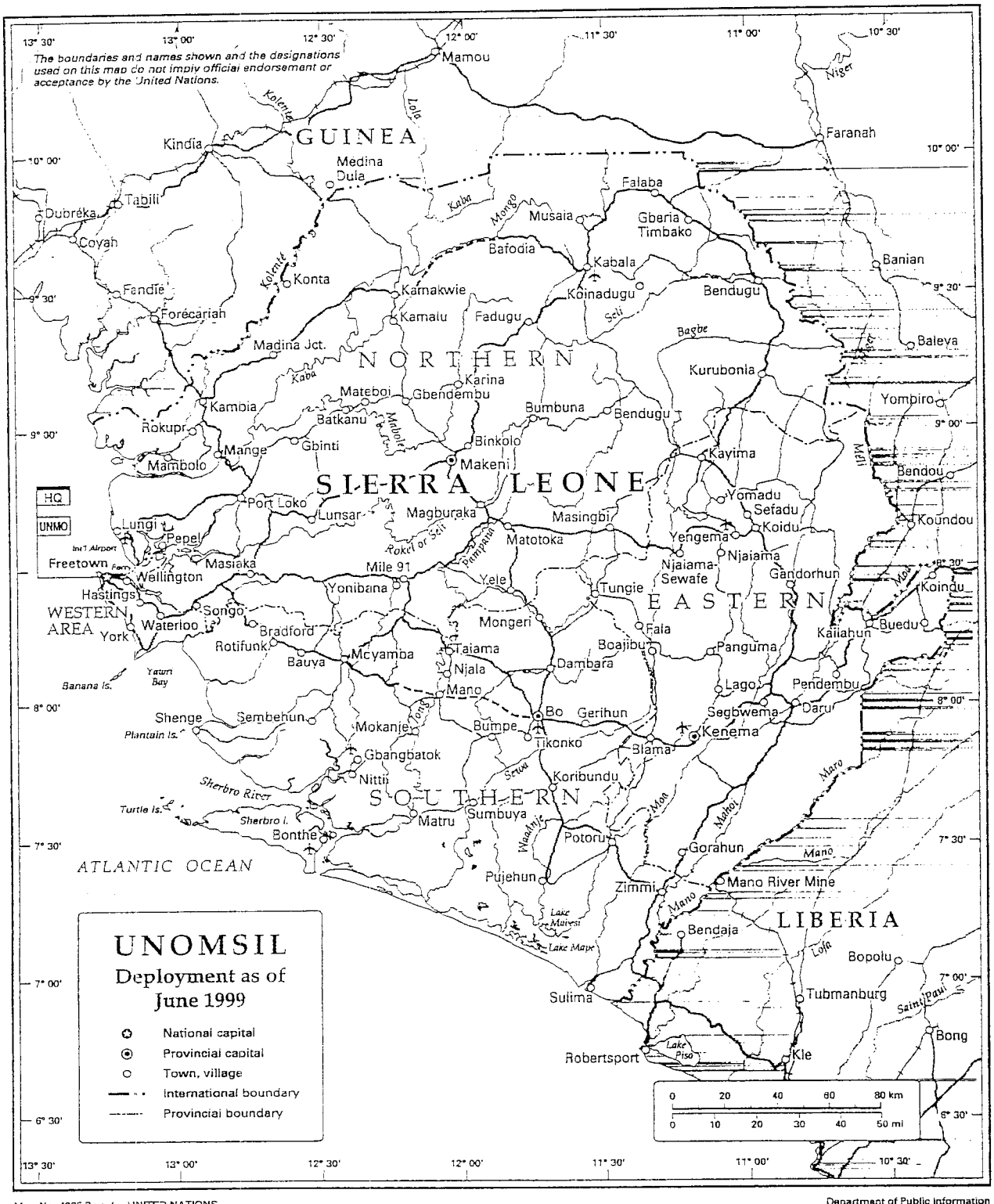
Annex

United Nations Observer Mission in Sierra Leone: contributions as at 8 June 1999

	Military observers	Others[a]	Total
China	2		2
Egypt	2		2
India	2	2	4
Kenya	2		2
Kyrgyzstan	1		1
New Zealand	2		2
Pakistan	2		2
Russian Federation	3		3
United Kingdom of Great Britain and Northern Ireland	4		4
Zambia	2		2
Total	22[b]	2	24

[a] Medical team.

[b] Including the Chief Military Observer.



Map No. 4065 Rev. 4 UNITED NATIONS
June 1999

Department of Public Information
Cartographic Section

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1999/836
30 July 1999

ORIGINAL: ENGLISH

SEVENTH REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

I. INTRODUCTION

1. In my sixth report to the Security Council on the United Nations Observer Mission in Sierra Leone (UNOMSIL) dated 4 June 1999, I indicated my intention to revert to the Council with recommendations on an expanded UNOMSIL presence in Sierra Leone with a revised mandate and concept of operations in the event of a successful outcome to the negotiations between the Government of Sierra Leone and rebel representatives in Lomé (S/1999/645, paras. 52-57). By paragraph 4 of its resolution 1245 (1999) of 11 June 1999, the Security Council took note of my intention and underlined that security conditions should be considered in any further eventual deployment.

2. On 7 July 1999, representatives of the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL) signed a peace agreement in Lomé after several weeks of negotiations (see S/1999/777). The present report sets out the main provisions of the agreement and contains recommendations for the immediate measures that should be taken to strengthen the Mission. Such measures would enable the United Nations to provide initial support to the process of implementation. Following discussions with all interested parties, I intend to submit additional recommendations to the Security Council on the overall activities of the United Nations, including the mandate and structure of a United Nations peacekeeping presence in the country.

II. STATUS OF THE PEACE PROCESS

3. As described in my report of 4 June 1999, peace negotiations between the Government of Sierra Leone and RUF began on 25 May 1999 in Lomé, Togo, hosted and mediated by President Gnassingbe Eyadema of Togo in his capacity as Chairman of the Economic Community of West African States (ECOWAS). The proceedings were supported by a Facilitation Committee consisting of the United Nations, the Organization of African Unity (OAU), ECOWAS and the Commonwealth of Nations under the chairmanship of the Minister for Foreign Affairs of Togo, Joseph Koffigoh, assisted by my Special Representative, Francis Okelo. The negotiations benefited from the active involvement and support of a number of international and national observers, including representatives of the

1207

Governments of Benin, Burkina Faso, Côte d'Ivoire, Ghana, Guinea, Liberia, Libyan Arab Jamahiriya, Mali, Nigeria, the United Kingdom of Great Britain and Northern Ireland, the United States of America, ECOWAS and OAU, as well as members of the humanitarian community, including the United Nations Humanitarian Coordinator in Sierra Leone. Representatives of Sierra Leonean civil society also provided support.

4. The Lomé Peace Agreement was signed by President Alhaji Ahmad Tejan Kabbah on behalf of the Government of Sierra Leone and by Corporal Foday Sankoh on behalf of the Revolutionary United Front of Sierra Leone, as well as by President Eyadema, President Compaore of Burkina Faso, President Taylor of Liberia, President Obasanjo of Nigeria and high-level representatives of Ghana, Côte d'Ivoire, ECOWAS, OAU, the Commonwealth of Nations and the United Nations.

5. My visit to Freetown on 8 July 1999 took place immediately after the signing of the agreement and allowed me to convey the hopes of the United Nations for its effective implementation and the return of lasting peace to Sierra Leone. During my recent travels in Africa, as well as during the OAU summit held at Algiers from 12 to 14 July 1999, I had the opportunity to hold extensive discussions with regional leaders on the peace process and on the ways and means to assist the people of Sierra Leone in achieving a lasting solution to the conflict in their country. I informed the Security Council of these discussions at its informal consultations of 27 July 1999.

Main provisions of the Lomé Peace Agreement

6. The agreement provides for the permanent cessation of hostilities, to be monitored at provincial and district levels through Ceasefire Monitoring Committees and, at the national level, through a Joint Monitoring Committee. Governance provisions include, inter alia, the transformation of RUF/SL into a political party and its access to public office; the creation of a broad-based Government of National Unity through cabinet appointments for representatives of RUF/SL; the creation of a Commission for the Consolidation of Peace to supervise the implementation of the peace agreement; the establishment of a Commission for the Management of Strategic Resources, National Reconstruction and Development, to be chaired personally by the leader of RUF/SL, Corporal Foday Sankoh, with the status of Vice-President of Sierra Leone; and the establishment of a Council of Elders and Religious Leaders to mediate any disputes arising from differences in the interpretation of the agreement.

7. The agreement provides for the pardon of Corporal Foday Sankoh and a complete amnesty for any crimes committed by members of the fighting forces during the conflict from March 1991 up until the date of the signing of the agreement; a review of the present Constitution of Sierra Leone; and the holding of elections in line with the Constitution, to be directed by a National Electoral Commission. I instructed my Special Representative to sign the agreement with the explicit proviso that the United Nations holds the understanding that the amnesty and pardon in article IX of the agreement shall not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law.

8. Regarding post-conflict military and security issues, the agreement stipulates the revision of the mandate of the ECOWAS Monitoring Group (ECOMOG); a request for a new mandate for UNOMSIL; the encampment, disarmament, demobilization and reintegration of combatants; the restructuring and training of a new Sierra Leone armed forces; and the withdrawal of mercenaries.

9. Concerning humanitarian, human rights and socio-economic issues, the agreement provides for the release of all conflict-related prisoners and abductees; the resettlement of refugees and displaced persons; the guarantee and promotion of human rights, including the establishment of a Human Rights Commission and a Truth and Reconciliation Commission; the safe and unhindered access by humanitarian organizations to all parts of the country; the security of humanitarian goods and personnel; and post-war rehabilitation and assistance to victims of war.

10. Periodic reviews of the implementation of the agreement will be undertaken by a Joint Implementation Committee, consisting of members of the Commission for the Consolidation of Peace and the ECOWAS Committee of Seven on Sierra Leone, as well as the moral guarantors of the agreement, namely the Government of the Togolese Republic, the United Nations, OAU and the Commonwealth of Nations. The Joint Implementation Committee will be chaired by ECOWAS and meet at least once every three months. The first meeting of the Committee is planned to be held on 9 August 1999 in Freetown, on the occasion of the Ministerial Meeting of the ECOWAS Committee of Seven on Sierra Leone.

11. In accordance with the agreement, the parties have requested ECOWAS to revise the mandate of ECOMOG to cover four areas: peacekeeping; security of the State of Sierra Leone; protection of UNOMSIL; and protection of disarmament, demobilization and reintegration personnel. The Government is to request ECOWAS to provide troops from at least two additional contributing countries. The Security Council is to be requested to provide assistance in support of ECOMOG.

12. At the same time, a timetable is to be drawn up for the phased withdrawal of ECOMOG, to be closely linked to the creation and deployment of restructured national armed forces. However, the agreement also makes reference to a "neutral peacekeeping force comprising UNOMSIL and ECOMOG" (article XVI). The parties also request the Security Council to amend the mandate of UNOMSIL to enable it to undertake the various provisions outlined in the agreement.

Disarmament, demobilization and reintegration

13. Article XVI of the agreement calls for the encampment, disarmament, demobilization and reintegration process to start within six weeks from 7 July 1999. After the January 1999 invasion of Freetown, the World Bank and the Department for International Development of the United Kingdom recommended that the original disarmament, demobilization and reintegration programme be maintained only to deal with current ex-combatants, a second phase to be contingent on a peace agreement and the subsequent formulation of a revised disarmament, demobilization and reintegration plan. The first phase of the programme was completed on 14 July with the discharge of 1,408 ex-soldiers housed in Freetown.

14. Prior to the signing of the peace agreement, representatives of the Department for International Development and the World Bank met with the delegations in Lomé to brief them on the basic assumptions underlying the revised disarmament, demobilization and reintegration programme, which is to assume responsibility for the needs of an estimated 33,000 to 40,000 combatants. The United Kingdom has pledged $10 million and the World Bank a further $9.1 million towards an estimated total requirement of $33 to $45 million for disarmament, demobilization and reintegration activities.

15. In addition, the World Bank has opened a multi-donor trust fund for disarmament, demobilization and reintegration and has called on donors to contribute. A proposal under review by the National Committee for Disarmament, Demobilization and Reintegration envisages the establishment of about 10 demobilization sites to cover the main areas where the respective fighting forces are currently deployed.

16. Obviously, an effective programme will play a key role in the success of the Sierra Leonean peace process, given the vast proliferation of small arms, the fractured nature of the fighting forces consisting of the ex-Sierra Leone Army, the Civilian Defence Forces (CDF) and RUF/SL, the extent of foreign intervention and the supply of weapons. The agreement stipulates that the present Sierra Leone Army be restricted to their barracks and their arms and ammunition placed under constant surveillance by the neutral peacekeeping force (referred to in para. 12 above) during the process of disarmament and demobilization, and that UNOMSIL shall be present at all disarmament and demobilization locations to monitor the process and provide security guarantees to all ex-combatants.

Human rights

17. The Lomé Peace Agreement contains three articles addressing commitments in the area of human rights, including the full protection and promotion of basic civil and political liberties recognized by the Sierra Leone legal system and contained in the declarations and principles of human rights adopted by the United Nations and OAU (article XXIV). The other articles provide, respectively, for the creation of an autonomous quasi-judicial national Human Rights Commission and the establishment of a Truth and Reconciliation Commission not later than 90 days from 7 July 1999.

18. While the Human Rights Commission is designed to strengthen the existing machinery for addressing grievances of the people of Sierra Leone with respect to human rights violations, the Truth and Reconciliation Commission will deal specifically with the question of human rights violations committed since the beginning of the armed conflict in 1991. It is intended to provide a forum for both victims and perpetrators to tell their stories and facilitate genuine healing and reconciliation. The Commission will also recommend measures for the rehabilitation of victims of human rights violations.

19. The Truth and Reconciliation Commission will be composed of a cross-section of the society of Sierra Leone, with the participation and technical support of the international community, and is expected to submit its report to the Government within 12 months after the commencement of its work.

20. The United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, visited Sierra Leone on 24 and 25 June 1999, accompanied by a high-level delegation. In a statement dated 25 June 1999, the High Commissioner said that Sierra Leone required urgent international attention if it were to overcome its recent history of horrendous human rights abuses. In the same statement, she said that among the measures that could be taken in the short term were international assistance to document the human rights violations as a step towards accountability; increasing the number of human rights monitors in the country, and working with the Government and Sierra Leonean civil society to create a "human rights infrastructure" in the country. The High Commissioner, together with the Government of Sierra Leone, the National Commission for Democracy and Human Rights, representatives of civil society and my Special Representative, adopted the Human Rights Manifesto, which contains and reaffirms wide ranging commitments for immediate and sustained promotion and protection of human rights, such as the non-recruitment in the armed forces of children under the age of 18 years. The manifesto commits the United Nations to provide appropriate support to Sierra Leonean human rights institutions, as well as for other elements of technical assistance.

Protection of children

21. The agreement also refers to the vulnerability of the children of Sierra Leone, who have suffered disproportionately and on an unprecedented scale throughout the war and who require special attention to ensure their protection and welfare during the consolidation of peace. The agreement acknowledges the children's entitlement to special care and protection of their inherent right to life, survival and development.

III. POLITICAL, MILITARY AND SECURITY SITUATION

22. The Government has taken steps to ensure the acceptance of the agreement in Sierra Leone, including a personal address by President Kabbah to Parliament when the agreement was submitted for ratification, and the development of a sensitization campaign by the Information Ministry based on the translation of the agreement into several local languages. Internationally, President Kabbah took the initiative to travel to Conakry and brief President Lansana Conte personally about the events in Lomé and the contents of the agreement. He continued to mobilize support at the OAU summit in Algiers from 12 to 14 July, which was attended also by Corporal Foday Sankoh.

23. The Parliament of Sierra Leone unanimously ratified the peace agreement on 15 July. On 20 and 21 July, it adopted legislation necessary for the implementation of the agreement. This legislation paved the way for the transformation of RUF/SL into a political party, for the participation of senior members of RUF/SL to hold public office and for the establishment of the Commission for the Management of Strategic Resources, National Reconstruction and Development, to be chaired by Mr. Sankoh. Mr. Sankoh, for his part, indicated that he was ready to come to Freetown, pending arrangements for accommodation and security.

24. The military and security situation in Sierra Leone has improved significantly since the ceasefire agreement took effect on 24 May and has remained generally calm since the signing of the agreement. While some, mostly minor, ceasefire violations have occurred, including reports of rebel raids on villages, the number of incidents of open hostilities has dropped considerably. ECOMOG, CDF and RUF and former Armed Forces Revolutionary Council (AFRC) forces have generally remained within their areas of control.

25. RUF/SL and AFRC continue to dominate much of the Northern and Eastern Provinces. In the western parts of the country, their forces are concentrated in the areas west of the main highway from Freetown between Occra Hills, Port Loko and Kambia. The road to Guinea via Kambia is also controlled by RUF/SL and AFRC personnel, but they have assured UNOMSIL that an unhindered flow of traffic will be allowed.

26. A few military confrontations between CDF and RUF/SL-AFRC groups occurred in the northern, central and eastern parts of the country prior to the signing of the agreement, but there have been no reports of major combat since 7 July. However, both sides have continued to conduct troop movements throughout their respective areas of control. ECOMOG remains firmly in control of the Freetown peninsula and of a security cordon east of the capital, including the main highway providing access to Lungi and to Bo/Kenema, as well as Bumbuna and Kabala in the Northern Province.

27. ECOMOG continues to experience shortages of essential goods and supplies. The immediate requirements of ECOMOG include office equipment, various vehicles (trucks, ambulances, tankers), generators, communications equipment, helicopters, uniforms, medical supplies and other vital items. The Secretary-General of ECOWAS has requested me to impress on the Security Council and the international community the need to provide logistical and other necessary support for the deployment of additional ECOMOG troops, as envisaged in the agreement. The details of such support are still to be specified.

28. UNOMSIL has developed a system of reporting allegations of ceasefire violations and has shared all relevant information with the parties. To the extent possible, military observers have been dispatched to verify allegations in the areas accessible to them. UNOMSIL military observers have also been active in facilitating meetings between the parties on the ground in the accessible areas and have successfully mediated a number of disputes.

IV. HUMANITARIAN ASPECTS

29. In the wake of the agreement, unprecedented cooperation between RUF/SL, the Government and the aid community has put the delivery of humanitarian assistance throughout the country within grasp for the first time in years. Despite initial delays, humanitarian assessment missions have been completed or are under way in the rebel controlled areas of Makeni, Kailahun, Buedu, Rokupr and Lunsar. Civilian needs have also been assessed in recently accessible Government-controlled areas, such as Yele, Port Loko, Daru, Kabala, Songo and the Rogberi-Masiaka corridor. These assessments have revealed acute shortages of basic, life-sustaining items such as food and medicine and subsequent

malnutrition, as well as outbreaks of dysentery, cholera, measles and meningitis.

30. As humanitarian access throughout the country increases, the caseload of those needing assistance - currently limited to 500,000 - is expected to triple. Needs have also increased in Government-controlled areas. Difficult overland access continues to cause delays in food shipments to areas such as Kenema and Bo. Combined with the onset of the rainy season, cases of severely malnourished infants nearly doubled in the last month. Obviously, as humanitarian agencies gain access to larger areas of the country, their need for adequate staffing and logistic support will increase significantly.

31. As the first tangible sign of the international community's commitment to the agreement, the rapid country-wide delivery of humanitarian assistance is a key aspect of the consolidation of peace. At present, the 1999 Consolidated Inter-Agency Appeal, which requested $27.9 million for humanitarian programmes in Sierra Leone, is only 26 per cent funded. It is hoped that donors will contribute generously to meet humanitarian needs in Sierra Leone.

32. The peace agreement may also bring an end to the circumstances that forced some 470,000 Sierra Leoneans to live in exile. In the coming months, the Office of the United Nations High Commissioner for Refugees (UNHCR) will develop a strategy for the repatriation of refugees and increase its capacity to monitor possible spontaneous returns, as well as the security, socio-economic and humanitarian conditions in the areas of return. These activities will be carried out in close coordination with other relief agencies as well as with the parties to the peace agreement.

V. FUTURE ROLE OF THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

33. The signing of the agreement requires UNOMSIL to perform significantly expanded as well as new tasks, in close coordination with ECOMOG, whose presence in Sierra Leone remains, in this critical period, indispensable. It is obvious that, in addition to the major disarmament and demobilization effort, the implementation of the Lomé Peace Agreement will require the presence of a substantial number of peacekeepers throughout the country, together with the deployment of additional United Nations military observers, in mutually supporting roles.

34. In accordance with the peace agreement, the mandate of ECOMOG will need to be revised by ECOWAS, in consultation with the United Nations and, as appropriate, with the parties. Among the issues that require detailed discussion are the division of labour between the United Nations and ECOWAS, the need to provide a credible level of security throughout the country (including the rebel-controlled areas), the appropriate size and composition of the required neutral peacekeeping force, the deployment of units to the various regions of the country and arrangements for logistical support.

35. Once these consultations, which are ongoing, have produced an understanding of the respective tasks, strength and mandates of ECOMOG and the United Nations,

1213

I will be in a position to make comprehensive proposals to the Security Council concerning a new mandate and concept of operations for UNOMSIL. In the interim, however, it will be necessary to act expeditiously in order to offer maximum support to the parties and ECOMOG, and maintain momentum in the peace process. I believe that the most immediate and practical way of providing such support would be the deployment to Sierra Leone of additional United Nations military observers, along with the necessary equipment and administrative support. The number of UNOMSIL military observers required would increase to 210, based on an assessment of the tasks described below. It should be clearly understood, however, that the presence and operations of these observers alone would not be sufficient to ensure the implementation of the agreement. For this, it will be necessary to deploy large numbers of peacekeepers throughout the country. I would also propose that UNOMSIL be strengthened with additional civilian staff in the fields of political and civil affairs, as well as human rights, to allow it to cope with the increased responsibilities which flow from the agreement. An elaboration of these requirements is given below.

36. In order to support the effective functioning of an expanded mission, it is critical that the necessary administrative and logistical support services are made available. To this end, an adequate increase in administrative and technical personnel as well as resources should be provided. The estimated costs of the additional military and civilian staff, as well as of the required logistical support, will be submitted to the Council shortly, in an addendum to the present report.

Military aspects

37. As noted in paragraph 49 of my report of 4 June 1999 (S/1999/645), additional military observers are now being deployed to restore the strength of UNOMSIL to its authorized strength of 70 military observers. The current strength of UNOMSIL is approximately 50 military observers.

38. The envisaged tasks of an expanded UNOMSIL military observer component would be as follows:

(a) To strengthen and expand the contacts already established by UNOMSIL with RUF/SL troops in the countryside since the ceasefire agreement came into effect;

(b) To extend UNOMSIL's ceasefire monitoring activities to a wider geographical area, security conditions permitting;

(c) To strengthen and assist the Ceasefire Monitoring Committees and the central Joint Monitoring Committee established pursuant to the peace agreement to help maintain the ceasefire;

(d) To monitor the military and security situation in the country and report thereon to my Special Representative;

(e) To assist and monitor the disarmament and demobilization of combatants in areas where adequate security is provided;

(f) To work closely with humanitarian organizations to exchange information on security conditions with a view to ensuring the widest possible access for humanitarian assistance to populations in need;

(g) To work closely with human rights officers, as required, in their visits throughout the country;

(h) To maintain liaison and coordinate closely with ECOMOG;

(i) To assist in the preparation of plans for the deployment of neutral peacekeeping troops, as envisaged in the agreement.

39. The additional military observers would be deployed to Sierra Leone in a gradual manner. At present, it is envisaged that UNOMSIL military observers would maintain a strengthened headquarters in Freetown and would deploy to team sites initially in Lungi, Hastings, Port Loko and Bo. For the time being, these military observers would operate under security provided by ECOMOG. It would also be necessary to ensure enhanced logistical support for an expanded UNOMSIL. A key requirement would be the introduction of a second-line medical capability to provide basic and emergency health care. Such a capability would require up to 35 military (or civilian) medical personnel. It would also be crucial for an expanded UNOMSIL to have an aviation capability to provide 24-hour medical evacuation as well as daytime monitoring and observation.

Political and civil affairs

40. The Lomé Peace Agreement signed by the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone includes numerous requests for international involvement, specifically that of the United Nations, in implementing provisions contained therein. This would require a substantial increase in the role of UNOMSIL and, accordingly, in its human and administrative resources.

41. In view of the role of the Special Representative of the Secretary-General in the peace process and the increased responsibilities arising from an expanded UNOMSIL presence to assist the implementation of the peace agreement, it would be advisable to upgrade the level of that post. Accordingly, it is envisaged that the Office of the Special Representative of the Secretary-General will be expanded to include a deputy Special Representative and additional staff for coordination, public information and legal affairs.

42. The envisaged political affairs office of UNOMSIL would consist of up to eight officers and would be responsible for liaison with the parties; government ministers and parliament; United Nations programmes; non-governmental organizations; and provincial and district representatives of the Government of Sierra Leone. The political affairs office would also assist the Special Representative of the Secretary-General in the development and implementation of the Strategic Framework for Sierra Leone (see para. 44 below).

43. The requirement for a civil affairs component derives from the need for UNOMSIL to participate in the various bodies charged with the implementation and monitoring of the agreement and to assist in the phased reintegration of members

1215

of RUF/SL, the Sierra Leone Army and CDF into civil society. The civil affairs component, which would consist of 10 civil affairs officers, would maintain nine field sites located in Freetown, the three provincial capitals and major towns such as Kabala, Kailahun, Kambia and Koidu. Offices would also maintain liaison with provincial and district government representatives. In addition, the civil affairs component would also liaise with appropriate government bodies on matters relating to economic reconstruction and investment and monitor adherence to international law governing compensation in reference to article VII of the peace agreement. It is also envisaged that a small secretariat for the Joint Implementation Committee would be established to monitor respective areas of concern, mainly human rights, refugees and displaced persons, elections and education and health.

44. The successful implementation of the peace agreement will also require a coherent and comprehensive response involving the Government and its international and domestic partners. Following consultations with all relevant partners in the United Nations system, I have decided that a strategic framework be developed for Sierra Leone, encompassing political, assistance and human rights aspects. Through this framework a mutually reinforcing comprehensive political strategy and assistance programme would be developed. Its development and implementation is envisaged as a primarily field-driven exercise, led by my Special Representative working in close consultation with national and international partners. A small United Nations mission visited Sierra Leone from 14 to 19 June to help launch the Framework. As a first step, a steering group has been set up in Freetown, chaired by my Special Representative, with representatives of the concerned United Nations entities. The establishment and implementation of the strategic framework will be facilitated at Headquarters under the guidance of the Deputy Secretary-General.

45. With the signing of the peace agreement, the increased dissemination of information will be crucial in sensitizing public opinion after eight years of civil war. The present UNOMSIL information capacity should be expanded with three additional international staff and an appropriate number of local staff. The functions to be carried out include the production of radio programmes in indigenous languages for broadcast on the Sierra Leone Broadcasting Service and other existing radio stations. United Nations radio programming for local distribution is also required. Consideration should also be given to video production for audiences in Sierra Leone, focusing on the disarmament, demobilization and reintegration process, as well as on issues affecting the population relating to the agreement.

Human rights

46. The human rights component will continue to play a key role in the future operations of UNOMSIL and will strengthen its monitoring and reporting activities in all parts of Sierra Leone. This critical task will include a broad range of human rights issues that encompass the rights of women and children and economic and social rights. In particular, the human rights abuses suffered by women during the conflict will constitute a major focus of the work of human rights officers.

47. In support of the human rights provisions in the agreement, it will be necessary to expand the human rights component to enable it to cover all parts of the country, including the areas previously under RUF/SL control, to collect testimonies, document abuses and bring forward witnesses and survivors of atrocities. A thorough fact-finding process will be critical to the effective functioning of the Truth and Reconciliation Commission and other efforts to consolidate peace in Sierra Leone. In order to ensure that there will be appropriate accountability for serious violations of human rights and humanitarian law, the Security Council may wish to consider various steps to address this question, including the establishment in due course of a commission of enquiry, as recommended to the Government of Sierra Leone by the High Commissioner for Human Rights. Such a commission would investigate and assess human rights and humanitarian law violations and abuses perpetrated by all parties since the commencement of the conflict in 1991. At the same time, technical cooperation will have to be increased to ensure that the judicial system resumes operations throughout the country and that human rights training is extended to public office holders of RUF/SL. These additional functions will require a significant expansion in the current strength of the UNOMSIL human rights component to assist the parties in the implementation of the human rights provisions of the agreement.

48. It is envisaged that additional human rights officers will be deployed to the main provincial centres and towns to carry out comprehensive monitoring, fact-finding, documentation and analysis on the observance of human rights and international humanitarian law by all parties throughout Sierra Leone. Their co-deployment with military observers will also ensure adequate attention to human rights issues and child protection in the disarmament, demobilization and reintegration process.

49. Human rights technical cooperation programmes conducted by UNOMSIL, with support from the Office of the United Nations High Commissioner for Human Rights, will be directed towards the following sectors: (a) human rights training and skills development; (b) promotion of the rule of law; (c) support to and capacity-building for human rights institutions, the Truth and Reconciliation Commission and civil society; (d) promotion of child rights; and (e) mainstreaming of attention to gender rights. Generous financial assistance from the international community will be required for the implementation of these activities.

50. To enable it to carry out an expanded role, it is proposed that the present human rights component be augmented immediately by 10 international human rights officers, including two child protection officers.

Protection of children

51. The protection of the rights of children will require immediate and special attention during the process of disarmament and demobilization and beyond, given the particular needs of child combatants during their rehabilitation and reintegration into society. The United Nations Children's Fund is playing a leading role, in close coordination with my Special Representative for Children and Armed Conflict, in the protection of children and the disarmament, demobilization and reintegration of child soldiers. Among the many other

pressing needs are the support of child victims of mutilations and sexual exploitation and the rehabilitation of primary health and educational services. Additional financial, material and human resources will need to be mobilized by the relevant agencies in support of these activities. A child protection adviser should be added to the Mission to ensure that these issues are dealt with in a comprehensive manner and are given due attention at the national and international levels.

VI. OBSERVATIONS AND RECOMMENDATIONS

52. The signing of the Lomé Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front is a great step forward for Sierra Leone. It provides the Sierra Leonean people a unique opportunity to bring an end to the conflict, which has caused them untold suffering and has registered deeply in the conscience of the international community. Both sides are to be congratulated for showing the flexibility that has made this agreement possible. Credit is due also to the international community and, in particular, to ECOWAS, for their leadership in bringing both sides together and facilitating the conclusion of the peace agreement.

53. Special recognition is also due to ECOMOG. Its troops and, in particular, the Governments of Nigeria, Ghana, Guinea and Mali that provided them, are to be commended for their steadfast courage in the face of considerable hardship and sacrifice. ECOMOG can and should take pride in what it has achieved. I call upon the international community to provide strong and continuous support to this regional force so that it can maintain its critical presence in Sierra Leone. The main requirements of ECOMOG are listed in paragraph 27 above.

54. As in other peace accords, many compromises were necessary in the Lomé Peace Agreement. As a result, some of the terms under which this peace has been obtained, in particular the provisions on amnesty, are difficult to reconcile with the goal of ending the culture of impunity, which inspired the creation of the United Nations Tribunals for Rwanda and the Former Yugoslavia, and the future International Criminal Court. Hence the instruction to my Special Representative to enter a reservation when he signed the peace agreement, explicitly stating that, for the United Nations, the amnesty cannot cover international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law. At the same time, the Government and people of Sierra Leone should be allowed this opportunity to realize their best and only hope of ending their long and brutal conflict. During my short visit to Sierra Leone on 8 July 1999, I witnessed tremendous destruction, suffering and pain, particularly on the faces of the victims of wanton and abhorrent violence. I took the opportunity to encourage all Sierra Leoneans to seize this opportunity for peace, to rally behind the agreement, seek reconciliation, and to look and work towards the future.

55. By all accounts, the challenges ahead are daunting. Among these are the disarmament and demobilization of combatants, their reintegration into society, the restoration of State authority in territories now held by rebel forces, the necessity of addressing humanitarian needs throughout the country, the repatriation of refugees, the building of institutions and the healing of the

deep wounds caused by the civil war. Strict compliance with the terms of the agreement by both sides, as well as their supporters and all commanders and fighters in the field, is indispensable. The United Nations will, as is customary, exercise its responsibilities in an impartial manner, and calls on both sides to extend to UNOMSIL and ECOMOG their complete cooperation.

56. The international community and the United Nations have an important responsibility to assist Sierra Leone and to ensure that momentum is maintained in this process, especially in the critical phase immediately after the signing of the peace agreement. I therefore recommend that the Security Council approve, as an immediate first step, the provisional expansion of the United Nations Observer Mission in Sierra Leone (UNOMSIL), along the lines set out in paragraphs 33 to 51 above. As indicated in the present report, I hope to revert to the Security Council as soon as possible with an additional report on the situation in Sierra Leone, which will include recommendations for the mandate and structure of the enhanced United Nations peacekeeping presence that may be required in the country.

57. I take this opportunity to express my appreciation to my Special Representative, Francis G. Okelo, the Chief Military Observer, Brigadier-General Subhash C. Joshi, and the staff and military observers of UNOMSIL for their tireless efforts and dedication to bring the difficult negotiation process to a successful conclusion and thereby continue to advance the peace process in Sierra Leone.

1219

Annex

United Nations Observer Mission in Sierra Leone: contributions as at 29 July 1999

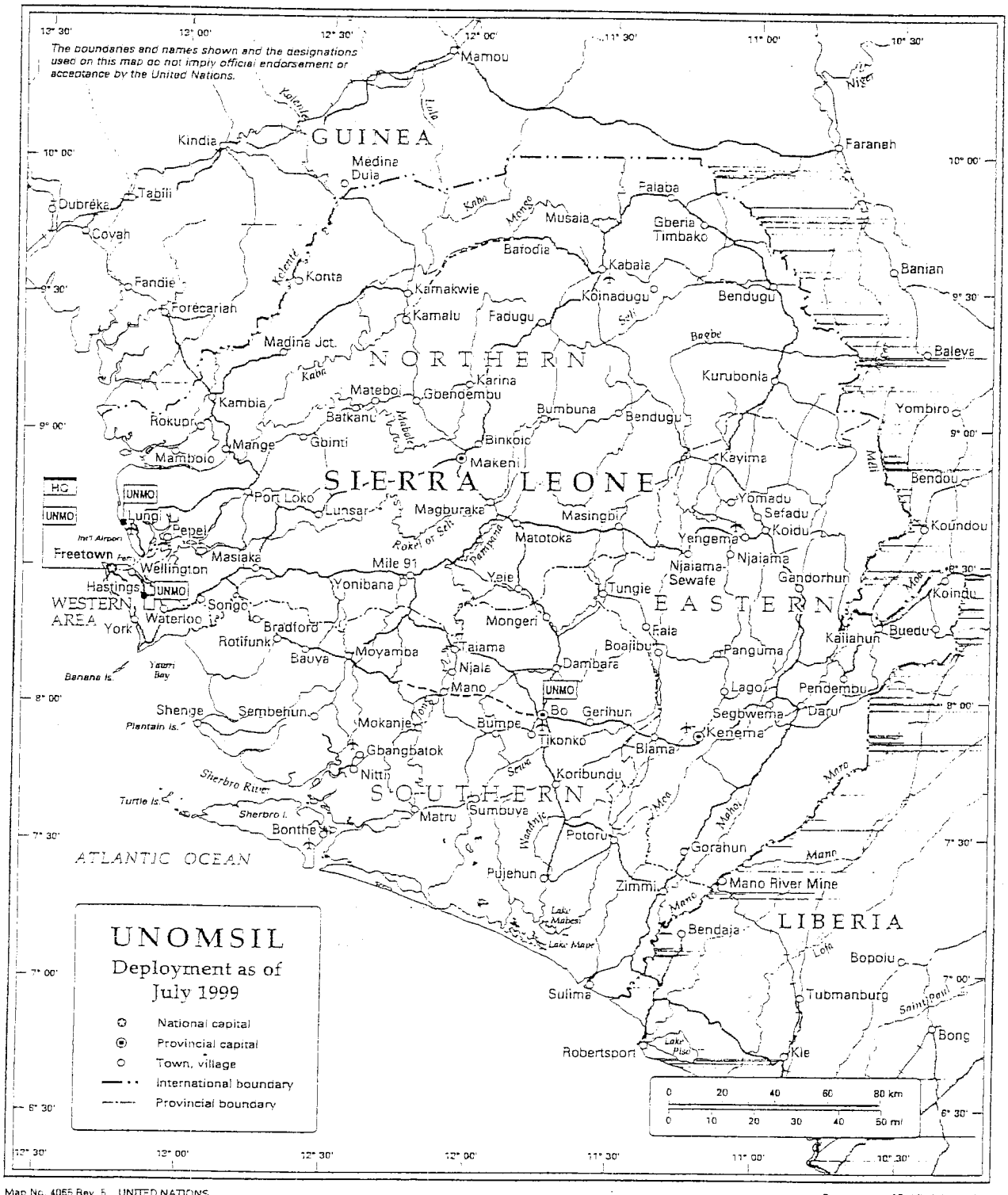
	Military observers	Others[a]	Total
Bangladesh	2		2
China	3		3
Egypt	2		2
India	2	2	4
Jordan	2		2
Kenya	4		4
Kyrgyzstan	1		1
Malaysia	4		4
New Zealand	2		2
Pakistan	5		5
Russian Federation	8		8
United Kingdom of Great Britain and Northern Ireland	8		8
Zambia	5		5
Total	48[b]	2	50

[a] Medical team.

[b] Including the Chief Military Observer.

/...

1220



Map No. 4065 Rev. 5 UNITED NATIONS
July 1999

Department of Public Information
Cartographic Section

1221

UNITED NATIONS

S

Security Council

Distr.
GENERAL

S/1999/1223
6 December 1999

ORIGINAL: ENGLISH

FIRST REPORT ON THE UNITED NATIONS MISSION IN SIERRA LEONE (UNAMSIL)

I. INTRODUCTION

1. By paragraph 8 of its resolution 1270 (1999) of 22 October 1999, the Security Council established the United Nations Mission in Sierra Leone (UNAMSIL), with a broad mandate to cooperate with the Government of Sierra Leone and other parties to the Lomé Peace Agreement of 7 July 1999 in the implementation of the Agreement, to assist in the disarmament, demobilization and reintegration of ex-combatants, and perform other tasks as set out in my report to the Security Council, dated 23 September 1999 (S/1999/1003).

2. By paragraph 26 of the same resolution, the Security Council requested me to report every 45 days to provide updates on the status of the peace process, on security conditions on the ground, and on the continued level of deployment of personnel of the Monitoring Group of the Economic Community of West African States (ECOMOG). The present report is submitted in accordance with that request and covers developments until 2 December 1999.

II. POLITICAL DEVELOPMENTS

3. While substantial progress has been achieved in the implementation of the Lomé Agreement, the overall situation in the country remains precarious. After the return to Freetown on 3 October 1999 of Foday Sankoh, leader of the Revolutionary United Front of Sierra Leone (RUF), and Johnny Paul Koroma, leader of the Armed Forces Revolutionary Council (AFRC), both men undertook a series of visits to meet with combatants and sensitize them to the Lomé Agreement and the disarmament, demobilization and reintegration (DDR) programme. They visited Lungi on 8 October and Port Loko on 13 October together. Subsequent visits to other sites were undertaken separately due to the increasing tension between RUF and AFRC. Mr. Sankoh visited RUF positions at Buedu, Daru, Segbwema, Makeni and Magburaka, while Mr. Koroma met with ex-Sierra Leone Army (SLA) combatants in the Occra Hills area.

4. On 20 October, President Ahmed Tejan Kabbah announced the composition of the Government of National Unity, comprising 20 ministers (including four members of RUF/AFRC); five ministers of State; and 13 deputy ministers

/...

99-36966 (E) 061299

(including four members of RUF/AFRC). After Parliament confirmed the new appointees, the members of the Government were sworn in on 2 November. Since then, the new Cabinet has met regularly in discharging its functions under the Constitution. However, few policy announcements have been made by the new Government.

5. Also on 20 October, President Kabbah appointed Mr. Sankoh as the Chairman of the Commission for the Management of Strategic Resources, National Reconstruction and Development (CMRRD), and also appointed Mr. Koroma as the Chairman of the Commission for the Consolidation of Peace (CCP). While the two Commissions have yet to be established, Mr. Koroma has already presented his views concerning the organization of work of CCP, which is the central monitoring body charged with overseeing and facilitating the implementation of the Lomé Agreement. The Parliament decided to establish an Executive Secretariat to assist the work of CMRRD.

6. On 22 November, RUF was registered provisionally with the Interim National Electoral Commission as the Revolutionary United Front Party (RUFP) in Freetown. As soon as RUFP meets all the criteria of a political party, such as having a constitution and party premises, the registration will become official. Mr. Sankoh, at the time of the registration, announced that all of his main field commanders will now be in charge of the party's chapters in their respective areas of operation. RUF should now give full priority to its transformation into a purely political party, which efforts would be deserving of support and encouragement.

III. MILITARY AND SECURITY SITUATION

7. After a period of relative calm, the military and security situation deteriorated in the months of October and November as a result of an increase in ceasefire violations and human rights abuses by rebel elements. In early October, RUF moved several hundred RUF fighters from Kailahun to Makeni, the provincial capital of the Northern Province and the central transit point in the north of the country. Makeni, which had been previously under joint RUF/AFRC control, was subsequently attacked and taken over by RUF troops on 15 October. AFRC elements, at the urging of Mr. Koroma, reportedly withdrew northwards. Later, fighting between RUF and AFRC also took place around Lunsar and Rogberi. RUF pursued the retreating AFRC groups from Makeni northwards and now controls a significant portion of the Makeni-Kabala axis south of the town of Kabala, one of the only two locations in the Northern Province under the Government's control.

8. These serious violations of the ceasefire have been condemned by the Joint Monitoring Commission (JMC) and were strongly protested through public statements by my Special Representative. Regional leaders, including President Olusegun Obasanjo of Nigeria, also appealed to the parties to stop their military confrontation. To date, RUF remains in control of Makeni and troop movements continue. Efforts to re-establish an Economic Community of West African States Ceasefire Monitoring Group (ECOMOG) presence in this town failed when a company of ECOMOG troops was withdrawn in response to hostile public

statements by Foday Sankah and Sam Bockarie. However, the same company was deployed at Lunsar on 30 November.

9. On 28 and 29 November, an exchange of fire took place between ECOMOG troops and a group of ex-SLA elements, which had raided the village of Pepel, 20 kilometres East of Lungi. A Ghanian ECOMOG soldier was injured and a rebel was killed in the incident.

10. The Joint Monitoring Commission, which has met regularly since July 1999 under the chairmanship of UNAMSIL, has only recently become fully operational since RUF assigned a permanent member to the Commission. RUF also did not cooperate initially with ceasefire monitoring committees (CMCs) established with the assistance of the United Nations in the areas of Kenema, Bo, Port Loko and Hastings, and threatened UNAMSIL and ECOMOG personnel when requested to provide access to some RUF-controlled areas for CMC activities and other tasks. However, AFRC and RUF representatives to the CMCs have now been appointed and will be briefed on their tasks in early December. Two incidents of short-term detention of UNAMSIL patrols by RUF occurred at Segbwema and Buedu as a result of RUF insistence that no movement may take place without its explicit permission.

11. ECOMOG troops have continued to fulfil their vital tasks of providing security at Freetown and Lungi as well as to many new areas in the southern parts of the country. Some clashes occurred between ECOMOG troops and small groups of armed rebels during the reporting period. ECOMOG also continued to maintain contacts with RUF/AFRC field commanders, and provided some logistical assistance to the Government related to peace efforts, including visits of Mr. Sankoh and Mr. Koroma to the countryside. ECOMOG has also provided support to facilitate humanitarian assistance and to assist released abductees and displaced persons. UNAMSIL military observers continued to work closely with ECOMOG in monitoring the military and security situation in Sierra Leone and in the implementation of the disarmament, demobilization and reintegration programme.

IV. DISARMAMENT AND DEMOBILIZATION

12. The disarmament, demobilization and reintegration (DDR) programme was officially launched on 20 October by President Kabbah, marked by the disarmament in Freetown of a symbolic number of combatants from the former rebel forces and the Civil Defence Forces (CDF). The first phase of the programme started on 4 November, when four new demobilization centres were opened at Port Loko (with separate centres for RUF/AFRC and CDF), Daru (RUF/AFRC) and Kenema (CDF), in addition to the long-standing camp at Lungi. In each area, several reception sites are operational and are set up to disarm combatants before their transfer to the demobilization centres. UNAMSIL has deployed between 12 and 25 military observers at each location and works closely with the Government, ECOMOG and the United Kingdom Department for International Development (DFID).

13. The initial response to the start of the DDR programme has been very poor. However, after an additional appeal by Mr. Sankoh on 25 and 26 November to RUF fighters at Port Loko and Lunsar, the number of their ex-combatants reporting to

1224

the DDR camp at Port Loko rose significantly, which caused some strain on the management of the camp. As at 30 November, out of an estimated total of 45,000 fighters, 658 AFRC/ex-SLA, 1,469 RUF and 518 CDF ex-combatants have been registered in demobilization centres, in addition to the 1,572 ex-combatants registered at Lungi. Of the registered ex-combatants, 454 AFRC/ex-SLA/RUF and 92 CDF combatants were children. As of 2 December, the total number of ex-combatants registered at the DDR sites stood at 4,217, and the ratio of surrendered weapons to ex-combatants was about 1:4. Mr. Sankoh indicated that RUF might suspend its participation in disarmament in view of the poor response of the other groups.

14. So far, no RUF combatants have reported for disarmament in the areas of their eastern strongholds around Daru. These troops are under direct command of Sam Bockarie, a key RUF commander, who has publicly stated that the troops under his command will not disarm unless Nigerian ECOMOG troops withdraw from the country. He has also stated that he will resist any attempts at forced disarmament by United Nations troops.

15. In spite of the progress described above, the DDR process continues to suffer because of several security and organizational problems. Continuing movement of RUF troops and the fighting at Makeni have deepened mistrust among the rebels, which has prevented the establishment of a climate of confidence which would encourage ex-combatants to enter the DDR programme. In spite of Mr. Sankoh's public appeals, doubts remain with regard to the RUF commitment to the DDR programme. There is also a lack of understanding among combatants about the provisions of the DDR programme, especially concerning financial support and provisions for reintegration, which requires urgent strengthening of relevant public information programmes. UNAMSIL, for its part, has stepped up its own public information efforts in support of the peace process.

16. Recently, there have been several worrying incidents of unrest among the ex-combatants of the Lungi and Port Loko demobilization centres, partly as a result of a lack of information about the reintegration programme, but also because the ex-combatants have already spent several weeks or months of encampment without any necessary financial assistance for modest expenses or to provide for families and dependents who tend to accompany combatants to the demobilization centres. These issues need to be addressed urgently not only to prevent unrest among ex-combatants but also to make the disarmament programme more attractive for those who have not yet surrendered their arms. In addition, it is important to accelerate the demobilization process in order to avoid a prolonged presence of former fighters in the camps. Serious delays could occur unless a comprehensive plan for reintegration is developed and the necessary arrangements are put in place.

17. The National Committee for Disarmament, Demobilization and Reintegration (NCDDR), the main policy body in which all key stakeholders are represented (Government, RUF, AFRC, United Nations, ECOMOG and donor representatives), has met weekly to review ways of accelerating the DDR process and provide guidance to the programme. As a result, sensitization efforts have been stepped up, and the RUF/AFRC leadership has received strong encouragement to ensure that their forces participate in the DDR programme. NCDDR also set 15 December as the date at which the phase of disarmament of all ex-combatants should be completed.

1225

18. Since the camps at Port Loko have now reached full capacity, efforts are under way to establish demobilization centres at Kambia, Makeni and Magburaka once cooperation from RUF is forthcoming. As the number of ex-combatants joining the DDR programme is rising, it has become apparent that strong coordination and leadership is needed to keep the process on course and maintain a level of stability throughout the country. I therefore appeal to the Government of Sierra Leone, to rebel groups and to all agencies involved to step up their efforts to expedite the implementation of the programme.

19. According to World Bank estimates, the financial support to the DDR programme as of 2 December stands at US$ 5.6 million in committed resources from the United Kingdom to the Multi-Donor Trust Fund (MDTF) administered by the World Bank on behalf of the Government and an additional US$ 4.3 million in confirmed pledges to MDTF from the Governments of Norway (US$ 1 million), Germany (US$ 1 million), Canada (US$ 1.7 million) and Italy (US$ 0.6 million). Approximately US$ 15 million has been made available in parallel or co-financing support, including US$ 7 million from the World Bank through a community reintegration and rehabilitation project, US$ 3.5 million from DFID for camp management, a proposal for US$ 2.7 million from WFP for the feeding of encamped ex-combatants and a US$ 2 million appeal for activities aimed at child ex-combatants in the year 2000. The Government of Japan has made US$ 1 million available for DDR activities through the United Nations trust fund. While the contributions made are encouraging signs of the international community's commitment to help the Sierra Leonean people, I should like to reiterate my strong appeal to donors to contribute to the World Bank MDTF in order to meet the total of US$ 50 million needed for the DDR process.

V. HUMAN RIGHTS

20. The human rights situation in Sierra Leone has also deteriorated markedly in recent weeks. Since early October 1999, there has been an escalation of attacks on civilians by former rebel elements in the areas west of the Occra Hills, along the Lungi-Port Loko road, as well as around Kabala and in parts of Koinadugu. The attacks frequently involve rape, abduction and harassment, in addition to looting and destruction of property. The frequency of attacks on civilians continues to impede freedom of movement in many locations and to prompt the displacement of people.

21. In particular, fighting between RUF and ex-SLA elements at Makeni, Lunsar and in other northern areas has resulted in serious abuses of the rights of the affected civilian communities. During the clashes at Makeni and Lunsar a number of civilians were killed, women were raped and there was widespread looting, including of the property of humanitarian organizations. In October, a group of some 40 humanitarian workers were prevented by RUF elements from leaving Makeni for four days. Reports received in recent weeks from Makeni and Lunsar, as well as from other locations under RUF control, such as Magburaka and Fadugu, suggest that the remaining civilian populations are subject to a harsh system of civil control, with severe punishments, including execution or threat of execution for those accused of offences, and the imposition of arduous food levies. Both national and international staff of humanitarian organizations have been subjected to threats and intimidation. One organization was obliged to cease

1226

operating in Makeni following threats against its personnel delivered by Mr. Sankoh and senior RUF personnel on 15 November.

22. Commitments entered into under the Lomé Agreement and subsequent reaffirmation notwithstanding, both RUF and AFRC have shown great reluctance to release adult and child abductees. Only some 1,000 adults and children have been released so far. Considerable numbers are still in captivity. For instance, more than 2,000 children are registered as missing from the Western Area since the rebel incursion of January 1999. Child fighters, including abductees, were still being sent into combat as recently as October, when a number of 15-year-old boys were injured in combat with other AFRC elements.

23. Commendable efforts are being made to establish an effective and democratic police force in Sierra Leone. The newly appointed Inspector General of the national police has initiated a number of important human rights-related investigations and is promoting the development of enhanced human rights sensitivity within the force. The United Nations is redeploying a small team of civil police advisers, who will coordinate with other international efforts to advise the Government of Sierra Leone and local police officials on police practice, training, re-equipment and recruitment.

24. UNAMSIL is also working closely with consultants provided by the Office of the United Nations High Commissioner for Human Rights to facilitate the establishment of the Truth and Reconciliation Commission and the Human Rights Commission, both of which are to be set up pursuant to the provisions of the Lomé Agreement. At the request of the Government, the Office of the High Commissioner is developing draft statutes for these Commissions which will be presented to the Government of Sierra Leone. The Office has also commissioned a consultant to study the nexus between the Truth and Reconciliation Commission and a possible international commission of inquiry into human rights violations.

VI. HUMANITARIAN SITUATION

25. Deteriorating security conditions throughout the country have reversed gains in access and prevented further expansion of humanitarian activity despite commitments by all parties of the Lomé Agreement to allow unhindered access countrywide. In particular, during the October RUF/AFRC clashes at Makeni, humanitarian agencies were targeted for looting and harassment. Much of the stolen property has not yet been returned. A further result of the fighting has been the displacement of more than 1,500 civilians to Kabala and the suspension of assistance to vulnerable groups. Disturbingly high rates of malnutrition previously assessed in other areas of the northern and eastern provinces remain unaddressed.

26. Humanitarian organizations attempting to re-establish programme activities in the area of Makeni following the October clashes have been forced to withdraw due to threats and harassment by RUF commanders. In addition, on 17 November a vehicle belonging to an international NGO was ambushed along the Port Loko-Lungi highway. Its occupants were abducted and badly treated. Regular attacks on villages in this area have led to an increase of internally displaced persons

1227

along the Port Loko-Lungi axis. However, insecurity along the highway continues to impede the delivery of humanitarian supplies.

27. Attempts to gain access into these areas continue, including efforts to upgrade roads to allow for large-scale food distributions and other programmes in the Eastern Province. It is obvious that without sustained and convincing action by AFRC and RUF leaders to stem these incidents, the delivery of humanitarian assistance beyond the western area and southern provinces will remain extremely difficult. The deterioration of the security situation has also stalled plans to commence monitoring and assistance to internally displaced persons and returnees.

28. From 7 to 11 November, a multi-donor mission led by Caroline McAskie, Officer-in-Charge of the Office for the Coordination of Humanitarian Affairs of the Secretariat, visited Sierra Leone and Guinea to determine how best the international donor community could support the peace process. In addition to exploring support for the DDR programme, the mission's findings highlighted the need for a swift and vigorous humanitarian response if access increases dramatically, as well as immediate reintegration programmes for ex-combatants in tandem with support to Sierra Leonean communities. The Consolidated Inter-Agency Appeal for the year 2000, launched on 23 November at Geneva, requests $71 million in support of humanitarian activities.

VII. DEPLOYMENT OF UNAMSIL

29. In line with Security Council resolution 1260 (1999) of 20 August 1999, the civilian component of UNAMSIL is being strengthened with the deployment of additional political affairs and human rights officers, as well as the establishment of public information and civil affairs sections. The chief civil affairs officer has arrived in Freetown and has begun developing the programme of work, which should have its offices throughout the country. A senior Child Protection Adviser will be deployed shortly to ensure adequate and sustained attention to child rights and protection.

30. More than 200 military observers and a 15-member medical team are currently deployed at mission headquarters at Freetown, Hastings, Lungi, Port Loko, Bo, Kenema and Daru. Immediately after the adoption of Security Council resolution 1270 (1999), a United Nations technical team was dispatched to Sierra Leone in late October to assist the Observer Mission in preparing for the deployment of the mandated 6,000 United Nations troops. Despite the very tight timetable, preparation for the deployment of military contingents has progressed effectively, partly as a result of the excellent cooperation provided by the Government of Sierra Leone. By mid-November, reconnaissance parties from India and Kenya for the deployment of their troops had completed their tasks, and had drawn up plans for the deployment of the Indian and Kenyan battalions in Koidu/Kailahun and Makeni/Magburaka by December. The final decisions on deployment of various contingents will take into account security conditions on the ground. Meanwhile, the first contingent of 130 Kenyan troops arrived at Freetown on 29 November. Active preparations continue for the deployment of troops and military observers made available to UNAMSIL by the Governments of Nigeria, Ghana and Guinea. The Secretariat believes that it will be crucial to

1228

expedite the deployment of these military personnel. A status of forces agreement is being finalized at Headquarters and will shortly be submitted to the Government of Sierra Leone.

31. The Special Representative of the Secretary-General and the United Nations country team have continued to work on developing the modalities for the implementation of the strategic framework for Sierra Leone. An initial draft plan for the strategic framework approach is expected to be completed by the end of December.

32. On 19 November, I appointed Oluyemi Adeniji (Nigeria) as my Special Representative in Sierra Leone. Mr. Adeniji has most recently served as my Special Representative for the Central African Republic. I have also appointed Major-General Vijay Kumar Jetley (India) as Force Commander of UNAMSIL. Both men are expected to assume their duties at Freetown in the first half of December. I would like to pay special tribute to my outgoing Special Representative, Francis Okelo, who has discharged his duties under often very difficult conditions, and I am most grateful for his leadership during the peace process which included the signing of the Lomé Agreement.

VIII. OBSERVATIONS

33. Undeniably, some progress has been made in the implementation of the Lomé Agreement with the return of the RUF and AFRC leadership to Sierra Leone, the establishment of the Government of National Unity, the provisional registration of RUF as a political party, and a recent increase of the number of ex-combatants registering for the DDR programme.

34. However, serious human rights abuses, ceasefire violations, including fighting between RUF and AFRC, extensive movement of troops and weapons by the former and the targeting of humanitarian personnel give cause for very serious concern. The continued violence against the people of Sierra Leone and international personnel is unacceptable and perpetrators should expect to be held accountable for their actions. The RUF and AFRC leadership as well as all their local commanders should prove by their actions that they are indeed committed to the peace process, in particular to the complete cessation of hostilities and international human rights standards and humanitarian law, including the release of all abductees as specified in the Lomé Agreement.

35. Despite some improvements, the humanitarian crisis in Sierra Leone continues unabated. In addition, some national and international humanitarian personnel have suffered harassment, assault and even detention at the hands of the former rebel forces. The Lomé Peace Agreement clearly commits all former parties to the conflict to providing safe and unhindered access for humanitarian interventions. Yet the delivery of assistance continues to be obstructed by arbitrary clearance procedures and threats. This should stop.

36. While the United Nations expedites the deployment of its troops in Sierra Leone, ECOMOG is expected to continue to play a critical role in providing national security functions as well as assisting the DDR process, as envisaged in the Lomé Agreement. To this end, it will be required to maintain a credible

1229

force of several thousand troops. I would like to commend ECOMOG, once again, for its continued efforts in support of the Government and people of Sierra Leone. I therefore would like to renew my strong appeal to donors to provide ECOMOG with much-needed support in order to allow it the means to effectively perform its indispensable tasks.

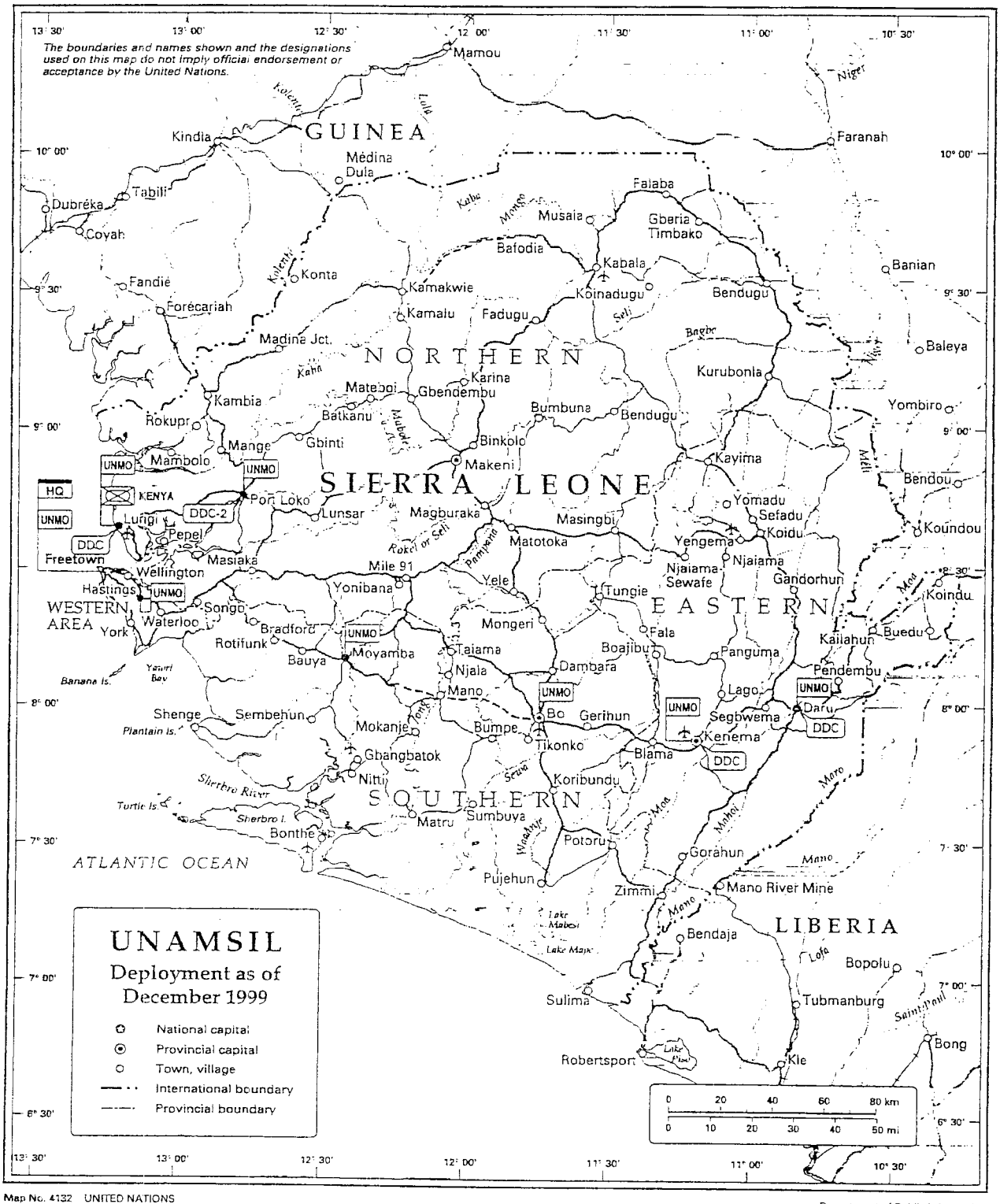
37. I also should like to express my appreciation for the important involvement of regional leaders in the Sierra Leonean peace process, and I should like to encourage them to continue to support the efforts of the Government of Sierra Leone, the international community and other stakeholders to bring peace to this battered country.

38. There is also an urgent need to strengthen and accelerate the process of disarmament, demobilization and reintegration of ex-combatants and to enhance the coordination of these crucial activities. I welcome the progress made by the Government of Sierra Leone and the invaluable contributions of the donor community, especially the Government of the United Kingdom and the World Bank, in establishing the necessary demobilization facilities. I encourage all concerned to continue their efforts to build confidence among the parties, increase awareness of the procedures and benefits of the DDR programme and improve the links between the various steps in the programme. I have already asked UNAMSIL to step up its efforts in support of these crucial aspects of the peace process.

39. The commitments of the parties to the Lomé Agreement will be put to the test in the coming crucial period. Now that the main mechanisms for ceasefire monitoring and disarmament are in place, the responsibility rests with the leaders of the rebel movements to advance the peace process in Sierra Leone. The rebel movements now take part in the Government and should work in it towards a durable peace. I believe that any efforts in this regard will meet with the support of the international community. The United Nations, in close cooperation with ECOMOG, stands ready to do its part.

40. I should like, once again, to express my appreciation to my Special Representative, Francis Okelo, to the Chief Military Observer, Brigadier-General Subhash C. Joshi, and to all the military and civilian personnel of UNAMSIL for their unwavering commitment and efforts under difficult circumstances.

1230



Map No. 4132 UNITED NATIONS
December 1999

Department of Public Information
Cartographic Section

United Nations S/2000/455

Security Council

Distr.: General
19 May 2000

Original: English

Fourth report of the Secretary-General on the United Nations Mission in Sierra Leone

I. Introduction

1. By paragraph 22 of resolution 1289 (2000) of 7 February 2000, the Security Council requested me to continue to report to the Council every 45 days to provide, *inter alia*, assessments of security conditions on the ground so that troop levels and the tasks to be performed by the United Nations Mission in Sierra Leone (UNAMSIL) can be kept under review. The present report is submitted in accordance with that request and covers developments since my third report on the United Nations Mission in Sierra Leone issued on 7 March 2000 (S/2000/186). The present report also contains short-term recommendations for the stabilization of the current situation in Sierra Leone, including for an expansion of the capacity of UNAMSIL, beyond the level of 13,000 military personnel authorized by the Security Council in its resolution 1299 (2000) of 19 May 2000.

II. Political developments

2. During the reporting period, the peace process suffered a very serious setback as the result of the recent unprovoked armed attacks on United Nations peacekeepers, the detention of several hundred United Nations personnel, and the destruction of disarmament and demobilization camps by fighters of the Revolutionary United Front (RUF). Regrettably, those developments in May 2000, which are described in section VII of this report, overshadowed the limited progress achieved in the implementation of the Lomé Peace Agreement through a series of meetings of the parties and international stakeholders.

3. Prior to those events, President Ahmad Tejan Kabbah convened on 9 March a special meeting of the National Commission on Disarmament, Demobilization and Reintegration attended by the leader of RUF, Foday Sankoh, the leader of the Armed Forces Revolutionary Council/ex-Sierra Leone Army (AFRC/ex-SLA), Johnny Paul Koroma, the Deputy Defence Minister and Civil Defence Force Coordinator, Chief Hinga Norman, UNAMSIL and the Monitoring Group (ECOMOG) of the Economic Community of West African States (ECOWAS). At that meeting, all faction leaders agreed to grant unhindered access to all parts of the country to UNAMSIL, the humanitarian community and the entire population; to relinquish the territory they occupied and allow the Government to have full control over every part of the country; and to allow disarmament to take place in selected areas in the Eastern and Northern Provinces where disarmament, demobilization and reintegration (DDR) facilities were already in place, and thereafter in the rest of the country as facilities were made available. As a result of these efforts, the number of checkpoints maintained by the factions was reduced, and UNAMSIL was able to deploy to the RUF stronghold of Kailahun on 16 March. However, RUF fighters continued to obstruct UNAMSIL deployment to Koidu in the Kono District and the number of RUF ex-combatants reporting for disarmament remained very low. In addition, some checkpoints manned by the factions remained in place and continued to hinder movement by the humanitarian community and the general population.

4. On 20 March, at Freetown, ECOWAS convened a verification meeting of the Ad Hoc Committee of the Principal Parties to the Lomé Agreement to follow up on the decisions reached at the special meeting on

00-40722 (E) 190500

Sierra Leone held at Bamako on 1 March, which was covered in my third report. At the meeting in Freetown, the RUF leader, Foday Sankoh, stated that he accepted that UNAMSIL was the "neutral peacekeeping force" provided for in the Lomé Peace Agreement (S/1999/777, annex). This was considered a positive development, since RUF had previously questioned the presence of UNAMSIL peacekeepers in Sierra Leone.

5. The meeting on 20 March of the principal parties also set up a committee, headed by my Special Representative, Oluyemi Adeniji, to carry out an investigation into the seizure in January of weapons and equipment from Kenyan and Guinean troops by RUF and from the Kenyan contingent by AFRC/ex-SLA. The investigation committee held its first meeting on 31 March, but RUF failed to attend on the pretext that it was not involved in the seizure of the Guinean weapons, despite evidence to the contrary. The three seized Guinean armoured personnel carriers have been recovered, but the other weapons and equipment have yet to be returned.

6. The Under-Secretary-General for Peacekeeping Operations visited Sierra Leone from 19 to 21 March to assess the operations of UNAMSIL and to convey to the parties the strong commitment of the United Nations to assist them in implementing the Lomé Agreement. He held meetings with UNAMSIL senior staff, President Kabbah and other government officials, Mr. Koroma, Mr. Sankoh, United Nations agencies and representatives of civil society. The Under-Secretary-General also visited Port Loko and Makeni, where he inspected UNAMSIL troops, disarmament, demobilization and reintegration camps and centres for former child combatants. He also visited Bamako, where he met with the President of Mali, Alpha Oumar Konaré, current Chairman of ECOWAS.

7. At the initiative of the United Kingdom of Great Britain and Northern Ireland, a high-level donors conference on Sierra Leone was convened in London on 27 March, to affirm political support for the peace process and mobilize additional resources. The conference was co-chaired by the United Kingdom, the World Bank and the United Nations, which was represented by the Deputy Secretary-General. New pledges totalling some US$ 70 million were made, to support the peace process, in particular the process of disarmament, demobilization and reintegration, as well as humanitarian assistance. The conference reaffirmed the international community's continued and strong support for the implementation of the Lomé Peace Agreement and sent a strong message to the factions to fulfil their obligations under the Agreement. In particular, the rebels were called upon to put an end to the continuing human rights abuses, to disarm their combatants immediately, to release women and children still detained, and to allow safe and unhindered access for humanitarian assistance to all areas of the country. The participants also discussed the issue of elections and undertook to help to organize free and fair elections in Sierra Leone, as provided for under the Lomé Peace Agreement, on the clear understanding that elections would not be possible without significant progress on disarmament. I commend the Government of the United Kingdom for taking this important initiative.

8. During the reporting period, some progress has also been made with regard to the functioning of the various institutions envisaged in the Lomé Agreement. However, this continued to be hampered by a lack of resources. The Commission for the Management of Strategic Resources, National Reconstruction and Development, chaired by Mr. Sankoh, did not produce a plan of action and there also appeared to be a lack of political consensus on its role vis-à-vis existing ministries. The Commission for the Consolidation of Peace led by Mr. Koroma, however, made a good beginning and organized several meetings of the parties and other stakeholders to promote reconciliation and discuss ways of moving the peace process forward. From 18 to 23 April, the Commission for the Consolidation of Peace convened a commanders peace conference at Bo to facilitate face-to-face meetings among the commanders of the factions and to build confidence and promote peace. The conference was well attended by all factions.

9. Mr. Sankoh appeared before the Parliament of Sierra Leone on 15 March to answer questions on issues impeding the peace process. All political parties represented in Parliament strongly criticized Mr. Sankoh for impeding the peace process. In his response, Mr. Sankoh asserted that he was committed to the peace process and attributed the current obstacles to progress, in particular the slow pace of disarmament, to the weakness of the National Commission on Disarmament, Demobilization and Reintegration; the lack of transportation facilities, inadequate disarmament, demobilization and reintegration facilities; and to unattractive incentives for the ex-

combatants. However, Mr. Sankoh claimed that he was ready to work with Parliament.

10. At various bilateral and multilateral meetings during the reporting period, Mr. Sankoh and other RUF leaders complained about certain aspects of the Lomé Agreement that had not been implemented. Specifically, they mentioned the fact that no RUF members had been appointed to positions in parastatal enterprises, the diplomatic service and any other public sector, under article IV of the Lomé Agreement. They also complained that too much attention was being focused on the disarmament provisions to the neglect of the political provisions of the Agreement. While there can be little doubt that the lack of cooperation on the part of RUF and Mr. Sankoh in particular was the main obstacle to the effective implementation of the Lomé Agreement, it is also true that the situation was not helped by the slow pace of the disarmament, demobilization and reintegration programme, as well as various political, administrative and other problems.

11. During the reporting period, there were unconfirmed reports of the formation of a new faction by a former RUF commander, Sam Bockarie, who was said to be engaged in the recruitment and training of rebels in Liberia. The Government of Liberia has denied these reports. On 22 March, the Government of Sierra Leone arrested 16 persons suspected of organizing a group of dissidents to invade Liberia. The arrests were carried out in the area of the Gola Forest, close to the Liberian border.

12. During consultations of the heads of State of the Mano River Union held at Bamako on 2 March, the President of Liberia, Charles Taylor, was requested to become personally involved in resolving the obstacles confronting the Sierra Leone peace process. Pursuant to that decision, President Taylor extended an invitation to Mr. Sankoh to visit Monrovia on 12 March for consultations on the peace process. However, Mr. Sankoh insisted that he would not travel until the Security Council lifted the travel ban imposed on him by its resolution 1171 (1998) of 5 June 1998.

13. On 18 March, in a welcome development a ministerial meeting of the Mano River Union member States was held at Monrovia. The meeting was followed up by a meeting of the Ministers responsible for Security, Internal Affairs, Defence and Justice in Freetown on 17 April. At that meeting, agreement was reached to set up a Joint Security Committee of the Mano River Union, which would include a technical committee to advise the Joint Security Committee and joint border security and confidence-building units. The recommendations were submitted for consideration by the Union at its summit meeting, which was held at Conakry on 8 May. At that meeting, which was also attended by President Konaré, the situation in Sierra Leone was also discussed (see para. 76 below).

III. Security situation before 1 May 2000

14. Prior to the serious attacks on United Nations peacekeepers, which erupted on 1 May 2000 and which are described in section VII below, the overall security situation had improved gradually as UNAMSIL troops stepped up their patrols and deployed to new locations in the provinces. However, in the areas still under the control of rebel groups, particularly the RUF and AFRC/ex-SLA strongholds, the security situation remained precarious and there were several serious incidents, some involving United Nations peacekeepers.

15. On 21 March, a serious violation of the ceasefire occurred in the Bafodia-Kabala area, where fighting erupted between elements of RUF and AFRC/ex-SLA. UNAMSIL deployed military observers and two platoons from the Kenyan battalion to the area to calm the situation. Intermittent fighting continued until 30 March when the AFRC/ex-SLA commander agreed to the UNAMSIL proposal to disarm. To avert tension, a total of 292 AFRC/ex-SLA combatants were disarmed on 30 March and transported to the Lungi disarmament, demobilization and reintegration camp together with their dependants. A further 139 were disarmed on 2 and 3 April and also transferred to that camp. Altogether, some 900 persons were moved. A company from the Kenyan battalion and a team of military observers were subsequently deployed at Kabala, but had to be moved back to Makeni to strengthen UNAMSIL positions there after the RUF attacks in early May. In another incident on 8 April, unidentified persons fired several rounds at Ghanaian UNAMSIL troops at Kenema. The troops returned fire and the attack ceased.

16. On 22 April, RUF staged a demonstration against the disarmament, demobilization and reintegration programme at Makeni, in which about 40 armed RUF

fighters participated. That group also set up a checkpoint close to the entrance of the reception centre of the Makeni disarmament, demobilization and reintegration camp. The RUF checkpoint was removed the same day under pressure from UNAMSIL. At that time, RUF fighters did not hinder the movement of UNAMSIL or personnel of the United Kingdom Department for International Development, which is providing the logistic support to the disarmament, demobilization and reintegration process. However, RUF did harass local Sierra Leonean disarmament, demobilization and reintegration personnel and forced them to leave the camp.

17. Also on 22 April, a group of some 20 RUF fighters prevented UNAMSIL military observers from entering the premises of the disarmament, demobilization and reintegration reception centre of Magburaka. They also alleged that UNAMSIL soldiers, who were providing security at that location, had taken some ammunition belonging to RUF. A small-scale scuffle ensued, after which UNAMSIL troops at the site decided to withdraw temporarily to avoid escalation. The Makeni/Magburaka area remained very tense and subsequently became the scene of the first attacks by RUF on UNAMSIL troops.

18. On 28 April, a scuffle between ECOMOG troops and ex-SLA members over a stolen vehicle led to several shots being fired, with one ex-SLA fighter killed and another seriously wounded. Several ex-SLA members immediately took to the streets to protest about this incident. The situation caused considerable tension in Freetown, but was brought under control by UNAMSIL. Mr. Koroma helped to restore calm. Mr. Sankoh, however, gave a press conference on 1 May during which he stated that UNAMSIL had shot the ex-combatants on 28 April in Freetown. This inciting statement led to an increase of tension between RUF and UNAMSIL throughout the country.

19. A serious incident occurred on 30 April, during which a soldier of the Nigerian contingent in UNAMSIL was shot and seriously wounded when he refused to surrender his weapon to a large group of armed men (presumably ex-SLA) in the Occra Hills area. His unit of five men was outnumbered and ultimately forced to surrender their weapons. The injured soldier was evacuated to Nigeria. A protest about the incident has been made to Mr. Koroma.

20. Other ceasefire violations during the reporting period included serious abuses against civilians in the Port Loko and Occra Hills areas, the maintenance of illegal roadblocks by all factions, and other obstruction of peacekeeping operations, particularly by RUF elements. Tension in the Occra Hills area subsided somewhat after the Government announced that AFRC/ex-SLA combatants would be able to join the restructured army, if they met certain criteria. Another contributing factor to the decrease in tension was the payment by the Government of transitional safety allowances to ex-combatants who had disarmed under the disarmament, demobilization and reintegration programme.

21. The Joint Monitoring Commission continued to hold its weekly meetings under the chairmanship of UNAMSIL to address ceasefire violations. The Commission continued to press the factions to comply with article XIX of the Lomé Peace Agreement which requires them to disclose the number and location of their combatants. While the Civil Defence Forces and AFRC/ex-SLA have furnished this information, RUF provided only partial information on 25 April. United Nations military observers convened several meetings of the district-level ceasefire monitoring committees in areas where UNAMSIL is deployed.

22. During the period under review, UNAMSIL contingents destroyed unstable ammunition found in various areas, as well as that collected during the disarmament process, the latter in close coordination with the National Commission on Disarmament, Demobilization and Reintegration. Some damaged bridges in the Eastern Province have been replaced or repaired by UNAMSIL troops deployed in the area.

23. Since my last report, UNAMSIL troops have deployed to new areas, including the RUF stronghold of Kailahun, as well as to Zimmi, Joru, Kambia, Mange and Kabala (see the attached map). Although the deployment of UNAMSIL troops to Kono district was obstructed by RUF, military observers and a Kenyan platoon from Magburaka sent frequent patrols to Koidu. The deployment of UNAMSIL was subsequently adjusted in view of the RUF attacks. The strength of the military component of UNAMSIL as at 15 May had reached 9,251 military personnel, including 260 military observers (see annex).

24. In accordance with the understanding reached with the Government of Nigeria, two Nigerian

battalions and a tank company serving with ECOMOG were brought under United Nations command and deployed in Freetown for a 90-day period. On 2 May, the remaining ECOMOG troops in Sierra Leone were repatriated after handing over their security functions to UNAMSIL peacekeepers, in particular in Freetown.

IV. Progress towards major objectives in the peace process

25. In my last report (S/2000/186), I outlined a number of important objectives or "steps ahead" to help define priorities and the responsibilities of all concerned and to provide the international community with benchmarks by which to measure progress. These main steps were endorsed by the Security Council at its 4111th meeting. This section describes the progress made during the reporting period towards these objectives.

Early disarmament, demobilization and reintegration of ex-combatants

26. The disarmament and demobilization process, which was making slow but steady progress, came to a virtual standstill after hostilities erupted early in May. As at 15 May, a total of 24,042 ex-combatants had been disarmed: 4,949 from RUF; 10,055 from AFRC/ex-SLA; and 9,038 from the Civil Defence Forces. The total figure of ex-combatants includes 1,701 child combatants who surrendered without weapons. The number and quality of weapons surrendered remain an issue of concern. To date, 10,840 weapons have been surrendered.

27. Following the attacks by RUF on UNAMSIL and its movements in the direction of Freetown, many ex-Sierra Leone Army and Civil Defence Forces combatants have taken up arms and are likely to remain armed at least for as long as RUF continues its attacks. While these actions on the part of the ex-SLA and the Civil Defence Forces would be understandable in the present context, it is clear that this development, together with the destruction of disarmament, demobilization and reintegration facilities by RUF, could seriously complicate the disarmament, demobilization and reintegration programme, which remains a crucial element of the peace process in Sierra Leone. There is also concern about the fate of those combatants, especially children, who had voluntarily joined the programme and would now be vulnerable to re-recruitment and possible punishment for desertion by RUF.

28. In view of the slow pace of disarmament, the National Commission on Disarmament, Demobilization and Reintegration held an emergency meeting on 7 April of all stakeholders in the disarmament, demobilization and reintegration process, chaired by President Kabbah, and agreed on a fast-track approach to disarmament. This approach included the shortening of the period of encampment of disarmed combatants at the demobilization centres from the initial six to eight weeks to a period of three weeks, and the use of mobile disarmament teams. The process would take the same time for all the RUF, AFRC/ex-SLA and Civil Defence Forces combatants, and was expected to result in a quicker flow of ex-combatants through the programme.

29. At that meeting, the National Commission also decided that the disarmament of RUF combatants in the Kailahun District would start in the Eastern Province. As a result, on 10 April, representatives from UNAMSIL, ECOMOG, a group of Parliamentarians and the press accompanied Mr. Sankoh to a ceremonial start of this exercise in Segbwema. However, only 89 combatants, including 56 RUF, 28 ex-SLA and 5 Civil Defence Forces, reported for disarmament and were subsequently transported to the Daru demobilization centre.

30. On 17 April, the four disarmament, demobilization and reintegration camps at Bo, Moyamba, Makeni and Magburaka became operational. Civil Defence Forces combatants have since then disarmed at Bo and Moyamba. RUF, however, did not participate in the disarmament, demobilization and reintegration process at Makeni and Magburaka and the overall number of RUF combatants disarmed remained well below expectations.

31. At the same time, many ex-SLA soldiers as well as combatants from other factions were reluctant to disarm for fear that they would not get the chance to join the new army if they left the demobilization centres. To allay this fear, the Government clarified that all former combatants would be eligible to join Sierra Leone's restructured army, provided that candidates met the criteria of the Military Reintegration Plan.

32. Delays in the payment of allowances for the combatants encamped at the disarmament,

demobilization and reintegration centres caused some disturbances in the camps as well as demonstrations in Freetown. UNAMSIL took steps to reinforce security at the camps and, in conjunction with the National Commission, to expedite the registration and documentation process for timely preparation of demobilization activities and payment of allowances.

33. The delays in the disarmament, demobilization and reintegration programme led to additional costs and therefore increased the need for financial assistance from donor countries. Before May, there was an important shortfall in contributions to the Multi-Donor Trust Fund, which is administered by the World Bank, of $19 million for the year 2000 disarmament, demobilization and reintegration budget. However, it is likely that a resumption in due course of the programme may require additional resources.

34. An additional concern arising in the context of the disarmament, demobilization and reintegration process was the lack of guidelines for the care and protection of so-called camp followers, or dependants of ex-combatants. UNAMSIL has initiated policy discussions and made recommendations on this issue, including the provision of adequate humanitarian assistance to this sector of the population, in cooperation with the Government and relevant humanitarian agencies.

Extension of State authority

35. During the period under review, the Government's Task Force for the restoration of civil authority throughout the country, which is chaired by Vice-President Joe Albert Demby, started discussions on plans and strategies for the return of Government officials and other public officials to the provinces, districts and chiefdoms.

36. In April, the Government of Sierra Leone decided to postpone the return of its officials to Makeni because of security concerns, as most parts of the Northern Province remain under RUF control. There was also a lack of basic amenities, including suitable residence and office accommodation.

National reconciliation and democratization

37. With a view to advancing democratization and national institution-building, UNAMSIL worked closely with the Attorney-General, the Minister of Justice and the High Commissioner for Human Rights in preparing draft legislation for the establishment of the national Human Rights Commission as foreseen in the Lomé Peace Agreement.

38. The National Electoral Commission was sworn into office on 20 March and has commenced work. The Government was also exploring the possibility of conducting phased local elections for Paramount Chiefs, beginning with rebel-free areas.

39. Obviously, the process of national reconciliation has become even more difficult in the light of the recent attacks by RUF, which have seriously undermined the peace process and have further exacerbated the lack of trust between the signatories of the Lomé Agreement.

Rebuilding Sierra Leone's security forces

40. There has been some improvement in the functioning of the Sierra Leone police force, which receives assistance from the United Kingdom and UNAMSIL. However, the restructuring process is proceeding slowly and is hampered by the lack of funding as well as the outbreak of hostilities. Changes have been made in the management structure, crime prevention methods, and rank structure of the police force. A Complaints and Discipline Department has been established to look into corrupt practices, criminal activities, sexual abuse and violent crimes by the police. UNAMSIL has also continued to regularly provide human rights training to the Sierra Leone police forces. Personnel of the armed Special Security Division of the Sierra Leonean police have now been deployed to Moyamba, Kenema, Bo and Lungi.

41. Efforts were also made to implement the Military Reintegration Plan, which was agreed upon by all parties. The first phase of the plan would involve an assessment of Sierra Leone Army officers to ensure that they, after fast-track training, could be involved in the training of their own army. I wish to express my appreciation for the crucial assistance provided by the United Kingdom in this regard.

42. Regrettably, a key figure in the national security system, General Mitikishe Maxwell Khobe, Chief of Defence Staff of the Sierra Leone Army, died on 18 April. The Government of Sierra Leone declared seven days of mourning.

V. Human rights

43. The human rights situation in some parts of the country, especially those areas not under the control of the Government, remained an issue of very serious concern. Abductions of civilians for specific tasks such as hard labour on palm oil plantations continued to be perpetrated by RUF and AFRC/ex-SLA elements from the Occra Hills area.

44. In the Northern Province, international non-governmental organizations seriously curtailed their humanitarian operations in RUF-held territories following the detention of some of their international and national aid workers by armed RUF combatants near Alikalia on 7 March. In Kabala, there were reports of the harassment of civilians and looting of villages by elements of the ex-SLA.

45. The large number of dependants of the AFRC/ex-SLA combatants who emerged from the bush at Kabala on 3 April (see para. 15 above) drew attention to the need to take special measures to protect dependants of ex-combatants, the majority of whom are women and children. The majority of "wives" of the combatants are in fact abductees and, if not interviewed separately from their "husbands", would most likely not feel free to express their wish to return to their original families.

46. The protection of internally displaced persons remains a source of concern, which needs to be urgently addressed in a coordinated manner. In the Port Loko area, internally displaced persons who move beyond the confines of relatively safe areas to meet their daily needs often become victims of abduction, rape and forced labour.

47. The deployment of United Nations human rights monitors to key locations in the country had to be curtailed as a result of the recent hostilities. However, their deployment will proceed as a matter of priority as soon as security conditions allow.

48. Recent reports of serious human rights abuses, summary executions and violations of international humanitarian law, committed during the recent fighting by RUF as well as by the Sierra Leone Army and AFRC/ex-SLA, are a cause of grave concern. I call on all parties and their leadership to refrain from such acts and restore respect for the rule of law.

Child protection

49. Preliminary reports suggest that child combatants have been used extensively during the current conflict. UNAMSIL human rights officers who undertook a mission to Masiaka on 15 May observed several armed child combatants, mostly boys, with the Civil Defence Forces, AFRC/ex-SLA and the Sierra Leone Army. About 25 per cent of the combatants were under 18 years and some freely admitted that their ages were between 7 and 14 years. Almost all of them were armed. Other reports indicate that RUF is using a similar proportion of child combatants in the front lines.

50. Prior to the events of May, a total of about 1,700 child combatants, out of an estimated 5,000, had entered the disarmament, demobilization and reintegration programme. UNICEF estimates that, at the time of the current crisis, about 800 of the demobilized child soldiers had been reunified with their families or placed in foster care, or had run away, leaving about 900 in interim care centres. These children remain vulnerable to re-abduction as a result of the collapse of the programme. Further, there have been no more releases of children from their commanders since the start of the crisis. UNICEF and its implementing partners, with significant support from key donors, are working to ensure that adequate protections are in place for these children.

51. Obviously, the delay in the disarmament process and the renewed hostilities also impacted negatively on the release of abducted children and women. The Government of Sierra Leone has agreed to establish a National Commission for War-Affected Children to ensure that children's concerns are addressed at the highest political levels. This agreement was reached during the recent visit to Freetown, on 29 and 30 April, of my Special Representative for Children and Armed Conflict, Olara Otunnu, and the Minister for Foreign Affairs of Canada, Lloyd Axworthy. Mr. Otunnu and Mr. Axworthy also held separate meetings with President Kabbah, Mr. Koroma and Mr. Sankoh to stress the need for special measures to address the plight of the war-affected children of Sierra Leone and to assess progress in implementation of the Lomé Agreement.

VI. Humanitarian aspects

52. During the reporting period, humanitarian access gradually improved in some areas owing to the wider deployment of UNAMSIL and the subsequent improvement of security conditions. Rehabilitation and reintegration activities continued to operate without serious difficulties in the relatively stable Southern Province. However, during the attacks on disarmament, demobilization and reintegration centres in the first week of May, international humanitarian staff were surrounded and harassed by rebel elements in Makeni. All staff were able to leave the area, but several assets belonging to humanitarian organizations were looted. The drastic deterioration of the security situation in May forced the curtailing of humanitarian operations in this and other areas of the Northern and Eastern Provinces, reversing gains made in the past few months. Food, health, water, sanitation and child protection programmes continue in Freetown and accessible areas of the Southern and lower Eastern Provinces, such as Bo, Kenema, Pujehun and Bonthe, despite limited staffing because of a drawdown in international humanitarian staff.

53. About 20,000 new internally displaced persons moved into Freetown following the fighting outside the peninsula. However, in view of improving security conditions, many of them are now returning to their homes in the Waterloo area, where they will receive assistance. Additionally, plans are under way to provide assistance to about 9,000 new internally displaced persons at Lungi. The World Food Programme, in collaboration with the Government, will also continue food distributions to about 59,000 internally displaced persons who were already in Freetown before the start of the current crisis. Further internal displacements have been reported in areas that cannot yet be reached, particularly around Masiaka and Port Loko. Meanwhile, the Office of the United Nations High Commission for Refugees is providing assistance to more than 1,000 new refugees who have arrived in Guinea, which already hosts about 450,000 Sierra Leonean and Liberian refugees.

54. Another area of concern is the apparently high rate of HIV/AIDS infection in Sierra Leone. Preliminary data suggest that the incidence of HIV/AIDS in Sierra Leone is increasing exponentially, indicating that the country is in the early stages of a major HIV/AIDS outbreak. The Government and their United Nations and non-governmental organization partners continue to support HIV testing, counselling and programmes for the control of sexually transmitted diseases, but much remains to be done in the areas of sexual education and health programmes. UNAMSIL has taken measures to sensitize its personnel to the risks of infection.

55. In order to cope with the current emergency, United Nations agencies have been forced to divert resources, such as food support for agricultural programmes, from activities designed to ensure the nation's long-term recovery. Further, the recent events have had a grave impact on the ability of humanitarian agencies to meet the needs of large segments of the population. Should these conditions persist, humanitarian priorities and needs will have to be re-evaluated and prioritized to reflect a new operating environment. To that end, the Office for the Coordination of Humanitarian Affairs, in cooperation with the agencies, is currently in the process of updating the Consolidated Inter-Agency Appeal to reflect the current situation. The Appeal, which requests $71 million in humanitarian assistance, is at present only about 37 per cent funded. However, a more robust response is required to meet the urgent humanitarian and rehabilitation needs of the country.

VII. Attacks on and detention of United Nations personnel

Military developments

56. The present crisis commenced on 1 May, when RUF ex-combatants approached the disarmament, demobilization and reintegration reception centre at Makeni in a threatening manner and started firing in the air. It should be noted that the RUF commander in Makeni obstructed the disarmament, demobilization and reintegration process in that area ever since the camps there, which were constructed to meet the RUF demands for better facilities, had become operational on 17 April. Only 10 RUF ex-combatants voluntarily came forward to disarm. They were demobilized in the morning of 1 May at the Makeni reception centre. There have also been incidents at various locations of RUF forcibly preventing its fighters from disarming. At the same time, UNAMSIL was about to deploy its forces to the area of Koidu, which is the centre of diamond mining operations conducted by RUF. This

planned deployment may also have contributed to the decision of RUF to attack UNAMSIL in a possible test of its resolve.

57. On 1 May, the local RUF commander and some of his fighters approached the reception centre at Makeni, which was manned by UNAMSIL military observers, in an assertive manner and demanded that the United Nations hand over five of the disarmed ex-combatants with their weapons as well as the UNAMSIL military observer who had demobilized them. The likely motive of RUF was to punish those ex-combatants for joining the disarmament, demobilization and reintegration programme. However, UNAMSIL prevented the RUF combatants from entering the UNAMSIL facilities and tried to discuss the situation with them. In the course of these discussions, the RUF combatants detained three UNAMSIL military observers as well as four UNAMSIL peacekeepers of the Kenyan battalion who were providing security at that location. The RUF combatants then proceeded to destroy part of the camp at Makeni and also started looting in the town. At Magburaka, a group of armed RUF ex-combatants surrounded the UNAMSIL team site, which was protected by a section of the Kenyan battalion.

58. In response to this incident, the Force Commander met the same day with President Kabbah to express his deep concern and discuss possible measures. The Force Commander also spoke with Mr. Sankoh by telephone to demand the immediate release of all UNAMSIL personnel. The RUF leader did not offer any help and accused UNAMSIL of trying to start a war by forcibly disarming RUF ex-combatants. President Kabbah then requested Mr. Lamin, the RUF-designated Minister for Trade and Industry, to try to convince Mr. Sankoh to give orders to defuse the situation. According to Mr. Lamin, this was agreed to by Mr. Sankoh, who, however, remained unavailable to UNAMSIL during the rest of that day.

59. On 2 May, which date coincided with the departure of the last ECOMOG troops from the country, the situation at Magburaka deteriorated sharply when RUF tried to disarm UNAMSIL troops. The United Nations troops resisted and an exchange of fire ensued which continued throughout the day. RUF used small arms, rocket-propelled grenades and mortars. Three soldiers of the Kenyan battalion were injured as a result of the fighting. RUF also destroyed and looted the disarmament, demobilization and reintegration facilities at Magburaka and Makeni. At Makeni, RUF attacked UNAMSIL troops, who returned fire. Two soldiers of the Kenyan battalion were wounded at that location. RUF also attacked and overran a 60-man strong unit of the Kenyan battalion located at the disarmament, demobilization and reintegration camp in Makeni. On 3 May, fighting in Makeni and Magburaka stopped, with the exception of some sporadic firing. A large group of the Kenyan unit, which had not been heard from since the attack at the disarmament, demobilization and reintegration camp, arrived at Mile 91 on 4 May after walking from Makeni, carrying three wounded. Smaller groups of this unit managed to join their company headquarters at Makeni.

60. The events at Makeni and Magburaka had immediate repercussions in other areas under RUF control where UNAMSIL had deployed its troops. On 2 May, a UNAMSIL helicopter and its crew and passengers were detained by RUF combatants at Kailahun. There were four crew members and two civilian staff members of UNAMSIL. In addition, RUF set up a roadblock to restrict UNAMSIL traffic in that area and detained 30 UNAMSIL military and civilian personnel and a helicopter. A 23-man unit of the Indian battalion, which was deployed from Daru to join the company deployed at Kailahun, was intercepted and detained by RUF at Kuiva, near Kailahun.

61. Also, late in the evening of 3 May, a company of the Nigerian contingent in Kambia came under fire from RUF. That company was then briefly detained by RUF and released on 4 May without their weapons and uniforms. A platoon of the Nigerian contingent at Mange also came under fire and was surrounded by RUF.

62. The Force Commander, Major General Vijay Kumar Jetley, took immediate measures to reinforce the UNAMSIL positions at Makeni and Magburaka. The company of the Kenyan battalion which had been deployed at Kabala moved to Makeni, while a 100-man unit of the Indian quick reaction company reinforced Magburaka. The Zambian battalion was then instructed to move from Lungi to Makeni, but was stopped at a strong roadblock erected by RUF, presumably ambushed and detained by a large group of RUF fighters. Some 400 United Nations troops, as well as elements of the Kenyan sector headquarters which accompanied them, are believed to have fallen into the hands of RUF, which reportedly moved 200 of them to

its stronghold in the Kono district. At that time, the Force Commander also began to redeploy United Nations troops to consolidate the UNAMSIL presence around Freetown as well as at Port Loko and Masiaka. The UNAMSIL units at the latter location were later forced to withdraw for lack of ammunition.

63. From 2 May onwards, there were several clashes between RUF and UNAMSIL troops, as well as elements of the Sierra Leone Army and the Civil Defence Forces at several locations in the northern and western parts of the country, including Makeni, Magburaka, Lunsar, Rogberi Junction, Port Loko, Mile 91, Masiaka, Songo, Mange and Kambia. At times, the Government-operated helicopter gunship engaged the rebel forces. During this period of fighting, UNAMSIL experienced serious difficulties in obtaining accurate information about the situation on the ground, which were exacerbated by a continuous stream of unconfirmed rumours and reports from the field. There were also unconfirmed reports about movements of RUF fighters from neighbouring countries into Sierra Leone. UNAMSL was forced to conduct frequent aerial reconnaissance missions to gather information about the movements of hostile RUF elements.

64. On 9 May, the Indian quick reaction company and a Kenyan company, which had been surrounded at Magburaka, broke successfully through RUF lines and managed to reach United Nations positions at Mile 91. On the same day, the remaining troops of the Kenyan battalion broke out of Makeni and managed to reach areas controlled by the ex-SLA at Kabala and Bumbuna. Before their breakout, these units stood their ground and did not surrender in spite of continuing threats and attacks by RUF, which had encircled their positions. I wish to convey to the United Nations troops concerned my admiration for this display of military courage and determination.

65. It should also be noted that, although RUF elements at Kailahun have surrounded and detained United Nations peacekeepers, they have so far refrained from hostilities against UNAMSIL and have reportedly been under considerable pressure from the local population to release United Nations personnel.

66. On 14 May, 18 detainees were moved from Geima, where they were being held by RUF, to the compound of the Indian battalion at Kailahun. This group includes 11 military observers and seven members of the Indian battalion. Although their location is surrounded by RUF, the former detainees are considered to be safe and under the protection of the Indian battalion, which did not yield to RUF. Negations continue with the RUF leadership to obtain their agreement to airlift the 11 military observers to Freetown.

67. On 15 May, 139 detainees, all members of the Zambian battalion, were moved to the Liberian border town of Foya, and 15 of them were transported onwards to Monrovia. Their release was the result of the commendable personal involvement of President Taylor of Liberia, whose efforts are to be commended by the international community. UNAMSIL is currently making arrangements to airlift the released detainees from Foya to Freetown with a stopover in Monrovia.

68. As at 15 May, the total number of UNAMSIL personnel presumed to be in the hands of RUF stands at 352, comprising 297 soldiers of the Zambian battalion, 29 soldiers of the Kenyan battalion, 23 soldiers of the Indian battalion and 3 military observers. They are believed to be held in Kuiva (near Kailahun) and in the Kono district. As a result of the fighting, a total of 25 UNAMSIL soldiers have been wounded. Fifteen United Nations soldiers remain missing, and it is feared that some of them may have lost their lives. RUF casualties are unknown, although reports indicate that RUF may have suffered a relatively high number of casualties.

69. At the time of preparation of this report, the situation in and around Freetown appeared to have stabilized, with no significant RUF movements reported towards the capital. The Government has mobilized forces which support it, including the Sierra Leone Army and Civil Defence Forces, to defend Freetown. A pivotal factor in restoring stability was the arrival of United Kingdom troops on 7 May and of a substantial British naval presence offshore a week later. The deployment of British troops at Lungi airport and in the western part of Freetown had as its objective the safe evacuation of nationals of the United Kingdom and others for whom it was responsible. Nevertheless, this presence boosted the confidence of the Sierra Leoneans, and enabled UNAMSIL to redeploy much-needed troops to areas east of Freetown. It is hoped that the United Kingdom will be able to maintain a military presence in the country until UNAMSIL has received the necessary reinforcements. An additional stabilizing factor was the arrival on 12 May of 300 well-trained and well-equipped troops from Jordan to

reinforce its contingent in UNAMSIL. The Government of India too made additional troops available for UNAMSIL, which will be airlifted soon. I applaud these countries for their immediate and resolute decisions to strengthen the international community's presence in Sierra Leone and their continued support since the beginning of the crisis.

70. As these events were unfolding, UNAMSIL received strong indications that Mr. Sankoh had given no instructions to his troops to stop the fighting or to seek the release of the detainees. On the contrary, Mr. Sankoh appeared initially to encourage his troops to take an assertive stand vis-à-vis the United Nations and later, when hostility against him increased in Freetown, called on his troops to march on Freetown.

71. On 9 May, the Under-Secretary-General for Peacekeeping Operations arrived in Freetown as my special envoy to boost the morale of UNAMSIL and to consult with my Special Representative and the Force Commander on their assessment of the situation and to prepare recommendations for the United Nations response.

Diplomatic and political efforts

72. Immediately following the outbreak of hostilities, I contacted leaders in the region and subregion to seek their assistance in bringing the situation to a rapid and peaceful resolution. I am grateful for the strong efforts made in this regard by African leaders, in particular the President of Algeria, Abdelaziz Bouteflika, current chairman of the Organization of African Unity (OAU), the President of Burkina Faso, Blaise Compaoré, the President of Liberia, Charles Taylor, the Leader of the Libyan Arab Jamahiriya, Colonel Muammar Al-Qadhafi, the President of Mali, Alpha Oumar Konare, the President of Nigeria, Olusegun Obasanjo, and the President of Togo, Gnassingbe Eyadema. Representatives of several Governments have been in touch with Mr. Sankoh to secure the immediate release of the detainees and to find ways to salvage the peace process in Sierra Leone. I am grateful for their efforts and, in particular, to the heads of State of Liberia, the Libyan Arab Jamahiriya, Mali and Nigeria, who sent their personal envoys to meet with Mr. Sankoh in the period from 3 to 7 May.

73. On 5 and 6 May, my Special Representative met in Freetown with Mr. Sankoh, who accused UNAMSIL troops of having precipitated the crisis by forcing RUF combatants to disarm. The Special Representative responded that no UNAMSIL troops had ever attempted to disarm RUF combatants by force and that, in fact, RUF combatants had in subsequent days escalated events by attacking UNAMSIL; and demanded the immediate release of all detained UNAMSIL troops and their weapons and equipment. In the evening of 6 May, the Special Representative and the Libyan Special Envoy, Ali Treiki, met jointly with Mr. Sankoh. They pressed him to reduce the tension by ordering the immediate release of the detainees and to issue a statement that RUF would cease its attacks. Mr. Sankoh agreed to issue a statement to that effect, which was read out that evening on national television by the Special Representative. Mr. Adeniji and Mr. Treiki also spoke to President Kabbah and urged him to reduce tension and, in particular, to call on the organizers of the planned demonstration on 8 May to avoid approaching Mr. Sankoh's house.

74. However, on 8 May, an estimated crowd of 30,000 went to Mr. Sankoh's house to protest against the RUF attacks on UNAMSIL. When the crowd tried to approach the house, armed members of RUF fired into the crowd from Mr. Sankoh's residence and killed several people and injured dozens more. The UNAMSIL troops stationed at Mr. Sankoh's home were overwhelmed by the huge crowd. In the panic and confusion, Foday Sankoh disappeared with some of his body guards. Several members of RUF were shot and killed by armed elements within the crowd; the house was ransacked and looted. The whereabouts of Foday Sankoh remained unknown until 17 May, when he was apprehended as he returned to his residence by elements of AFRC/ex-SLA who turned him over to the custody of the Government.

75. In the same period, Mr. Koroma, the Chairman of the Commission for the Consolidation of Peace and leader of AFRC/ex-SLA, made several public statements in which he urged his followers and other to take up arms and defend Freetown. Armed elements of the Sierra Leone Army, ex-SLA and the Civil Defence Forces started patrolling the town and arresting members of RUF, actions which contributed to an increase in tension in Freetown and beyond.

76. On 8 May, at the summit meeting of the Mano River Union held at Conakry, the Presidents of Liberia, Guinea and Sierra Leone were joined by President Konaré of Mali as Chairman of ECOWAS and my Special Representative in Sierra Leone in a special

discussion on Sierra Leone. The summit condemned the attacks on and detention of United Nations personnel and mandated President Taylor to involve himself personally to ensure the release of the detainees and the resumption of the peace process.

77. On 9 May, a summit meeting of the ECOWAS Committee on Sierra Leone, consisting of Burkina Faso, Côte d'Ivoire, Ghana, Guinea, Liberia, Mali, Nigeria and Togo, met at Abuja. The meeting strongly condemned RUF and called for the immediate and unconditional release of the detainees. In this regard, the meeting approved the mandate given to President Taylor (see para. 76). The summit also warned the leadership of RUF that their amnesty under the Lomé Peace Agreement could be revoked and that they could be tried for war crimes if they continued to flout the Lomé Peace Agreement. Participants reaffirmed their total support for the peace process in Sierra Leone as set out in the Lomé Peace Agreement, which remains the most appropriate framework for the resolution of the conflict. They also expressed their determination to use all means at their disposal, including the military option, to foil any attempt to take over power through the use of force, and to defend democratic institutions in Sierra Leone. The ECOWAS Executive Secretary was directed to convene a meeting of Ministers of Defence and Chiefs of Staff on 17 May at Abuja to consider, in the event of new involvement of ECOMOG in Sierra Leone, the practical modalities of such involvement.

78. A meeting of the Joint Implementation Committee was held at Freetown on 13 May, chaired by the Minister for Foreign Affairs of Mali and attended by the Minister for Foreign Affairs of Liberia and representatives of Ghana, Guinea, the Libyan Arab Jamahiriya and Sierra Leone, as well as of Canada, the United Kingdom, the United States of America, OAU and UNAMSIL. Mr. Koroma also attended the meeting; RUF was not represented. The meeting agreed that a dual approach should be pursued to resolve the current crisis, namely, exerting strong diplomatic pressure on RUF and displaying military strength by enhancing the operational capabilities of UNAMSIL to enable it to perform its functions more efficiently.

79. As at 15 May, there have been few indications that the leaders of RUF are willing to change their course of action, although some individual members of RUF have conveyed their willingness to disarm. At the same time, RUF continued to detain hundreds of UNAMSIL personnel and also to attack UNAMSIL and Sierra Leonean troops at various locations in the country. It would therefore be important to continue to bring strong pressure to bear on the RUF leadership.

VIII. Recommendations for immediate measures

80. I very much welcome the efforts made at the subregional, regional and international levels to express the international community's condemnation of the attacks perpetrated by RUF and to seek the immediate release of the peacekeepers detained by RUF, which remains the Organization's highest priority. At the same time, it would be important that political pressure be supported by a strong military posture, including on the part of the United Nations, to deter RUF from pursuing the military option.

81. To this end, UNAMSIL should be reinforced immediately to enhance its capability to defend its positions at Lungi airport, on the Freetown peninsula and at other strategic locations in the western and southern parts of the country. This immediate reinforcement, which is currently under way, would bring the military strength of UNAMSIL from its present strength of 9,250 to a level of up to 13,000, including 260 military observers. Once this key objective has been attained, UNAMSIL should be further expanded, which would enable it to gradually increase its presence, with sufficient military strength, and to stabilize the situation in Sierra Leone.

82. From the beginning of the crisis, the Secretariat has been working closely with those Member States that had agreed to contribute military units to UNAMSIL, in order to expedite the preparations for their deployment. With airlift support provided by the Governments of Canada, the Netherlands, the Russian Federation and the United States and with financial support provided by the Government of Germany, it is expected that up to 3,600 additional military personnel will arrive by the end of May or early June. It is also envisaged that the fourth Nigerian UNAMSIL battalion, which was due to be repatriated by the end of May, would be retained.

83. As I stressed in my previous reports on UNAMSIL, the troop strength authorized under Security Council resolution 1289 (2000) was predicated on the cooperation of the parties and a

generally permissive environment. Clearly, this crucial condition for any progress towards the Mission's key objective of assisting the parties in the implementation of the Lomé Agreement is now lacking. All efforts should therefore be aimed at the restoration of conditions conducive to a resumption of the peace process. The first priority in this regard is the consolidation of UNAMSIL units, both those currently on the ground and those scheduled to arrive shortly, at strong positions at Lungi airport, on the Freetown peninsula, and at other strategic locations on the main access roads to the capital. The main objective of this consolidation is to ensure the protection of the civilian population in Freetown and the security of Government institutions, as well as maintaining a sufficient strength in the areas under Government control to deter and, if necessary, repel further attacks by RUF.

84. Once these initial objectives have been attained, UNAMSIL will then seek to stabilize the situation in the country and assist the Government to restore law and order in the areas outside the control of RUF. To this end, UNAMSIL would be further strengthened and would begin to gradually deploy forward. It would do so in strength and with adequate equipment, in order to secure strategic locations in the western and southern parts of the country, including Port Loko, Rogberi Junction, Masiaka, Mile 91, Moyamba, Kenema and Daru. Such a deployment would make a significant contribution to the restoration of a measure of normalcy in the areas outside RUF control, the resumption of the disarmament, demobilization and reintegration process, and the extension of Government authority to the provinces. This deployment would also allow the Government of Sierra Leone and the international community to reassess the necessary steps that will be required to promote a durable peace in Sierra Leone.

85. In determining the military strength needed to reach these objectives, it should be borne in mind that RUF elements may continue to employ guerrilla tactics. As the recent history of Sierra Leone has shown, the topography of the country lends itself well to such a modus operandi, especially during the rainy season. To counter the threat posed by RUF and to attain the objectives described above, it would therefore be necessary to deploy with due care and preparation, in sufficient numbers and backed up by adequate military means to deter attacks and, if necessary, respond decisively to any hostile action or intent.

86. However, after receiving the reinforcements currently under way, UNAMSIL would not have the necessary resources to fulfil its mandate in the present hostile environment in Sierra Leone and would need additional troops as well as the necessary force multipliers to do this. In this context, it is estimated that UNAMSIL would require, in addition to the immediate reinforcements described above, two infantry battalions (a mechanized battalion and one air transportable battalion for rapid reinforcement), a logistic battalion, a light artillery unit, additional air transportation assets and armed helicopters, and a maritime unit of six armed patrol boats, as well as the necessary medical, communications, intelligence and command personnel. The total military strength of an expanded UNAMSIL would be up to 16,500 military personnel, including 260 military observers.

87. It is envisaged that this force would comprise a total of 15 infantry battalions, which would tentatively be deployed to the following areas: the Freetown peninsula; Lungi airport and peninsula; Port Loko, Rogberi Junction and Lunsar; Masiaka, Moyamba and Mile 91; Bo, Kenema and Daru. UNAMSIL would also maintain a sizeable force reserve, which would provide it with the capacity to react rapidly to serious military threats throughout the country. It is understood that the deployment of troops and their modus operandi would need to be revised in the light of the situation on the ground and the time of arrival of the additional troops.

88. The envisaged expansion of the force up to a level of 16,500 military personnel would also require a commensurate increase in the civilian administrative and logistical support staff of the Mission. The financial implications of the envisaged increase in strength will be submitted to the Security Council in an addendum to the present report.

89. For the time being, I believe that the mandate entrusted to UNAMSIL under resolution 1289 (2000) provides the force with sufficient authority to conduct the necessary operations in support of the aims described above. In that resolution, the Security Council, acting under Chapter VII of the Charter, authorized UNAMSIL, within its capabilities and areas of deployment and in the light of conditions on the ground, to take the necessary action to (a) provide security at key locations and Government buildings, in

particular in Freetown, important intersections and major airports, including Lungi airport; (b) facilitate the free flow of people, goods and humanitarian assistance along specified thoroughfares; (c) provide security in and at all sites of the disarmament, demobilization and reintegration programme; (d) coordinate with and assist, in common areas of deployment, the Sierra Leone law enforcement authorities in the discharge of their responsibilities; (e) guard weapons, ammunition and other military equipment collected from ex-combatants and assist in their subsequent disposal or destruction. In that resolution, the Security Council also authorized UNAMSIL to take the necessary action, in the discharge of its mandate, to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone. On the basis of that mandate, the present robust rules of engagement of UNAMSIL enable it to use force, including deadly force, in self-defence against any hostile act or intent. In the present circumstances, it is obvious that the use of force against all elements that continue to display a hostile intent towards the United Nations would be warranted and justified. At the same time, UNAMSIL would be ready to enter into discussion with all those who would be willing and ready to pursue a peaceful solution.

90. To ensure proper control and unity of command, I believe that all international forces in Sierra Leone, with the exception of those sent for a brief period for strictly national purposes, should be integrated into UNAMSIL. It is also of the utmost importance that the United Nations forces coordinate closely with the Sierra Leonean Army and other elements allied with the Government, in particular the Civil Defence Forces and AFRC/ex-SLA, to avoid any misunderstandings which could lead to incidents. To this end, it is envisaged that UNAMSIL will place military liaison officers with the military command of the groups and units involved. UNAMSIL would also ensure close coordination with the British force while it remains in Sierra Leone.

Public information

91. As was noted in my third report, it would be necessary for UNAMSIL to set up a countrywide public information campaign. In that connection, the Department of Public Information conducted an assessment, from 13 to 20 March 2000, of public information needs. On the basis of the team's recommendations, efforts are currently under way to significantly increase the capacity of the UNAMSIL public information office as a matter of priority.

92. It is clear that UNAMSIL will face a significant challenge in disseminating information on the peace process in a country where the infrastructure has been damaged by years of warfare. In order to reach all parts of the country, UNAMSIL intends to set up its own radio station. The necessary equipment, donated to the United Nations in 1998 by the Government of Denmark, has been transferred to UNAMSIL. Radio UNAMSIL is expected to play a significant role in the Mission's efforts to inform the people of Sierra Leone, independent of any party or affiliation. The UNAMSIL public information office would also include units for liaison with the media, video and print production and community outreach.

IX. Observations

93. The overall situation in Sierra Leone remains tense and critical. The deliberate and unprovoked attacks by RUF fighters on United Nations peacekeepers and the detention of large numbers of United Nations personnel are unacceptable acts which have been unequivocally condemned by the international community. Given the suffering the country has endured during the past decade, it would be unforgivable to thwart the hopes of the Sierra Leonean people who had just begun to see some modest improvement in their situation. The international community should not allow any group, and in particular the RUF leadership, to deny to the people of Sierra Leone their legitimate aspirations to live in peace and rebuild their country.

94. Of immediate concern is the safe return of all those United Nations personnel currently being detained by RUF, an end to the hostile acts of the RUF fighters, and their full cooperation in retrieving the dead, wounded and missing. In this regard, I should like to acknowledge the efforts made by regional leaders, including President Taylor of Liberia, whose personal involvement led to the release of a significant number of detainees. However, I demand that the leadership of the RUF take urgent steps to ensure that

all remaining United Nations personnel in their hands be released immediately and unconditionally. I also call upon those with influence on RUF to continue to work towards this end. In addition, the Security Council may also wish to consider a strengthening of the sanctions regime, including measures which would prevent RUF commanders from reaping the benefits of their illegal exploitation of mineral resources, in particular diamonds.

95. While part of the responsibility for some of the recent events may lie with local commanders of RUF, it is clear that Mr. Sankoh has failed to take any action to prevent, curb or stop the actions of his troops. On the contrary, there is some evidence that he may well have encouraged, if not planned, some of these acts. The international community should hold Mr. Sankoh accountable for his actions and those of RUF, and for the safety and well-being of all those who have been detained.

96. At the same time, the international community should not lose sight of the overarching objective of helping the people and Government of Sierra Leone to establish a durable peace in their country and rekindling their hope. Their plight has become a crucial test of the solidarity of the international community, rising above race and geography, which is a basic guiding principle of this Organization. The United Nations has not abandoned and will not abandon Sierra Leone. It should continue to provide humanitarian aid and the required assistance in taking the many steps needed on the path to peace, national reconciliation and development.

97. In this regard, I believe that active political efforts to assist the people of Sierra Leone to change the course of events in their country must, in the present circumstances, be supplemented by credible military force. At the outset of the crisis, I called upon those Member States with the capacity to deploy well-trained and well-equipped troops to constitute a rapid reaction force to provide UNAMSIL with the necessary deterrent capacity. In this regard, I very much welcome the decision made by the United Kingdom to deploy a spearhead battalion and other assets which, although sent for national reasons, was instrumental in restoring calm in Freetown and helping UNAMSIL by ensuring the defence of Lungi airport.

98. I also deeply appreciate the commendable efforts made by troop contributors, other Member States, and United Nations logistical personnel to accelerate the arrival of the troops which had already been committed to serve with UNAMSIL, as well as the arrival of additional units made available by Member States. This will enhance the capability of UNAMSIL to defend the Freetown peninsula, Lungi airport and other strategic locations on the main access roads to the capital.

99. However, in the present circumstances this will not be enough to create conditions which would be conducive to the establishment of a lasting peace. I therefore recommend an increase of the Force's strength up to a level of 16,500 military personnel, as outlined in paragraphs 80 to 90 above, for the purpose of stabilizing the situation in Sierra Leone under the present mandate of UNAMSIL. Once these additional forces have arrived in Sierra Leone and countered the threat posed by RUF to the peace process, it would be appropriate to consider additional steps which I will present to the Security Council after a thorough assessment of the political and military situation in Sierra Leone. Such steps may involve a strengthening of UNAMSIL, above the proposed strength of 16,500, which could be necessary to establish the security conditions throughout the country required for the successful implementation of aspects of the peace process, including disarmament and the holding of democratic elections.

100. At the 4139th meeting of the Security Council on 11 May 2000, many Member States advocated that UNAMSIL should be given a strong peace-enforcement mandate under Chapter VII of the Charter. As I indicated in my statement at that meeting, I am not opposed to such a mandate in principle, as long as the United Nations is able to obtain, from Member States with ready capacity, the necessary resources to carry out the tasks that such a mandate implies. In addition, it would be essential for the international community to demonstrate the necessary will and resolve to sustain such a commitment to impose peace in Sierra Leone. If such conditions cannot be met, any effort to strengthen the mandate of UNAMSIL would unduly raise expectations, increase the risk of loss of life, and undermine the credibility of the Organization.

101. Some West African Governments have, in principle, offered to make troops available in an effort to restore peace in their region. I naturally welcome these offers. They have however indicated that their offers would be contingent on strong financial and logistical support from other Member States.

102. Looking ahead, it is clear that the Government of Sierra Leone, other parties to the Lomé Agreement and the international community will need to reflect on the future of the peace process. The recent events raise serious questions about the role of RUF and of Foday Sankoh in particular. ECOWAS, during its meeting of 9 May 2000, reaffirmed its support for the peace process in Sierra Leone as set out in the Lomé Peace Agreement, which remains the most appropriate framework for the resolution of the conflict. I too believe that the Lomé Agreement contains many elements which contribute to a durable peace, in particular the disarmament of all factions, national reconciliation, the holding of democratic elections, and the creation of an effective national army and police force. In this regard, I call upon the leaders of those factions fighting on the side of the Government to exercise restraint, to respect the rule of law, and to refrain from any acts of harassment or revenge against RUF members of sympathizers, which could complicate efforts at reconciliation and restoring confidence. At all times, there should be full respect for the rule of law and human rights.

103. The process of disarmament, demobilization and reintegration, which is the cornerstone of the peace process, has come to a virtual standstill. Many of the ex-combatants belonging to AFRC/ex-SLA and the Civil Defence Forces have taken up arms again in defence of their country, which will seriously complicate their disarmament. Obviously, this aspect of the peace process requires a re-evaluation of its assumptions, organization and implementation mechanisms, which is to be undertaken in full coordination with national and international stakeholders.

104. Ultimately, a lasting resolution of the crisis can only be found through political means; it cannot be imposed by military force alone. Nor can a solution be the result of international involvement alone. The Government of Sierra Leone has a particular responsibility to actively design and implement the necessary steps towards peace in consultation with its regional and international partners. Of special importance in this regard would be the continuation of the disarmament, demobilization and reintegration process, together with the restructuring of Sierra Leone's armed forces. As I have stated in previous reports, the assistance of the international community to Sierra Leone cannot be open-ended and the Government should do its utmost to ensure that it can maintain a stable democracy and guarantee the security of its territory and institutions.

105. Looking back on recent events, it is obvious that the United Nations will have to draw lessons from its experiences in Sierra Leone. The force, which had been designed, equipped and deployed as a peacekeeping force, was quickly forced into actual combat with one of the parties that had pledged to cooperate with it. In the course of these events, many problems emerged within the Mission, including with regard to command and control, cohesiveness of the force, the flow of information, equipment and preparedness of troops, and coordination between and within the various components in UNAMSIL. In this respect, the Secretariat is taking urgent steps to assess these problems and to address recognized equipment shortfalls, in close coordination with the troop-contributing countries. This is no reflection on the leadership of the Mission. My Special Representative has handled a very difficult situation effectively. I also wish to acknowledge the Force Commander's quick reaction, personal courage and military professionalism. Nor does this imply criticism of the troops on the ground, many of which displayed considerable courage and professionalism in defending themselves and their mandate. At the same time, I am deeply saddened by the casualties inflicted on UNAMSIL troops, who had come to assist a peace process, but were attacked and forced to engage in combat to defend themselves in a situation that resembles war. I pay tribute to those who have died or were injured while performing their duties to serve the cause of peace in Sierra Leone.

106. In our focus on Sierra Leone, it would be important not to lose sight of the regional dimensions of the peace process, in particular in respect of the neighbouring countries, Guinea and Liberia. In this regard, I very much welcome the efforts taken by the States Members of the Mano River Union to enhance their cooperation. I should also like to encourage further efforts by ECOWAS and regional leaders to bring their influence to bear on the parties to the Lomé Agreement, in particular the Revolutionary United Front, and convince them that a durable peace in Sierra Leone requires their full cooperation and respect for the provisions of the Lomé Agreement.

107. I should like to express my gratitude to all Member States contributing troops, military observers,

civilian police or other assistance to UNAMSIL for their unwavering support, resolve and commitment in the face of a very difficult situation. Their willingness to stay the course and to strengthen UNAMSIL, despite the adverse conditions on the ground, are an example to the international community. At no point during the crisis did the city and population of Freetown suffer casualties and destruction, which was not the case in January 1999. United Nations contingents have stood firm throughout in defence of the capital.

108. I should also like to express gratitude for the invaluable role played by ECOWAS and, in particular, by ECOMOG, which has now left the country after years of sacrifice and service to the people and Government of Sierra Leone. I pay tribute to the brave men and women in ECOMOG and their Governments for their defence of a democratically elected Government. Troops from ECOWAS continue, of course, to play an essential role as part of UNAMSIL.

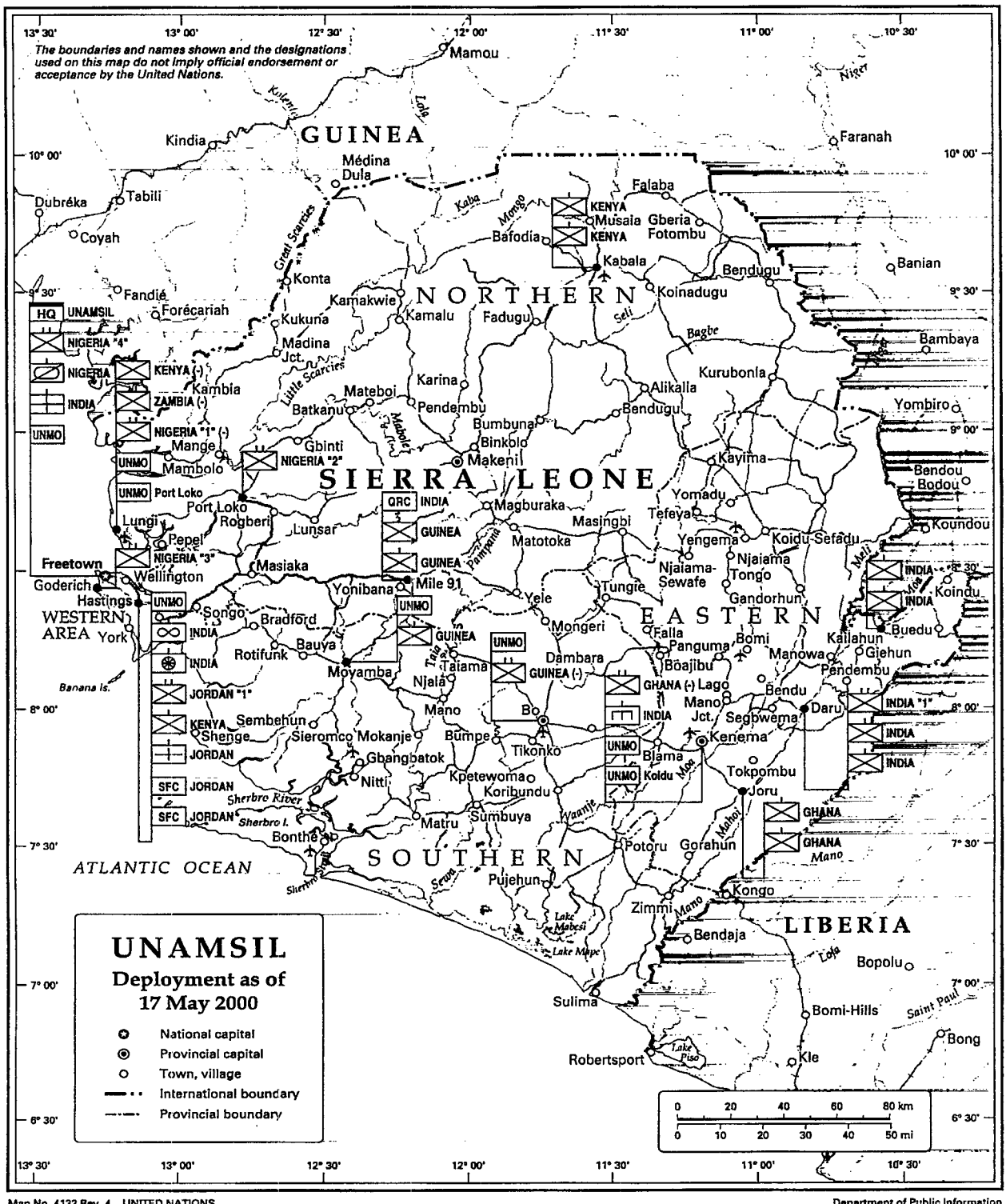
109. I also take this opportunity to express my deep appreciation to my Special Representative, Oluyemi Adeniji, the UNAMSIL Force Commander, Major General Vijay Kumar Jetley, and the military and civilian personnel of UNAMSIL, as well as of United Nations programmes and agencies, the World Bank and other institutions working in the country, for their perseverance, courage and dedication in their work to fashion a better future for the people of Sierra Leone.

Annex

United Nations Mission in Sierra Leone: contributions as at 19 May 2000

	Military observers	*Staff Officers*	*Troops*	*Total*
Bangladesh	12			12
Bolivia	4			4
Canada	5			5
China	6			6
Croatia	10			10
Czech Republic	5			5
Denmark	2			2
Egypt	10			10
France	3			3
Gambia	26			26
Ghana	4	3	776	783
Guinea	12	3	776	791
India	14	18	1 644	1 676
Indonesia	10			10
Jordan	5		1 131	1 136
Kenya	11	13	858	882
Kyrgyzstan	2			2
Malaysia	10			10
Mali	8			8
Nepal	6			6
New Zealand	2			2
Nigeria	4	14	3 217	3 235
Norway	5			5
Pakistan	10			10
Russian Federation	15			15
Slovakia	2			2
Sweden	3			3
Thailand	5			5
United Kingdom	15	3		18
United Republic of Tanzania	12			12
Uruguay	11			11
Zambia	11	3	776	790
Total	**260**	**57**	**9 178**	**9 495**

Civilian police deployed (28): Bangladesh (2), Gambia (2), Ghana (3), India (1), Jordan (3), Kenya (1), Malaysia (3), Mali (2), Norway (2), Senegal (2), Namibia (1), Nepal (4), Zimbabwe (2).



Map No. 4132 Rev. 4 UNITED NATIONS
May 2000

Department of Public Information
Cartographic Section

1250

United Nations S/RES/1346 (2001)

Security Council

Distr.: General

30 March 2001

Resolution 1346 (2001)

Adopted by the Security Council at its 4306th meeting, on 30 March 2001

The Security Council,

Recalling its previous resolutions and the statements of its President concerning the situation in Sierra Leone,

Affirming the commitment of all States to respect the sovereignty, political independence and territorial integrity of Sierra Leone,

Expressing its continued concern at the fragile security situation in Sierra Leone and neighbouring countries, and in particular at the continued fighting on the border regions of Sierra Leone, Guinea and Liberia and at the grave humanitarian consequences for the civilian, refugee and internally displaced populations in those areas,

Recognizing the importance of the progressive extension of State authority throughout the entire country, political dialogue and national reconciliation, the full implementation of a disarmament, demobilization and reintegration programme, the legitimate exploitation of the natural resources of Sierra Leone for the benefit of its people, full respect for the human rights of all and the rule of law, effective action on the issues of impunity and accountability, the voluntary and unhindered return of refugees and internally displaced persons, the holding by the Government of Sierra Leone of free, fair and transparent elections, and the formulation of a long-term plan for the peace process in order to achieve sustainable peace and security in Sierra Leone, and *stressing* that the United Nations should continue to support the fulfilment of these objectives,

Having considered the report of the Secretary-General of 14 March 2001 (S/2001/228),

1. *Decides* that the mandate of the United Nations Mission in Sierra Leone (UNAMSIL), established in its resolutions 1270 (1999) of 22 October 1999 and 1289 (2000) of 7 February 2000, shall be extended for a period of six months from the date of the adoption of this resolution;

2. *Further decides* to increase the military component of UNAMSIL to a strength of 17,500, including the 260 military observers already deployed, as recommended by the Secretary-General in paragraphs 99 and 100 of his report;

01-31219 (E)

3. *Welcomes* the revised concept of operations for UNAMSIL as set out in paragraphs 57 to 67 of the report of the Secretary-General and the progress already made towards its implementation, and *encourages* the Secretary-General to proceed to its completion;

4. *Expresses* its appreciation to those Member States providing additional troops and support elements to UNAMSIL and those who have made commitments to do so, *encourages* the Secretary-General to continue his efforts to seek, if necessary, further properly trained and equipped forces to strengthen the military components of UNAMSIL in order to enable the mission to implement fully its revised concept of operations, and *requests* the Secretary-General to inform the Council upon receipt of firm commitments to that end;

5. *Requests* the Secretary-General to inform the Council at regular intervals on progress made by UNAMSIL in the implementation of key aspects of its concept of operations, and *further requests* him to provide an assessment in his next report on steps taken to improve the effectiveness of UNAMSIL;

6. *Expresses* its deep concern at the reports of human rights abuses committed by the Revolutionary United Front (RUF) and others, including other military groups, against the civilian population, in particular the harassment and forced recruitment of adults and children for fighting and forced labour, *demands* that these acts cease immediately, and *requests* the Secretary-General to ensure all human rights monitoring positions within UNAMSIL are filled in order to address the concerns raised in paragraphs 44 to 51 of the report of the Secretary-General;

7. *Expresses also* its deep concern that the Ceasefire Agreement signed in Abuja on 10 November 2000 (S/2000/1091) between the Government of Sierra Leone and the RUF has not been fully implemented, and *demands* that the RUF take immediate steps to fulfil its commitments under that Agreement to ensure full liberty for the United Nations to deploy its troops throughout the country, the free movement of persons and goods, unimpeded movement of humanitarian agencies, refugees and displaced persons and the immediate return of all seized weapons, ammunition and other equipment, and to recommence active participation in the disarmament, demobilization and reintegration programme;

8. *Requests*, in this respect, UNAMSIL to maintain its support, within its capabilities and areas of deployment, for returning refugees and displaced persons and to encourage the RUF to cooperate to this end in fulfilment of its commitments under the Abuja Ceasefire Agreement;

9. *Requests* the Secretary-General to submit to the Council his views on how to take forward the issue of refugees and internally displaced persons, including their return;

10. *Calls upon* all the parties to the Sierra Leone conflict to intensify their efforts towards the full and peaceful implementation of the Abuja Ceasefire Agreement and the resumption of the peace process, taking into account the basis of the Abuja Ceasefire Agreement and relevant Security Council resolutions, and *urges* Governments and regional leaders concerned to continue their full cooperation with the Economic Community of West African States (ECOWAS) and the United Nations to promote these efforts, and, in particular, to use their influence with the leaders of the RUF to obtain their cooperation towards achievement of the above-mentioned goals;

11. *Encourages* the efforts of ECOWAS towards a lasting and final settlement of the crisis in the Mano River Union region caused by the continued fighting in the border areas of Sierra Leone, Guinea and Liberia, and *underlines* the importance of the political support that the United Nations can provide to these efforts in order to stabilize the region;

12. *Takes note* of the responsibilities to be undertaken by UNAMSIL in support of the Government of Sierra Leone's disarmament, demobilization and reintegration programme, notably the decision to provide an enhanced management role as referred to in paragraphs 76 to 79 of the report of the Secretary-General, *commends* the Government of Sierra Leone for the improvements it has already brought about in the programme, *encourages* it to take the necessary urgent decisions to allow finalization of the programme and dissemination of information on its benefits and conditions to proceed expeditiously, and *also encourages* international organizations and donor countries to support generously the efforts of the Government of Sierra Leone in this regard;

13. *Emphasizes* that the development and extension of the administrative capacities of Sierra Leone are also essential to sustainable peace and development in the country, and therefore *urges* the Government of Sierra Leone to take the necessary practical steps to prepare for and bring about the restoration of civil authority and basic public services throughout its territory, including in the locations where UNAMSIL is expected to deploy in accordance with its concept of operations, and *encourages* States, other international organizations and non-governmental organizations to provide appropriate assistance in this regard;

14. *Encourages* the Government of Sierra Leone, together with the Secretary-General, the United Nations High Commissioner for Human Rights and other relevant international actors, to expedite the establishment of the Truth and Reconciliation Commission and the Special Court envisaged by resolution 1315 (2000) of 14 August 2000, bearing in mind in particular the need to ensure the appropriate protection of children;

15. *Welcomes* the Secretary-General's intention to keep the security, political, humanitarian and human rights situation in Sierra Leone under close review and to report to the Council, after due consultations with troop-contributing countries, with any additional recommendations, including, if necessary, for a further strengthening of the military component of UNAMSIL for the completion of the planned concept of operations to fulfil the overall objective of assisting the Government of Sierra Leone to re-establish its authority throughout the country, including the diamond-producing areas, and to create the necessary conditions for the conduct of free, fair and transparent elections in due course under the authority of the Government of Sierra Leone;

16. *Decides* to remain actively seized of the matter.

1253

United Nations S/RES/1313 (2000)

Security Council

Distr.: General
4 August 2000

Resolution 1313 (2000)

Adopted by the Security Council at its 4184th meeting, on 4 August 2000

The Security Council,

Recalling all its previous resolutions and the statements of its President concerning the situation in Sierra Leone,

Condemning in the strongest terms the armed attacks against and detention of the personnel of the United Nations Mission in Sierra Leone (UNAMSIL), and *commending* UNAMSIL and the Force Commander for the recent resolute action taken in response to the continuing threat towards the mission from the Revolutionary United Front (RUF) and other armed elements in Sierra Leone,

Having considered the reports of the Secretary-General of 19 May 2000 (S/2000/455) and 31 July 2000 (S/2000/751),

1. *Decides* to extend the mandate of UNAMSIL until 8 September 2000;

2. *Considers* that the widespread and serious violations of the Lomé Peace Agreement (S/1999/777) by the RUF since early May 2000 constitute a breakdown of the prior generally permissive environment based on the Agreement and predicated on the cooperation of the parties, that until security conditions have been established allowing progress towards the peaceful resolution of the conflict in Sierra Leone there will continue to be a threat to UNAMSIL and the security of the state of Sierra Leone, and that in order to counter that threat, the structure, capability, resources and mandate of UNAMSIL require appropriate strengthening;

3. *Expresses* its intention, in this context, taking into account the views of the Government of Sierra Leone, the Economic Community of West African States (ECOWAS) and the troop-contributing countries, to strengthen the mandate of UNAMSIL as established in its resolutions 1270 (1999) of 22 October 1999 and 1289 (2000) of 7 February 2000 with the following priority tasks:

(a) To maintain the security of the Lungi and Freetown peninsulas, and their major approach routes;

(b) To deter and, where necessary, decisively counter the threat of RUF attack by responding robustly to any hostile actions or threat of imminent and direct use of force;

(c) To deploy progressively in a coherent operational structure and in sufficient numbers and density at key strategic locations and main population centres and, in coordination with the Government of Sierra Leone to assist, through its presence and within the framework of its mandate, the efforts of the Government of Sierra Leone to extend state authority, restore law and order and further stabilize the situation progressively throughout the entire country, and, within its capabilities and areas of deployment, to afford protection to civilians under threat of imminent physical violence;

(d) To patrol actively on strategic lines of communication, specifically main access routes to the capital in order to dominate ground, ensure freedom of movement and facilitate the provision of humanitarian assistance;

(e) To assist in the promotion of the political process leading, *inter alia*, to a renewed disarmament, demobilization and reintegration programme where possible;

4. *Considers* that, in order to allow the restructuring of the force and provide the additional capability required for the achievement of the priority tasks set out in paragraph 3 above, the military component of UNAMSIL should be reinforced through accelerated troop rotations, as appropriate, and with, *inter alia*, further aviation and maritime assets, a strengthened force reserve, upgraded communications and specialist combat and logistic support assets;

5. *Recognizes* that the RUF offensive against UNAMSIL since May 2000 revealed serious inherent weaknesses in the mission's structure, command and control and resources, as referred to in paragraph 54 of the report of the Secretary-General of 31 July 2000, reflecting findings of the United Nations Assessment Mission which visited Sierra Leone from 31 May to 8 June 2000, *welcomes* the recommendations made and action already taken to address these deficiencies, and *requests* the Secretary-General to take further urgent steps to implement these recommendations to improve the performance and capacity of the mission;

6. *Stresses* that the successful achievement of the objectives of the mission, including the priority tasks set out in paragraph 3 above, will depend on the provision to UNAMSIL of fully equipped, complete units, with the required capabilities, effective command and control structure and capacity, a single chain of command, adequate resources and the commitment to implement the mandate of the mission in full as authorized by the Security Council;

7. *Requests* the Secretary-General, after further consultations with troop contributing countries, to provide a further report to the Council as soon as possible on the proposals in paragraphs 2 to 6 above with recommendations for the restructuring and strengthening of UNAMSIL, and *expresses* its intention to take a decision on those recommendations expeditiously;

8. *Decides* to remain actively seized of the matter.

United Nations S/RES/1306 (2000)

Security Council

Distr.: General
5 July 2000

Resolution 1306 (2000)

Adopted by the Security Council at its 4168th meeting, on 5 July 2000

The Security Council,

Recalling its previous resolutions and the statements of its President concerning the situation in Sierra Leone, and in particular its resolutions 1132 (1997) of 8 October 1997, 1171 (1998) of 5 June 1998 and 1299 (2000) of 19 May 2000,

Affirming the commitment of all States to respect the sovereignty, political independence and territorial integrity of Sierra Leone,

Having considered the report of the Secretary-General of 19 May 2000 (S/2000/455), and in particular its paragraph 94,

Determining that the situation in Sierra Leone continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

A

Expressing its concern at the role played by the illicit trade in diamonds in fuelling the conflict in Sierra Leone, and at reports that such diamonds transit neighbouring countries, including the territory of Liberia,

Welcoming ongoing efforts by interested States, the International Diamond Manufacturers Association, the World Federation of Diamond Bourses, the Diamond High Council, other representatives of the diamond industry and non-governmental experts to improve the transparency of the international diamond trade, and encouraging further action in this regard,

Emphasizing that the legitimate diamond trade is of great economic importance for many States, and can make a positive contribution to prosperity and stability and to the reconstruction of countries emerging from conflict, and *emphasizing further* that nothing in this resolution is intended to undermine the legitimate diamond trade or to diminish confidence in the integrity of the legitimate diamond industry,

Welcoming the decision taken by the member States of the Economic Community of West African States (ECOWAS) at their Abuja summit on 28-29 May 2000 to undertake a regional inquiry into the illegal trade in diamonds,

Taking note of the letter of 29 June 2000 to its President from the Permanent Representative of Sierra Leone to the United Nations and of its enclosure (S/2000/641),

1. *Decides* that all States shall take the necessary measures to prohibit the direct or indirect import of all rough diamonds from Sierra Leone to their territory;

2. *Requests* the Government of Sierra Leone to ensure, as a matter of urgency, that an effective Certificate of Origin regime for trade in diamonds is in operation in Sierra Leone;

3. *Also requests* States, relevant international organizations and other bodies in a position to do so to offer assistance to the Government of Sierra Leone to facilitate the full operation of an effective Certificate of Origin regime for Sierra Leone rough diamonds;

4. *Further requests* the Government of Sierra Leone to notify the Committee established by resolution 1132 (1997) ("the Committee") of the details of such a Certificate of Origin regime when it is fully in operation;

5. *Decides* that rough diamonds controlled by the Government of Sierra Leone through the Certificate of Origin regime shall be exempt from the measures imposed in paragraph 1 above when the Committee has reported to the Council, taking into account expert advice obtained at the request of the Committee through the Secretary-General, that an effective regime is fully in operation;

6. *Decides* that the measures referred to in paragraph 1 above are established for an initial period of 18 months, and *affirms* that, at the end of this period, it will review the situation in Sierra Leone, including the extent of the Government's authority over the diamond-producing areas, in order to decide whether to extend these measures for a further period and, if necessary, to modify them or adopt further measures;

7. *Further decides* that the Committee shall also undertake the following tasks:

(a) To seek from all States further information regarding the action taken by them with a view to implementing effectively the measures imposed by paragraph 1 above;

(b) To consider information brought to its attention concerning violations of the measures imposed by paragraph 1 above, identifying where possible persons or entities, including vessels, reported to be engaged in such violations;

(c) To make periodic reports to the Security Council on information submitted to it regarding alleged violations of the measures imposed by paragraph 1 above, identifying where possible persons or entities, including vessels, reported to be engaged in such violations;

(d) To promulgate such guidelines as may be necessary to facilitate the implementation of the measures imposed by paragraph 1 above;

(e) To continue its cooperation with other relevant sanctions committees in particular that established pursuant to resolution 985 (1995) of 13 April 1995 concerning Liberia and that established pursuant to resolution 864 (1993) of 15 September 1993 concerning the situation in Angola;

8. *Requests* all States to report to the Committee established by resolution 1132 (1997), within 30 days of the adoption of this resolution, on the actions they have taken to implement the measures imposed by paragraph 1 above;

9. *Calls upon* all States, in particular those through which rough diamonds from Sierra Leone are known to transit, and all relevant international and regional organizations to act strictly in accordance with the provisions of this resolution notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to the date of adoption of this resolution;

10. *Encourages* the International Diamond Manufacturers Association, the World Federation of Diamond Bourses, the Diamond High Council and all other representatives of the diamond industry to work with the Government of Sierra Leone and the Committee to develop methods and working practices to facilitate the effective implementation of this resolution;

11. *Invites* States, international organizations, members of the diamond industry and other relevant entities in a position to do so to offer assistance to the Government of Sierra Leone to contribute to the further development of a well-structured and well-regulated diamond industry that provides for the identification of the provenance of rough diamonds;

12. *Requests* the Committee to hold an exploratory hearing in New York no later than 31 July 2000 to assess the role of diamonds in the Sierra Leone conflict and the link between trade in Sierra Leone diamonds and trade in arms and related *materiél* in violation of resolution 1171 (1998), involving representatives of interested States and regional organizations, the diamond industry and other relevant experts, *requests* the Secretary-General to provide the necessary resources, and *further requests* the Committee to report on the hearing to the Council;

13. *Welcomes* the commitments made by certain members of the diamond industry not to trade in diamonds originating from conflict zones, including in Sierra Leone, *urges* all other companies and individuals involved in trading in rough diamonds to make similar declarations in respect of Sierra Leone diamonds, and *underlines* the importance of relevant financial institutions encouraging such companies to do so;

14. *Stresses* the need for the extension of government authority to the diamond-producing areas for a durable solution to the problem of illegal exploitation of diamonds in Sierra Leone;

15. *Decides* to conduct a first review on the measures imposed by paragraph 1 above no later than 15 September 2000, and further such reviews every six months after the date of adoption of the resolution, and to consider at those times what further measures may be necessary;

16. *Urges* all States, relevant United Nations bodies and, as appropriate, other organizations and interested parties to report to the Committee information on possible violations of the measures imposed by paragraph 1 above;

B

Stressing the need to ensure effective implementation of the measures concerning arms and related materiel imposed by paragraph 2 of resolution 1171 (1998),

Stressing the obligation of all Member States, including those neighbouring Sierra Leone, to comply fully with the measures imposed by the Council,

Recalling the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Light Weapons in West Africa adopted in Abuja on 31 October 1998 (S/1998/1194, annex),

17. *Reminds* States of their obligation to implement fully the measures imposed by resolution 1171 (1998), and *calls upon* them, where they have not already done so, to enforce, strengthen or enact, as appropriate, legislation making it a criminal offence under domestic law for their nationals or other persons operating on their territory to act in violation of the measures imposed by paragraph 2 of that resolution, and to report to the Committee not later than 31 July 2000 on the implementation of those measures;

18. *Urges* all States, relevant United Nations bodies and, as appropriate, other organizations and interested parties to report to the Committee information on possible violations of the measures imposed by the Council;

19. *Requests* the Secretary-General, in consultation with the Committee, to establish a panel of experts, for an initial period of four months, consisting of no more than five members:

(a) To collect information on possible violations of the measures imposed by paragraph 2 of resolution 1171 (1998) and the link between trade in diamonds and trade in arms and related materiel including through visits to Sierra Leone and other States as appropriate, and making contact with those they consider appropriate, including diplomatic missions;

(b) To consider the adequacy, for the purpose of detecting flights of aircraft suspected of carrying arms and related materiel across national borders in violation of the measures imposed by paragraph 2 of resolution 1171 (1998), of air traffic control systems in the region;

(c) To participate, if possible, in the hearing referred to in paragraph 12 above;

(d) To report to the Council through the Committee with observations and recommendations on strengthening the implementation of the measures imposed by paragraph 2 of resolution 1171 (1998), and of those imposed by paragraph 1 above, no later than 31 October 2000;

and *further requests* the Secretary-General to provide the necessary resources;

20. *Expresses* its readiness, on the basis, *inter alia*, of the report produced pursuant to paragraph 19 (d) above, to consider appropriate action in relation to States that it determines to have violated the measures imposed by paragraph 2 of resolution 1171 (1998) and paragraph 1 above;

21. *Urges* all States to cooperate with the panel in the discharge of its mandate, and *underlines*, in this regard, the importance of the cooperation and technical expertise of the Secretariat and other parts of the United Nations system;

22. *Requests* the Committee to strengthen existing contacts with regional organizations, in particular ECOWAS and the Organization of African Unity, and relevant international organizations, including INTERPOL, with a view to identifying ways to improve effective implementation of the measures imposed by paragraph 2 of resolution 1171 (1998);

23. *Requests* the Committee to make information it considers relevant publicly available through appropriate media, including through the improved use of information technology;

24. *Requests* the Secretary-General to publicize the provisions of this resolution and the obligations imposed by it;

25. *Decides* to remain actively seized of the matter.

1260

United Nations S/RES/1299 (2000)

Security Council

Distr.: General
19 May 2000

Resolution 1299 (2000)

Adopted by the Security Council at its 4145th meeting on 19 May 2000

The Security Council,

Recalling its previous resolutions and the statements of its President on the situation in Sierra Leone,

Having considered the letter of the Secretary-General to its President of 17 May (S/2000/446), and *awaiting* his next report,

Convinced that the deterioration in security conditions on the ground necessitates the rapid reinforcement of the military component of the United Nations Mission in Sierra Leone (UNAMSIL) to provide the mission with additional resources to fulfil its mandate,

1. *Decides* that the military component of UNAMSIL shall be expanded to a maximum of 13,000 military personnel, including the 260 military observers already deployed;

2. *Expresses* its appreciation to all States who, in order to expedite the rapid reinforcement of UNAMSIL, have accelerated the deployment of their troops to UNAMSIL, made available additional personnel, and offered logistical, technical and other forms of military assistance, and *calls upon* all those in a position to do so to provide further support;

3. *Decides, acting* under Chapter VII of the Charter of the United Nations, that the restrictions set out in paragraph 2 of its resolution 1171 (1998) of 5 June 1998 do not apply to the sale or supply of arms and related *matériel* for the sole use in Sierra Leone of those Member States cooperating with UNAMSIL and the Government of Sierra Leone;

4. *Decides* to remain actively seized of the matter.

00-43960 (E)

1261

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/RES/1289 (2000)
7 February 2000

RESOLUTION 1289 (2000)

Adopted by the Security Council at its 4099th meeting
on 7 February 2000

The Security Council,

Recalling its resolutions 1171 (1998) of 5 June 1998, 1181 (1998) of 13 July 1998, 1231 (1999) of 11 March 1999, 1260 (1999) of 20 August 1999, 1265 (1999) of 17 September 1999 and 1270 (1999) of 22 October 1999 and other relevant resolutions and the statement of its President of 15 May 1999 (S/PRST/1999/13),

Affirming the commitment of all States to respect the sovereignty, political independence and territorial integrity of Sierra Leone,

Recalling the relevant principles contained in the Convention on the Safety of United Nations and Associated Personnel adopted on 9 December 1994,

Welcoming and encouraging efforts by the United Nations to sensitize peacekeeping personnel in the prevention and control of HIV/AIDS and other communicable diseases in all its peacekeeping operations,

Taking note of the letter to its President from the Minister of Foreign Affairs and International Cooperation of Sierra Leone of 17 January 2000 (S/2000/31),

Having considered the reports of the Secretary-General of 23 September 1999 (S/1999/1003), 6 December 1999 (S/1999/1223) and 11 January 2000 (S/2000/13) and the letter of the Secretary-General to its President of 23 December 1999 (S/1999/1285),

Determining that the situation in Sierra Leone continues to constitute a threat to international peace and security in the region,

1. Notes that the deployment of the United Nations Mission in Sierra Leone (UNAMSIL) as established by resolution 1270 (1999) is in the process of completion;

2. Welcomes the efforts made by the Government of Sierra Leone, the leadership of the Revolutionary United Front Party of Sierra Leone, the Military Observer Group (ECOMOG) of the Economic Community of West African States and UNAMSIL towards the implementation of the Peace Agreement signed in Lomé on 7 July 1999 (S/1999/777);

3. Reiterates its call upon the parties to fulfil all their commitments under the Peace Agreement to facilitate the restoration of peace, stability, national reconciliation and development in Sierra Leone, and stresses that the responsibility for the success of the peace process ultimately lies with the people and leaders of Sierra Leone;

4. Notes with concern that, despite the progress that has been made, the peace process thus far has been marred by the limited and sporadic participation in the disarmament, demobilization and reintegration programme, by the lack of progress on the release of abductees and child soldiers, and by continued hostage-taking and attacks on humanitarian personnel, and expresses its conviction that the expansion of UNAMSIL as provided for in paragraphs 9 to 12 below will create conditions under which all parties can work to ensure that the provisions of the Peace Agreement are implemented in full;

5. Notes also with concern the continuing human rights violations against the civilian population of Sierra Leone, and emphasizes that the amnesty extended under the Peace Agreement does not extend to such violations committed after the date of its signing;

6. Calls upon the parties and all others involved to take steps to ensure that the disarmament, demobilization and reintegration programme is fully implemented throughout the country, and in particular urges the Revolutionary United Front (RUF), the Civil Defence Forces, the former Sierra Leone Armed Forces/Armed Forces Revolutionary Council (AFRC) and all other armed groups to participate fully in the programme and cooperate with all those responsible for its implementation;

7. Takes note of the decision of the Governments of Nigeria, Guinea and Ghana to withdraw their remaining ECOMOG contingents from Sierra Leone, as reported in the letter of the Secretary-General of 23 December 1999;

8. Expresses its appreciation to ECOMOG for its indispensable contribution towards the restoration of democracy and the maintenance of peace, security and stability in Sierra Leone, commends highly the forces and the Governments of its contributing States for their courage and sacrifice, and encourages all States to assist the contributing States further in meeting the costs they have incurred in making possible the deployment of ECOMOG forces in Sierra Leone;

9. Decides that the military component of UNAMSIL shall be expanded to a maximum of 11,100 military personnel, including the 260 military observers already deployed, subject to periodic review in the light of conditions on the ground and the progress made in the peace process, in particular in the disarmament, demobilization and reintegration programme, and takes note of paragraph 33 of the report of the Secretary-General of 11 January 2000;

10. Acting under Chapter VII of the Charter of the United Nations, decides further that the mandate of UNAMSIL shall be revised to include the following additional tasks, to be performed by UNAMSIL within its capabilities and areas of deployment and in the light of conditions on the ground:

(a) To provide security at key locations and Government buildings, in particular in Freetown, important intersections and major airports, including Lungi airport;

(b) To facilitate the free flow of people, goods and humanitarian assistance along specified thoroughfares;

(c) To provide security in and at all sites of the disarmament, demobilization and reintegration programme;

(d) To coordinate with and assist, in common areas of deployment, the Sierra Leone law enforcement authorities in the discharge of their responsibilities;

(e) To guard weapons, ammunition and other military equipment collected from ex-combatants and to assist in their subsequent disposal or destruction,

authorizes UNAMSIL to take the necessary action to fulfil the additional tasks set out above, and affirms that, in the discharge of its mandate, UNAMSIL may take the necessary action to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone;

11. Decides further that the mandate of UNAMSIL, as revised, shall be extended for a period of six months from the date of adoption of this resolution;

12. Authorizes the increases in the civil affairs, civilian police, administrative and technical personnel of UNAMSIL proposed by the Secretary-General in his report of 11 January 2000;

13. Welcomes the intention of the Secretary-General, as indicated in his report of 11 January 2000, to establish within UNAMSIL a landmine action office responsible for awareness training of UNAMSIL personnel and for the coordination of mine action activities of non-governmental organizations and humanitarian agencies operating in Sierra Leone;

14. Stresses the importance of a smooth transition between ECOMOG and UNAMSIL for the successful implementation of the Peace Agreement and the stability of Sierra Leone, and in that regard urges all those concerned to consult over the timing of troop movements and withdrawals;

15. Reiterates the importance of the safety, security and freedom of movement of United Nations and associated personnel, notes that the Government of Sierra Leone and the RUF have agreed in the Peace Agreement to provide

guarantees in this regard, and calls upon all parties in Sierra Leone to respect fully the status of United Nations and associated personnel;

16. Reiterates its request to the Government of Sierra Leone to conclude a status-of-forces agreement with the Secretary-General within 30 days of the adoption of this resolution, and recalls that pending the conclusion of such an agreement the model status-of-forces agreement dated 9 October 1990 (A/45/594) should apply provisionally;

17. Reiterates also the continued need to promote peace and national reconciliation and to foster accountability and respect for human rights in Sierra Leone, and urges the Government of Sierra Leone, specialized agencies, other multilateral organizations, civil society and Member States to accelerate their efforts to establish the Truth and Reconciliation Commission, the Human Rights Commission and the Commission for the Consolidation of Peace as fully-functioning and effective institutions, as provided for under the Peace Agreement;

18. Emphasizes the importance of the exercise by the Government of Sierra Leone of full control over the exploitation of gold, diamonds and other resources for the benefit of the people of the country and in accordance with Article VII, paragraph 6, of the Peace Agreement, and to that end calls for the early and effective operation of the Commission of the Management of Strategic Resources, National Reconstruction and Development;

19. Welcomes the contributions that have been made to the multi-donor trust fund established by the International Bank for Reconstruction and Development to finance the disarmament, demobilization and reintegration process, and urges all States and international and other organizations which have not yet done so to contribute generously to the fund so that the process is adequately financed and the provisions of the Peace Agreement can be fully implemented;

20. Underlines the ultimate responsibility of the Government of Sierra Leone for the provision of adequate security forces in the country, calls upon it, in that regard, to take urgent steps towards the establishment of professional and accountable national police and armed forces, and stresses the importance to this objective of generous support and assistance from the international community;

21. Reiterates the continued need for urgent and substantial assistance to the people of Sierra Leone, as well as for sustained and generous assistance for the longer terms tasks of peace-building, reconstruction, economic and social recovery and development in Sierra Leone, and urges all States and international and other organizations to provide such assistance as a priority;

22. Requests the Secretary-General to continue to report to the Council every 45 days to provide, inter alia, assessments of security conditions on the ground so that troop levels and the tasks to be performed by UNAMSIL can be kept under review, as indicated in report of the Secretary-General of 11 January 2000;

23. Decides to remain actively seized of the matter.

1265

UNITED NATIONS

S

Security Council

Distr.
GENERAL

S/RES/1270 (1999)
22 October 1999

RESOLUTION 1270 (1999)

Adopted by the Security Council at its 4054th meeting on 22 October 1999

The Security Council,

Recalling its resolutions 1171 (1998) of 5 June 1998, 1181 (1998) of 13 July 1998, 1231 (1999) of 11 March 1999 and 1260 (1999) of 20 August 1999 and other relevant resolutions and the statement of its President of 15 May 1999 (S/PRST/1999/13),

Recalling also the report of the Secretary-General of 8 September 1999 (S/1999/957) and its resolution 1265 (1999) of 17 September 1999 on the protection of civilians in armed conflict,

Affirming the commitment of all States to respect the sovereignty, political independence and territorial integrity of Sierra Leone,

Having considered the report of the Secretary-General of 23 September 1999 (S/1999/1003),

Determining that the situation in Sierra Leone continues to constitute a threat to international peace and security in the region,

1. Welcomes the important steps taken by the Government of Sierra Leone, the leadership of the Revolutionary United Front of Sierra Leone (RUF), the Military Observer Group (ECOMOG) of the Economic Community of West African States (ECOWAS) and the United Nations Observer Mission in Sierra Leone (UNOMSIL) towards implementation of the Peace Agreement (S/1999/777) since its signing in Lomé on 7 July 1999, and recognizes the important role of the Joint Implementation Committee established by the Peace Agreement under the chairmanship of the President of Togo;

2. Calls upon the parties to fulfil all their commitments under the Peace Agreement to facilitate the restoration of peace, stability, national reconciliation and development in Sierra Leone;

3. Takes note of the preparations made for the disarmament, demobilization and reintegration of ex-combatants, including child soldiers, by the Government of Sierra Leone through the National Committee for Disarmament, Demobilization and Reintegration, and urges all concerned to make every effort to ensure that all designated centres begin to function as soon as possible;

4. Calls upon the RUF, the Civil Defence Forces, former Sierra Leone Armed Forces/Armed Forces Revolutionary Council (AFRC) and all other armed groups in Sierra Leone to begin immediately to disband and give up their arms in accordance with the provisions of the Peace Agreement, and to participate fully in the disarmament, demobilization and reintegration programme;

5. Welcomes the return to Freetown of the leaders of the RUF and AFRC, and calls upon them to engage fully and responsibly in the implementation of the Peace Agreement and to direct the participation of all rebel groups in the disarmament and demobilization process without delay;

6. Deplores the recent taking of hostages, including UNOMSIL and ECOMOG personnel, by rebel groups and calls upon those responsible to put an end to such practices immediately and to address their concerns about the terms of the Peace Agreement peacefully through dialogue with the parties concerned;

7. Reiterates its appreciation for the indispensable role which ECOMOG forces continue to play in the maintenance of security and stability in and the protection of the people of Sierra Leone, and approves the new mandate for ECOMOG (S/1999/1073, annex) adopted by ECOWAS on 25 August 1999;

8. Decides to establish the United Nations Mission in Sierra Leone (UNAMSIL) with immediate effect for an initial period of six months and with the following mandate:

(a) To cooperate with the Government of Sierra Leone and the other parties to the Peace Agreement in the implementation of the Agreement;

(b) To assist the Government of Sierra Leone in the implementation of the disarmament, demobilization and reintegration plan;

(c) To that end, to establish a presence at key locations throughout the territory of Sierra Leone, including at disarmament/reception centres and demobilization centres;

(d) To ensure the security and freedom of movement of United Nations personnel;

(e) To monitor adherence to the ceasefire in accordance with the ceasefire agreement of 18 May 1999 (S/1999/585, annex) through the structures provided for therein;

(f) To encourage the parties to create confidence-building mechanisms and support their functioning;

(g) To facilitate the delivery of humanitarian assistance;

(h) To support the operations of United Nations civilian officials, including the Special Representative of the Secretary-General and his staff, human rights officers and civil affairs officers;

(i) To provide support, as requested, to the elections, which are to be held in accordance with the present constitution of Sierra Leone;

9. Decides also that the military component of UNAMSIL shall comprise a maximum of 6,000 military personnel, including 260 military observers, subject to periodic review in the light of conditions on the ground and the progress made in the peace process, in particular in the disarmament, demobilization and reintegration programme, and takes note of paragraph 43 of the report of the Secretary-General of 23 September 1999;

10. Decides further that UNAMSIL will take over the substantive civilian and military components and functions of UNOMSIL as well as its assets, and to that end decides that the mandate of UNOMSIL shall terminate immediately on the establishment of UNAMSIL;

11. Commends the readiness of ECOMOG to continue to provide security for the areas where it is currently located, in particular around Freetown and Lungi, to provide protection for the Government of Sierra Leone, to conduct other operations in accordance with their mandate to ensure the implementation of the Peace Agreement, and to initiate and proceed with disarmament and demobilization in conjunction and full coordination with UNAMSIL;

12. Stresses the need for close cooperation and coordination between ECOMOG and UNAMSIL in carrying out their respective tasks, and welcomes the intended establishment of joint operations centres at headquarters and, if necessary, also at subordinate levels in the field;

13. Reiterates the importance of the safety, security and freedom of movement of United Nations and associated personnel, notes that the Government of Sierra Leone and the RUF have agreed in the Peace Agreement to provide guarantees in this regard, and calls upon all parties in Sierra Leone to respect fully the status of United Nations and associated personnel;

14. Acting under Chapter VII of the Charter of the United Nations, decides that in the discharge of its mandate UNAMSIL may take the necessary action to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone and ECOMOG;

15. Underlines the importance of including in UNAMSIL personnel with appropriate training in international humanitarian, human rights and refugee law, including child and gender-related provisions, negotiation and communication skills, cultural awareness and civilian-military coordination;

16. Requests the Government of Sierra Leone to conclude a status-of-forces agreement with the Secretary-General within 30 days of the adoption of this resolution, and recalls that pending the conclusion of such an agreement

the model status-of-forces agreement dated 9 October 1990 (A/45/594) should apply provisionally;

17. Stresses the urgent need to promote peace and national reconciliation and to foster accountability and respect for human rights in Sierra Leone, underlines in this context the key role of the Truth and Reconciliation Commission, the Human Rights Commission and the Commission for the Consolidation of Peace established under the Peace Agreement, and urges the Government of Sierra Leone to ensure the prompt establishment and effective functioning of these bodies with the full participation of all parties and drawing on the relevant experience and support of Member States, specialized bodies, other multilateral organizations and civil society;

18. Emphasizes that the plight of children is among the most pressing challenges facing Sierra Leone, welcomes the continued commitment of the Government of Sierra Leone to work with the United Nations Children's Fund, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict and other international agencies to give particular attention to the long-term rehabilitation of child combatants in Sierra Leone, and reiterates its encouragement of those involved to address the special needs of all children affected by the conflict;

19. Urges all parties concerned to ensure that refugees and internally displaced persons are protected and are enabled to return voluntarily and in safety to their homes, and encourages States and international organizations to provide urgent assistance to that end;

20. Stresses the urgent need for substantial additional resources to finance the disarmament, demobilization and reintegration process, and calls upon all States, international and other organizations to contribute generously to the multidonor trust fund established by the International Bank for Reconstruction and Development for this purpose;

21. Stresses also the continued need for urgent and substantial humanitarian assistance to the people of Sierra Leone, as well as for sustained and generous assistance for the longer term tasks of peace-building, reconstruction, economic and social recovery and development in Sierra Leone, and urges all States and international and other organizations to provide such assistance as a priority;

22. Calls upon all parties to ensure safe and unhindered access of humanitarian assistance to those in need in Sierra Leone, to guarantee the safety and security of humanitarian personnel and to respect strictly the relevant provisions of international humanitarian and human rights law;

23. Urges the Government of Sierra Leone to expedite the formation of professional and accountable national police and armed forces, including through their restructuring and training, without which it will not be possible to achieve long-term stability, national reconciliation and the reconstruction of the country, and underlines the importance of support and assistance from the international community in this regard;

24. Welcomes the continued work by the United Nations on the development of the Strategic Framework for Sierra Leone aimed at enhancing effective collaboration and coordination within the United Nations system and between the United Nations and its national and international partners in Sierra Leone;

25. Notes the intention of the Secretary-General to keep the situation in Sierra Leone under close review and to revert to the Council with additional proposals if required;

26. Requests the Secretary-General to report to the Council every 45 days to provide updates on the status of the peace process, on security conditions on the ground and on the continued level of deployment of ECOMOG personnel, so that troop levels and the tasks to be performed can be evaluated as outlined in paragraphs 49 and 50 of the report of the Secretary-General of 23 September 1999;

27. Decides to remain actively seized of the matter.

1270

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/RES/1220 (1999)
12 January 1999

RESOLUTION 1220 (1999)

Adopted by the Security Council at its 3964th meeting,
on 12 January 1999

The Security Council,

Recalling its resolution 1181 (1998) of 13 July 1998 and the statement of its President of 7 January 1999 (S/1999/PRST/1),

Expressing its deep concern over the recent deterioration of the situation in Sierra Leone, and encouraging all efforts aimed at resolving the conflict and restoring lasting peace and stability,

Having considered the Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone (UNOMSIL) (S/1998/1176) and his Special Report on UNOMSIL of 7 January 1999 (S/1999/20), and noting the recommendations contained therein,

1. Decides to extend the mandate of UNOMSIL until 13 March 1999;

2. Takes note of the intention of the Secretary-General, as set out in paragraph 37 of his Special Report, to reduce the number of military observers in UNOMSIL and to retain in Conakry a small number who would return to Sierra Leone when conditions permit together with the necessary civilian substantive and logistical support staff under the leadership of his Special Representative;

3. Requests the Secretary-General to keep the Council closely informed on the situation in Sierra Leone and to submit a further report to the Council with recommendations on the future deployment of UNOMSIL and implementation of its mandate by 5 March 1999;

4. Decides to remain actively seized of the matter.

1271

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/RES/1181 (1998)
13 July 1998

RESOLUTION 1181 (1998)

Adopted by the Security Council at its 3902nd meeting,
on 13 July 1998

The Security Council,

Recalling its previous relevant resolutions and the statements of its President,

Welcoming the continued efforts of the Government of Sierra Leone to restore peaceful and secure conditions in the country, to re-establish effective administration and the democratic process and to embark on the task of national reconciliation, reconstruction and rehabilitation,

Recognizing the important contribution of the Economic Community of West African States (ECOWAS) in support of these objectives,

Having considered the report of the Secretary-General of 9 June 1998 (S/1998/486 and Add.1),

Noting the objectives set by ECOWAS for its Military Observer Group (ECOMOG) as described in paragraph 17 of the report of Secretary-General,

Gravely concerned at the loss of life and immense suffering undergone by the people of Sierra Leone, including refugees and displaced persons, as a result of the continuing rebel attacks, and in particular at the plight of children affected by the conflict,

1. Condemns the continued resistance of remnants of the ousted junta and members of the Revolutionary United Front (RUF) to the authority of the legitimate government and the violence they are perpetrating against the civilian population of Sierra Leone, and demands that they lay down their arms immediately;

2. Emphasizes the need to promote national reconciliation in Sierra Leone, encourages all parties in the country to work together towards this objective, and welcomes the assistance of the Secretary-General and his Special Envoy in that regard;

1272

3. Welcomes the proposal in the report of the Secretary-General of 9 June 1998 on the establishment of the United Nations Observer Mission in Sierra Leone (UNOMSIL);

4. Notes that the Government of Sierra Leone has adopted a disarmament, demobilization and reintegration plan agreed with the International Bank for Reconstruction and Development, the United Nations Development Programme and other donors;

5. Commends the positive role of ECOWAS and ECOMOG in their efforts to restore peace, security and stability throughout the country at the request of the Government of Sierra Leone, and notes the role of ECOMOG in assisting the implementation of the disarmament, demobilization and reintegration plan adopted by the Government of Sierra Leone, including the provision of security and responsibility for arms collection and destruction;

6. Decides to establish UNOMSIL for an initial period of six months until 13 January 1999, and further decides that it shall include up to 70 military observers as well as a small medical unit, with the necessary equipment and civilian support staff, with the following mandate:

(a) To monitor the military and security situation in the country as a whole, as security conditions permit, and to provide the Special Representative of the Secretary-General with regular information thereon in particular with a view to determining when conditions are sufficiently secure to allow subsequent deployments of military observers beyond the first phase described in paragraph 7 below;

(b) To monitor the disarmament and demobilization of former combatants concentrated in secure areas of the country, including monitoring of the role of ECOMOG in the provision of security and in the collection and destruction of arms in those secure areas;

(c) To assist in monitoring respect for international humanitarian law, including at disarmament and demobilization sites, where security conditions permit;

(d) To monitor the voluntary disarmament and demobilization of members of the Civil Defence Forces (CDF), as security conditions permit;

7. Decides further that the elements of UNOMSIL referred to in paragraph 6 above shall be deployed as outlined in the Secretary-General's report, with approximately 40 military observers deployed in the first phase to ECOMOG-secured areas, and that subsequent deployments shall take place as soon as security conditions permit, and subject to progress on the implementation of the disarmament, demobilization and reintegration plan and the availability of the necessary equipment and resources;

8. Decides further that UNOMSIL shall be led by the Special Envoy of the Secretary-General, who will be designated Special Representative for Sierra Leone, that UNOMSIL shall subsume the office of the Special Envoy and its civilian staff, and that the augmented civilian staff, as recommended by the

Secretary-General in paragraphs 74 and 75 of his report, shall perform, inter alia, the following tasks:

(a) To advise, in coordination with other international efforts, the Government of Sierra Leone and local police officials on police practice, training, re-equipment and recruitment, in particular on the need to respect internationally accepted standards of policing in democratic societies, to advise on the planning of the reform and restructuring of the Sierra Leone police force, and to monitor progress in that regard;

(b) To report on violations of international humanitarian law and human rights in Sierra Leone, and, in consultation with the relevant United Nations agencies, to assist the Government of Sierra Leone in its efforts to address the country's human rights needs;

9. Welcomes the commitment of ECOMOG to ensure the security of United Nations personnel, and in this regard welcomes also the intention of the Secretary-General to establish security arrangements for United Nations personnel with the Chairman of ECOWAS and to conclude a status of mission agreement with Government of Sierra Leone;

10. Decides that the elements of UNOMSIL referred to in paragraph 6 above shall be deployed when the Secretary-General informs the Council that security arrangements and the status of mission agreement have been concluded, and further decides to keep the deployment of UNOMSIL under review in the light of the prevailing security conditions;

11. Stresses the need for full cooperation and close coordination between UNOMSIL and ECOMOG in their respective operational activities;

12. Demands that all factions and forces in Sierra Leone strictly respect the status of UNOMSIL personnel, as well as organizations and agencies delivering humanitarian assistance throughout Sierra Leone, and that they respect human rights and abide by applicable rules of international humanitarian law;

13. Expresses its serious concern at the reports of cross-border arms flows and support to the rebels in Sierra Leone, welcomes the intention of the Secretary-General, as indicated in his report, to pursue with all parties concerned steps to eliminate these activities, and in that regard reaffirms the obligation of all States to comply strictly with the terms of the embargo on the sale or supply of arms and related matériel to Sierra Leone imposed by resolution 1171 (1998) of 5 June 1998, and to bring all instances of violations of the arms embargo before the Committee established by resolution 1132 (1997) of 8 October 1997;

14. Welcomes the efforts of the Government of Sierra Leone to coordinate an effective national response to the needs of children affected by armed conflict, and the recommendation of the Special Representative of the Secretary-General for Children in Armed Conflict that Sierra Leone be made one of the pilot projects for a more concerted and effective response to the needs of children in the context of post-conflict peace-building;

12.74

15. Further welcomes the decision of the Secretary-General to convene a high-level conference to mobilize assistance for peacekeeping activities, emergency and humanitarian needs and reconstruction and rehabilitation in Sierra Leone;

16. Reiterates its urgent appeal to States to make contributions to the Trust Fund which has been established to support peacekeeping and related activities in Sierra Leone, to provide technical and logistical support to assist ECOMOG to carry out its peacekeeping role, and to help facilitate other ECOWAS member States to provide additional troops to strengthen the deployment of ECOMOG in Sierra Leone;

17. Urges all States and international organizations to provide urgent humanitarian assistance to Sierra Leone, in response to the consolidated inter-agency appeal launched on 24 June 1998;

18. Encourages all States and international organizations to assist and participate in the longer term tasks of reconstruction and economic and social recovery and development in Sierra Leone;

19. Requests the Secretary-General to submit an initial report to the Council within 30 days of the adoption of this resolution and every 60 days thereafter on the deployment of UNOMSIL and on the progress of UNOMSIL in carrying out its mandate, and also to inform the Council on plans for the later phases of the deployment of UNOMSIL when security conditions permit these to be implemented;

20. Decides to remain seized of the matter.

1275

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/RES/1132 (1997)
8 October 1997

RESOLUTION 1132 (1997)

Adopted by the Security Council at its 3822nd meeting,
on 8 October 1997

The Security Council,

Recalling the statements of its President of 27 May 1997 (S/PRST/1997/29), 11 July 1997 (S/PRST/1997/36) and 6 August 1997 (S/PRST/1997/42) condemning the military coup in Sierra Leone,

Taking note of the decision of the thirty-third summit of the Organization of African Unity (OAU) held in Harare, Zimbabwe, from 2 to 4 June 1997 concerning the situation in Sierra Leone,

Taking note also of the Communique issued at the meeting of the Foreign Ministers of the Economic Community of West African States (ECOWAS) on Sierra Leone, held in Conakry, Guinea on 26 June 1997 (S/1997/499), the Declaration of the ECOWAS Committee of Four Foreign Ministers on Sierra Leone (the ECOWAS Committee) of 30 July 1997 (S/1997/646), and the final Communique of the summit of ECOWAS held at Abuja on 28 and 29 August 1997 and the Decision on sanctions against the military junta in Sierra Leone issued at the summit (S/1997/695, Annexes I and II),

Taking note also of the Secretary-General's letter of 7 October 1997 (S/1997/776),

Expressing its full support and appreciation for the mediation efforts of the ECOWAS Committee,

Reaffirming its view that the Abidjan Agreement (S/1996/1034) continues to serve as a viable framework for peace, stability and reconciliation in Sierra Leone,

Deploring the fact that the military junta has not taken steps to allow the restoration of the democratically-elected Government and a return to constitutional order,

1276

Gravely concerned at the continued violence and loss of life in Sierra Leone following the military coup of 25 May 1997, the deteriorating humanitarian conditions in that country, and the consequences for neighbouring countries,

Determining that the situation in Sierra Leone constitutes a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. Demands that the military junta take immediate steps to relinquish power in Sierra Leone and make way for the restoration of the democratically-elected Government and a return to constitutional order;

2. Reiterates its call upon the junta to end all acts of violence and to cease all interference with the delivery of humanitarian assistance to the people of Sierra Leone;

3. Expresses its strong support for the efforts of the ECOWAS Committee to resolve the crisis in Sierra Leone and encourages it to continue to work for the peaceful restoration of the constitutional order, including through the resumption of negotiations;

4. Encourages the Secretary-General, through his Special Envoy, in cooperation with the ECOWAS Committee, to assist the search for a peaceful resolution of the crisis and, to that end, to work for a resumption of discussions with all parties to the crisis;

5. Decides that all States shall prevent the entry into or transit through their territories of members of the military junta and adult members of their families, as designated in accordance with paragraph 10 (f) below, provided that the entry into or transit through a particular State of any such person may be authorized by the Committee established by paragraph 10 below for verified humanitarian purposes or purposes consistent with paragraph 1 above, and provided that nothing in this paragraph shall oblige a State to refuse entry into its territory to its own nationals;

6. Decides that all States shall prevent the sale or supply to Sierra Leone, by their nationals or from their territories, or using their flag vessels or aircraft, of petroleum and petroleum products and arms and related matériel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, whether or not originating in their territory;

7. Decides that the Committee established by paragraph 10 below may authorize, on a case-by-case basis under a no-objection procedure:

(a) applications by the democratically-elected Government of Sierra Leone for the importation into Sierra Leone of petroleum or petroleum products; and

(b) applications by any other government or by United Nations Agencies for the importation of petroleum or petroleum products into Sierra Leone

for verified humanitarian purposes, or for the needs of the Military Observer Group of ECOWAS (ECOMOG),

subject to acceptable arrangements for effective monitoring of delivery;

8. Acting also under Chapter VIII of the Charter of the United Nations, authorizes ECOWAS, cooperating with the democratically-elected Government of Sierra Leone, to ensure strict implementation of the provisions of this resolution relating to the supply of petroleum and petroleum products, and arms and related matériel of all types, including, where necessary and in conformity with applicable international standards, by halting inward maritime shipping in order to inspect and verify their cargoes and destinations, and calls upon all States to cooperate with ECOWAS in this regard;

9. Requests ECOWAS to report every 30 days to the Committee established under paragraph 10 below on all activities undertaken pursuant to paragraph 8 above;

10. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(a) to seek from all States further information regarding the action taken by them with a view to implementing effectively the measures imposed by paragraphs 5 and 6 above;

(b) to consider information brought to its attention by States concerning violations of the measures imposed by paragraphs 5 and 6 above and to recommend appropriate measures in response thereto;

(c) to make periodic reports to the Security Council on information submitted to it regarding alleged violations of the measures imposed by paragraphs 5 and 6 above, identifying where possible persons or entities, including vessels, reported to be engaged in such violations;

(d) to promulgate such guidelines as may be necessary to facilitate the implementation of the measures imposed by paragraphs 5 and 6 above;

(e) to consider and decide expeditiously requests for the approval of imports of petroleum and petroleum products in accordance with paragraph 7 above;

(f) to designate expeditiously members of the military junta and adult members of their families whose entry or transit is to be prevented in accordance with paragraph 5 above;

(g) to examine the reports submitted pursuant to paragraphs 9 above and 13 below;

1278

(h) to establish liaison with the ECOWAS Committee on the implementation of the measures imposed by paragraphs 5 and 6 above;

11. Calls upon all States and all international and regional organizations to act strictly in conformity with this resolution, notwithstanding the existence of any rights granted or obligations conferred or imposed by any international agreement or of any contract entered into or any licence or permit granted prior to the entry into force of the provisions set out in paragraphs 5 and 6 above;

12. Requests the Secretary-General to provide all necessary assistance to the Committee established by paragraph 10 above and to make the necessary arrangements in the Secretariat for this purpose;

13. Requests States to report to the Secretary-General within 30 days of the date of adoption of this resolution on the steps they have taken to give effect to the provisions set out in paragraphs 5 and 6 above;

14. Requests all those concerned, including ECOWAS, the United Nations and other international humanitarian agencies, to establish appropriate arrangements for the provision of humanitarian assistance and to endeavour to ensure that such assistance responds to local needs and is safely delivered to, and used by, its intended recipients;

15. Urges all States, international organizations and financial institutions to assist States in the region to address the economic and social consequences of the influx of refugees from Sierra Leone;

16. Requests the Secretary-General to submit an initial report to the Council within 15 days of the adoption of this resolution on compliance with paragraph 1 above, and thereafter every 60 days after the date of adoption of this resolution on its implementation and on the humanitarian situation in Sierra Leone;

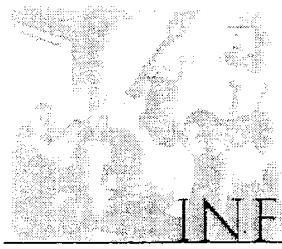
17. Decides, if the measures set out in paragraphs 5 and 6 above have not been terminated in accordance with paragraph 19 below, to conduct, 180 days after the adoption of this resolution and on the basis of the most recent report of the Secretary-General, a thorough review of the application of these measures and of any steps taken by the military junta to comply with paragraph 1 above;

18. Urges all States to provide technical and logistical support to assist ECOWAS to carry out its responsibilities in the implementation of this resolution;

19. Expresses its intention to terminate the measures set out in paragraphs 5 and 6 above when the demand in paragraph 1 above has been complied with;

20. Decides to remain seized of the matter.

1279



INFORMATION
Newsline

Stop using child soldiers, Sierra Leone told

Thursday, 19 June 1997: As diplomatic efforts continued to seek a lasting resolution of the conflict in Sierra Leone, UNICEF Executive Director Carol Bellamy called on all sides to put an end to the use of children as combatants, and to incorporate provisions for their physical and emotional welfare in a future peace settlement.

Since May 25, when the Armed Forces Revolutionary Council (AFRC) took power in a coup, witnesses have reported seeing hundreds of armed children in the streets of the capital, Freetown. Many are former child soldiers, who had returned to their communities during a country-wide demobilization programme, which began in 1993. They have now been recruited and rearmed again by the AFRC and their allies. More than 60 per cent of the 1,000 fighters recently screened by the Disarmament, Demobilization and Resettlement Unit, set up by the ousted government, were women and children.

"Children should have no part in war,"said Ms. Bellamy. "By making them agents of civil conflict and depriving them of their childhood, the vicious cycle of violence is perpetuated."

Sierra Leone has one of the world's worst records for recruiting child soldiers. Between 1992 and 1996, in the previous period of civil unrest between the Government of Sierra Leone and the Revolutionary United Front (RUF), an estimated 4,500 children were forced to fight on

1280

both sides. Children were abducted and forced to commit atrocities in order to turn them into ruthless fighters. Some were ordered to torture and murder their own relatives before being taken to neighbouring villages to slaughter others.

"Child soldiers are a symptom of the wider problem, the complete neglect of a whole generation," Ms. Bellamy said. "Every single child has felt the impact of this war, whether or not he or she has been forced to carry a gun."

Since fighting began, several children have been found among the dead. Young girls have been raped and sexually abused during the attacks. Many children have been stranded without parents or relatives. A Save the Children (UK) survey of 1,400 people, who crossed from the Kailahun district into Liberia following the coup, registered 42 unaccompanied children. They will join the 8,000 children who are still separated from their families as a result of previous civil unrest.

Children will also be hardest hit by the gradual collapse of basic services. Food distribution has been disrupted, and the price of staple foods in many areas of the country has doubled. Immunization campaigns have been halted, leaving children susceptible to epidemics of measles, typhoid and whooping cough. Health workers have also expressed fear of an imminent cholera epidemic. Schools are closed and most teachers have fled the country.

The disruption in basic services is likely to push Sierra Leone back once again into a desperate situation, reversing significant advances that had been made during the brief period of peace.

"The right of every child to basic education, health care and other services must be part of a lasting peace settlement," Ms. Bellamy said.

She called for the immediate demobilization of all child soldiers. The proposals outlined in the 1996 Report on the Impact of Armed Conflict on Children by Graça Machel, should be urgently implemented, said Bellamy, including the

adoption of the Optional Protocol to the Convention on the Rights of the Child, which would raise the minimum age of recruitment and participation in armed forces from 15 to 18 years.

1281

Please email media@unicef.org with comments or requests for more information, quoting CF/DOC/PR/1997/22.

Home | UNICEF in Action | Highlights | Information Resources | Donations, Greeting Cards & Gifts | Press Centre | Voices of Youth | About UNICEF

CDF/RUF

1282

SIERRA LEONE

31 July 1999

MONTHLY REPORT

SITREP NO 5/99

EVENTS PERTAINING TO CHILDREN

Human Rights Manifesto Highlights CRC

The Human Rights Manifesto of Sierra Leone issued during visit of the UN High Commissioner for Human Rights stated that "Children have been the most grievous victims of human rights abuse in Sierra Leone." As a sign of its commitment to review and upgrade its laws to international human rights standards, the Government announced its intent to speedily finalize and table before Parliament the 'Draft Bill on The Rights and Welfare of the Sierra Leonean Child'. This bill will incorporate into national law, the provisions of the Convention on the Rights of the Child. The Government also expressed its intent to table before Parliament a bill for the raising of the age of military recruitment to 18 years in line with the Optional Protocol on the Convention on the Rights of the Child.

Also in this Issue

Togo Peace Accord and Children	2
Bloody Diarrhoea Decreasing	5
ECOMOG Field Commanders briefed on child protection	7
Head of State launches Progress of Nations Report	8



1st official release by the Revolutionary United Front following the Peace Accord, was a group of 187 persons including 130 children, 25% of whom were under ten years (story on page 6).

EVENTS CONTINUED

CDF Pledges Non-Initiation of Children

On 28th June the Civil Defence Force pledged to stop the recruitment of children and to send home those already within their ranks. These commitments were part of the seven-point action plan developed at the two-day workshop in Bo town organised by the European Union as part of its relief and rehabilitation programme. The Kamajor Action Plan was signed by Chief Hinga Norman, Deputy Minister of Defence and the Kamajor Force Commander, with assurances that it will be implemented at district and chiefdom levels. Chief Norman also called on all aid organizations to "do everything possible to provide support to ex-combatants in the form of education and non-formal skills training".

UN Assessment Team visits Makeni

The UN Humanitarian Co-ordinator led a team of UN and NGO specialists on a mission to Makeni in the Northern Province on Thursday 22nd July. During the one-day visit, procedures to provide humanitarian assistance to the northern and north-eastern parts of the country were established. The RUF Commanders pledged to (i) vacate all UN and NGO premises, (ii) hand over stolen property in order to facilitate resumption of services, (iii) permit a nutritional assessment of children by Medecins sans Frontieres (MSF) and Action Contre la Faim (ACF) and (iv) to participate in the National Immunization Days planned for 9th October, 6th November and 11th December.

(EVENTS continues on page 8)

PROGRAMME

Health

Strengthening District Medical Services

Three months supply of miscellaneous drugs, 51 MCH kits and other medical supplies (including 573 TBA kits) were handed over to District Medical Health Teams (DHMT) in Port Loko, Bo, Pujehun and Kenema, to strengthen medical services at district level.

The cold room in the Port Loko district is being refurbished and supplied with a generator to support routine EPI activities.

The Emergency Health Task Force has also been holding regular co-ordination meetings to plan for an expansion of primary health care activities in Port Loko. The district is opening up after having been largely inaccessible since January.

Oral Rehydration Corners For Schools

Three hundred (300) oral rehydration kits have been placed in established ORT corners in 150 schools in the Western Area for first line treatment until referral is made. Two Teachers per school were trained to train other teachers in the schools and to supervise the services. School facilities, under the school health program, will soon be supplemented by the provision of First Aid kits. The ORT and Ist AID services will be monitored through the School Inspectorate System.

Kabala Hospital Resumes Service

The Kabala Government Hospital has resumed operations with drugs and medical supplies provided by UNICEF and MSF-Belgium. The hospital was vandalised by RUF rebels about eight months ago.

UNOMSIL

HUMAN RIGHTS ASSESSEMENT MISSION TO FREETOWN

25 JANUARY AND 1 TO 4 FEBRUARY 1999

FINDINGS AND RECOMMENDATIONS

INTRODUCTION

Pursuant to the provisions of Security Council resolutions 1181 (1998) of 13 July 1998 and 1220 (1999) of 12 January, 1999, the Human Rights Section of UNOMSIL was instructed by the Special Representative of the Secretary-General to conduct an investigation mission in Freetown (hereinafter, "the mission"). The mission occurred on 25 January and from 1 to 4 February. The mission sought to assess the nature and extent of violations and/or abuses of international human rights law and international humanitarian law perpetrated in the period since the rebel offensive on the city on 6 January 1999.

The mission was tasked with an assessment of the actions of all relevant actors in the light of applicable law. For purposes of this report applicable law is considered to include, inter-alia, the Geneva Conventions, including Common Article 3, customary and other non-conventional international human rights law, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women (all these instruments have been ratified by Sierra Leone).

Practices detailed in the report are referred to on the basis that they indicate violations, on the one hand, or abuse (i.e. actions which do not technically constitute violations), on the other, of international standards. Almost all such practices impugn or are inconsistent with multiple conventional and non-conventional standards. Accordingly, the report does not itemise the applicable legal provisions.

The report does not name victims, witnesses or alleged perpetrators. Some names or pseudonyms are on file with UNOMSIL. UNOMSIL is also in possession of or has access to documentary and photographic evidence of abusive activities.

MISSION ACTIVITIES

I. ADVANCE ACTIVITIES

Prior to the conducting of the mission, and during the period intervening between the two visits to Freetown, UNOMSIL interviewed some 35 persons, including religious and civil society leaders, who had left Freetown since January 6. These included former captives of the rebels, as well as witnesses to abusive activities of various armed forces. UNOMSIL also, to the extent possible, maintained contact with persons remaining in Freetown. Information was also provided on a regular basis by persons returning from brief visits to the city - including UNOMSIL personnel, UN agency staff and representatives of the NGO community.

II. FREETOWN PROGRAMME

The mission travelled throughout the city, visiting locations from Laka, in the Southwest, to Calaba Town in the East. Sites of incidents were visited and an overview of property damage was undertaken. Members of the mission also witnessed the perpetration of grave violations of human rights, including the right to life (see below).

Meetings were held with some 100 persons, including victims and witnesses of abusive behaviour, Government and ECOMOG officials, civil society and religious leaders, representatives of the human rights and humanitarian NGO communities, national staff of UNOMSIL and UN agencies, journalists and medical personnel. Information and views were also provided by CDF and Civil Defence Unit (CDU) personnel, medical patients, police officers and business people. The local print and broadcast media was surveyed on a daily basis.

The mission benefited from information and support provided by UNOMSIL military personnel and a UN Security Assessment Team, which were also present in Freetown during the mission dates.

III. FOLLOW UP ACTIVITIES

Following its return to Guinea, the team continued to interview persons arriving in Conakry from Freetown. Findings based on these interviews are taken account of in this report.

FINDINGS

I. REBEL RESPONSIBILITY FOR THE CONFLICT AND THE HUMANITARIAN EMERGENCY

Ultimate responsibility for the fighting, most civilian casualties and the related humanitarian emergency in Freetown rests with the rebel forces. It was the rebel forces who undertook the assault on the city and who persisted in resisting ECOMOG, thereby extending the period of fighting and destruction within an area densely populated with civilians.

The actual number of civilian casualties will never be known. One mortuary worker in Freetown stated on 25 January that over 2,000 bodies of men, women and children had already been disposed of. Observers are also of the view that a large number of bodies remain in ruined or burned buildings in the centre and east of the city. Many others have been hastily buried on waste ground or in residential compounds. Multiple reports have also been received of bodies floating in the sea and its inlets within the city, as well as on the beaches. The mission observed some body parts remaining on beaches and other locations. Most estimates put the total casualty figure conservatively at between 3 and 5,000, including up to 1,000 rebel fighters and an unknown number of ECOMOG and CDF combatants.

It is difficult to assess the extent of damage done to civilian properties. In the city centre up to 20% of the property stock may be seriously damaged. In the east the figure rises to up to 90% at locations such as Calaba Town. (See further below)

The rebel campaign, including its terrorisation elements, caused the displacement of at least 150,000 people into the city, before, during and since the battle for Freetown. The displacement has been responsible for an exacerbation of the humanitarian emergency (see the Humanitarian Plan of Action for Sierra Leone, February 1999) and the exposure of still greater numbers of civilians to conflict-related risk.

It should also be observed that abusive behaviour of rebel forces (see below) as well as the ongoing threat which they pose to Freetown form part of the background to the current perpetration by ECOMOG and CDF forces of unacceptable acts (see below)

II. KILLING OF CIVILIANS BY REBEL FORCES

Rebel forces advancing into the and through the city on 6 and 7 January frequently forced civilians into the streets for use as human shields. People who refused to comply were either killed or had their proprieties destroyed. Many reports have also been received of the killing of persons who refused to obey instructions to dance and make music on the streets. A number of interviewees describe the execution of the entire populations of residential compounds for such misdemeanours. There are reports of compounds housing up to 50 people being targeted in this manner. Similar reports indicate that then and later people were executed because of their efforts to deter looting and to protect family members from assault or rape (see below). Persons caught attempting to escape from rebel custody were frequently killed. One witness saw six children killed at Wellington in mid-January in one such incident.

Much of the killing also seems to have been entirely arbitrary. Witnesses report such killings of men, women and children by rebel fighters, including an instance in which the perpetrator is stated to have been about ten years old, and another implicating and eight year old boy. It is frequently stated that perpetrators of such acts were under the influence of cocaine and other drugs, including alcohol. Killing occasionally occurred in the context of games in which people were lined up and the executioners teasingly chose who to kill and who to spare. In one such incident at Fourah Bay Road, around 21 January, three children were executed and their three sisters had limbs amputated or mutilated (see below). One man has described how he was ordered to choose between the execution of his entire family and the surrender of his daughter to a rebel fighter.

Some of those who were burned to death in their homes had been locked in or first been disabled by gunshot. A number of elderly people and infants also died in this manner. Others died while attempting to jump from burning buildings or after being shot while attempting to escape. One five-year-old girl survived being thrown into a fire at Blackhall Road on 28 January. A six-year-old girl was executed, together with her mother, on 23 January, at Wellington.

Rebel forces targeted many individuals and categories of person for execution. It is reported that over 200 police officers were killed, either at home or at their barracks in such locations as CID headquarters, Kingtom and Kissy. The means of execution included knives, machete and gunshot. One incident, on January 6, at the city-centre Cotton Tree, involved the killing by stabbing of eleven policemen. A number of prison officials appear to have been killed during and after the assault on Pademba Road Prison on 6 January.

An escapee from Pademba Road is reported to have allegedly led an attack on the Solicitor General, who was killed and decapitated. Two senior Government officials, the Resident Minister for the North and an Advisor to the President, were captured and killed. At least two journalists were sought out and killed

(while other journalists, including foreign nationals, though not specifically targeted, were killed, injured or abducted).

A senior member of the human rights monitoring committees of the National Commission for Democracy and Human Rights (NCDHR) was killed together with her husband. They had been apprehended after a servant of theirs was tortured into revealing their whereabouts. Prior to her killing, the female victim, a diabetic, was denied access to her insulin medication. Commissioners of the NCDHR and leaders of Human Rights NGOs report that they successfully evaded attempts by rebels to locate and most-likely kill them. A group of senior human rights NGO officers subsequently escaped execution when a shell blast frightened away their would be killers. Executed senior officers of the Council of Churches and the NCRRR may have been targeted on the basis of their positions. A senior judge was shot but survived. Nigerian nationals also appear to have been targeted. One witness, on 8 January, observed two Nigerian traders whose throats were cut apparently on the basis of their nationality.

It is reported, but unconfirmed, that rebels in search of a medical doctor who is a well-known advocate of democracy, having failed to locate her at the small hospital which she runs in the east of the city, killed most of the patients and nurses. Also, reports that the patients of the psychiatric hospital at Kissy have been killed and that up to 200 hundred people were executed at a Kissy Mosque remain unverified at this time.

III. REBEL PERPETRATION OF MUTILATIONS AND AMPUTATIONS

In the first days of the fighting there were very few reports of amputations or mutilations. Some incidents did occur of amputation of limbs and degradation of the bodies of ECOMOG soldiers, such as at Ferry Junction, sometime between 6 and 8 January. By 10 January, civilians were being targeted. Exact figures for the rate of amputations and mutilations are unavailable. However, by 25 January, medical sources were indicating that many hundreds of such cases had been admitted for treatment. By that date, some 70 had been treated at just one medical facility, Connaught Hospital. Doctors emphasise that many victims either fail to seek medical attention or die following the attacks.

Amputation / mutilation victims include men, women and children. One of the youngest recorded victims is a six-year-old girl whose left arm was severed by an axe at Ashobi Corner, Blackhall Road, on 21 January. Most amputations are of one or both arms. Some victims have also lost a leg. One nine-year-old boy had his right leg amputated and was shot in the other leg in an incident at Circular Road on 14 January. Mutilations are commonly of the arms and often appear to be failed attempts at amputation of the hands. Some victims have lost fingers - one 9-year-old girl had four fingers severed by machete blows in an incident at Personage Street on 15 January.

The mission witnessed a woman being admitted to Connaught Hospital, on 3 February, who reported that she had been injured in an otherwise unreported mutilation variant - the pouring over her body of boiling water.

IV. REBEL PERPETRATION OF RAPE AND SEXUAL ABUSE

Rape of females, including children, appears to have been a standard practice of the rebel combatants. Many people report that they witnessed acts of violent group rape, including in public places, including Kroo Town Road and Kissy. Persistent reports have been received from victims and witnesses indicating that young women and girls were rounded up in neighbourhoods of the city and obliged to report nightly to be sexually abused by rebel fighters.

The mission interviewed some of the victims of one well-documented incident of repeated rape which occurred in the Cline Town area, commencing on 8 January. The local rebel commander ordered that all virgin girls report for a physical examination. A female companion of the commander then checked the girls in order to verify their status as virgins. Those who passed the test, mostly aged between 12 and 15, were ordered to report each night for sexual abuse by the commander and his men. Some of the girls were subsequently abducted and taken away by the retreating rebels. A high incidence of rape of children is also reported from the Clay Factory Displaced Persons Centre from 15 to 25 January. Other reports have been received from the Pademba Road area, the city centre and Kingtom. One policeman in Kingtom reportedly saw his three daughters raped before they were abducted.

Former abductees of the rebels indicate that women captives were raped as a matter of course. One witness reported that female captives were told to submit or be killed. He saw three girls raped in these circumstances on 8 January. Many women and girls admitted to hospital with war-related injuries also report that they were raped.

A reliable report has been received that one pregnant woman lost her child after being raped and was paid "compensation money" by the perpetrator. Another informant reported the death of another pregnant women after she had been raped.

V. REBEL DEPLOYMENT OF CHILD SOLDIERS

A number of witnesses and victims report that a significant number of the rebel combatants were children. One military official puts the figure at some 10% of the rebel force. A patient at one hospital reports that his gunshot wound was inflicted by a boy aged no more than 8 years old. Another witness states that he saw a boy of about 11 years in command of a small group of fighters active in the city centre on 7 January. There are widespread reports that the rebels used

children as snipers - one child fighter in ECOMOG custody confirmed that he had been a sniper.

A number of those reportedly summarily killed by ECOMOG for alleged rebel activities were children. An informant, described by UN officials as "reliable", states that an 8-year-old boy was executed by ECOMOG having been found with a pistol. A 14 year old boy was reportedly executed on 16 January, at Customs Post, Susan's Bay, and a 16 year old boy on 18 January, at Port Loko Wharf. (See below).

While most of the child combatants are assumed to be members of the RUF, former captives of the rebels state that a significant number of children of former SLA soldiers were active.

Many informants, including former abductees of the rebels, report that rebel child combatants were frequently under the influence of drugs and that their commanders encouraged this practice. A number of reports have been received of a high usage of cocaine, self-administered in open wounds on the arm which were then covered with adhesive tape.

VI. PERPETRATION OF ABDUCTION BY REBEL FORCES

The rebels abducted a large but unverifiable number of people. These include staff of UN agencies and NGOs, students, and people from all social backgrounds. One indication of the scale of the abductions is that childcare agencies had, by February 4, received 1192 reports of children who had gone missing since January 6. 300 of these had been physically taken from their parents by rebels. Anther indication is the report of a reliable informant who escaped from the rebels that some 500 people were held together with him in just one camp in the hills to the east of Freetown. He states that 75% of the captives were women aged from 12 to 20. The youngest abductee reported to the mission is a 9-year-old girl, taken from the Clay Factory Displaced Persons Centre on 23 January. A number of abductees either escaped or were released. A number of them have provided to the mission comprehensive information on their captivity.

Escapees report that young boy abductees tended to be used as porters or were selected for training as fighters. Older men were retained solely for porterage. Women and girls were retained to cook and for sexual purposes. One former abductee displayed to the mission the "brand" which rebels had applied to his arm with burning plastic.

A small number of prominent Sierra Leone personalities and foreigners were abducted and kept under close guard. The Sierra Leoneans included the Roman Catholic Archbishop of Freetown. Former President Momoh was also detained by the rebels following his removal from Pademba Road Prison. Foreign

detainees, at one time or another, included 13 Indian workers, 6 Indian and one Kenyan Roman Catholic Sisters, five Italian and one Spanish Roman Catholic priests (including Fr. Mario Guerra who had been abducted during 1998), one Spanish and one French journalist. At least eight of the abductees were killed and two others seriously injured. At least two others of the abductees were subjected to ill treatment. Most of the remainder, including the Archbishop, have either escaped or been released. It is reported that forces unknown may have killed former President Momoh. The situation of another prominent Sierra Leonean abductee is unknown.

VII. DESTRUCTION OF CIVILIAN AND UTILITY PROPERTIES AND LOOTING

Rebel forces are responsible for the deliberate widespread destruction of civilian property and public utilities. Rates of destruction of the property stock have been noted above as some 20% in the city centre and rising to some 90% in the most easterly of hinterland population centres. In the city centre, however, some streets, such as Pademba Road, near the prison, Canton Street, parts of Kissy Road and West Street have been comprehensively destroyed. Destruction extends to the simple dwellings of indigent people, as well as churches, mosques, schools, orphanages, medical facilities, community centres, police stations, the City Hall, Pademba Road Prison, New England Prison, SLBS and other non-military service facilities.

Many of the destruction sites appear to have been arbitrarily chosen. Others were reportedly picked out because of the refusal of the residents to hand over sufficient cash or goods to looting rebels or because the occupants failed to obey instructions to come out on the streets, serve as "human shields" or hand over girls for sexual purposes.

Some other homes, businesses and public utilities appear to have been targeted because of their function or the public profile of the occupants. These include public utility buildings and the residences and offices of human rights activists, lawyers, journalists and Government officials. The UNOMSIL headquarters was largely destroyed by fire, including the offices and library of its Human Rights Section, and severe fire damage was done to UN House and other UN facilities. A number of diplomatic facilities were attacked, including the Nigerian High Commission, which was entirely destroyed.

It is reported that a large but unverifiable number of people were killed in the process of destruction of buildings (see above).

An unascertainable degree of the damage to the property stock was inflicted by ECOMOG, including as a result of aerial bombardment. It is reported, for instance, that aerial attacks inflicted damage in Fisher Street, Nicol Street, Coker Lane, Bombay Street, Wilberforce Street, Clay Factory Displaced Persons Centre and at the Basharia Mosque in Susan's Bay.

In the first days of the rebel offensive witnesses report that some rebel commanders executed fighters who engaged in looting. However, during that period and subsequently, rebel forces did engage in widespread theft of money and looting of residences and business properties. Witnesses report that rebels came to steal or loot from residential compounds in wave after wave over a period of days. An unverifiable number of people were killed due to their failure to satisfy the looters. There are also widespread reports of people being abducted to transport looted property to rebel camps.

The looting and destruction of commercial properties and food stores has exacerbated the humanitarian situation in Freetown and renders more problematic the restoration of the essential commercial infrastructure.

VIII. ACTIVITIES OF ECOMOG

(a) Summary Executions

Since the first days of the combat in Freetown there have been reports that ECOMOG was summarily executing detainees who were allegedly either rebels or rebel sympathisers. One if the earliest reliable reports was provided by a senior official of an international organisation who witnessed an execution on 14 January. From then persistent reports were received of executions at such locations as Aberdeen Bridge, Kingtom, Brookfields, Siaka Stephens Street, Ferry Junction, Connaught Hospital, Kissy Road, Susan's Bay, the National Stadium and Lumley. Witnesses of the highest probity state that they were present at executions. One such observer noted that at the three executions he had seen on 24 January, at Ferry Junction and Connaught Hospital, the victims were given a cursory interrogation and immediately shot. It is reported that a large number of executions have been perpetrated at Aberdeen Bridge. Witnesses report the killing or disposal of up to 40 bodies at that location. It is stated that the victims at Aberdeen Bridge are the overflow population of a police holding facility at Aberdeen village. The Mission observed extensive blood stains at Aberdeen Bridge on 25 January. Another reliable witness observed the bodies of seven execution victims at Kingtom on 3 February. Ten people were reportedly executed at the National Stadium on 30/31 January.

Reference has been made above to the alleged execution of an eight-year old boy caught in possession of a pistol. Humanitarian agencies report that a 14-year-old boy was executed at the Customs Post, Susan' s Bay, on 16 January. On 23 January, at the same location, ECOMOG is reported to have executed a 17-year-old girl.

The mission directly witnessed an execution at Connaught Hospital on 3 February. The following day a senior officer of an international NGO witnessed another execution at exactly the same site. In both cases the perpetrators were

in ECOMOG uniform and onlookers stated their view that the victims were rebel collaborators.

Witnesses make clear that, in all cases, the interrogation process was entirely inadequate and that there was no real effort to establish the guilt or innocence of executions victims. In one well-documented incident, on 10 January, three teenage boys were executed on Kissy Road after locals told ECOMOG that the boys were strangers to the area. The boys, all residents of Fisher Street, were returning from having buried their friend who had been killed earlier in the day.

It is reported that ECOMOG regained control of Connaught Hospital on 12 January. Well-considered witnesses allege that ECOMOG summarily executed some 20 patients who were pointed out to them to be rebels. The exact circumstances of the battle for control of the hospital and the behaviour of entering troops requires further investigation.

(b) Methods of warfare

ECOMOG jets have been employed in the conflict within the city. Certain civilian targets are listed above. Certain of the incidents have been partially documented by humanitarian workers. The bombing of a crowd of people on Wilberforce Street on 7 January resulted in the deaths of at least 20 civilians. ECOMOG described the incident as, "regrettable". The youngest reported victim of the bombing, on 14 January, of the Basharia Mosque was a ten-year-old girl. The youngest recorded victim of the 7 January bombing at Wilberforce Street, was an 8 year old girl.

On 3 February, Brigadier-General Khobe, Chief of the Sierra Leone Defence Staff, said that from now on ECOMOG would shoot at "human shields" and that, "if they try it again, we'll kill everything from the opposite direction".

(c) Other matters

ECOMOG has detained and physically mistreated national staff of a number of humanitarian NGOs and the ICRC, on the reportedly baseless grounds that they were rebel collaborators. Some are now released and the whereabouts of others are unverifiable at this time. UNOMSIL is in possession of detailed testimonies.

The mission has observed numerous incidents of ill treatment of persons detained at joint ECOMOG / CDF checkpoints. Among the forms of punishment observed are whipping, beating, varying types of public humiliation, and being bound extremely tightly.

In a welcome development, on 2 February, ECOMOG released to the care of humanitarian agencies some seven former rebel child combatants.

IX. ACTIVITIES OF CIVIL DEFENCE FORCES

Civil Defence Forces also bear responsibility for summary executions. On 3 February senior UN staff observed and photographed a newly severed human head displayed on a stick at a CDF checkpoint at Brookfields. A highly reliable witness observed the execution of a man at a checkpoint in Kingtom on 16 January. He reported that the CDF perpetrator was very excited and made no effort to interrogate the victim. Witnesses have reported a number of other such incidents to the mission. See above regarding activities at checkpoints.

X. USE OF THE MEDIA BY THE GOVERNMENT

The mission received repeated complaints that the Government, especially Minister Spencer, used the radio media to instil a false sense of security in residents of areas which had not yet been cleared of rebel activity. A number of informants state that relatives, friends and neighbours were killed by rebels, at locations such as Kissy, when they left their homes having heard the broadcast assurances that the areas were again under Government control.

XI. STATUS OF THE HUMAN RIGHTS COMMUNITY

This report has detailed the manner in which rebel forces targeted the lives and property of the leadership of the National Commission for Democracy and Human Rights, the human rights NGO community and civil society leaders. The destruction of the UNOMSIL human rights offices and library has also been described.

UNOMSIL facilitated the evacuation of a number of human rights activists on 27 December and was planning to extend the facility further at the time of the rebel offensive of 6 January.

Notwithstanding the difficult operational environment, the human rights community is currently active in Freetown. There is ongoing but limited monitoring of the human rights situation and chronicling of the period of rebel occupation. It is noteworthy that the human rights community is employing monitoring methodologies imparted in the various training programmes which were largely facilitated by UNOMSIL during 1998. The human rights community is also volunteering to assist in humanitarian activities, such as registration of displaced persons and distribution of food.

UNOMSIL continues to support and provide technical assistance to the activities of the human rights community. There is also an active Sierra Leone human

rights community temporarily in Conakry, Guinea. Conakry-based activities are focussed within the Human Rights Committee of the Humanitarian community and they benefit from support and assistance of UNOMSIL. The work of the Committee is described elsewhere.

RECOMMENDATIONS

The following recommendations focus exclusively on the recent and current situation in Freetown. Broader issues of the human rights role and activities of UNOMSIL and the human rights requirements of Sierra Leone are not addressed

It is recommended:

1. That UNOMSIL continue to closely monitor and report on the human rights situation in Freetown, including by continuation of the process of chronicling the events of the period of the rebel incursion. A comprehensive evaluation of the period will ultimately contribute to the process of peace building and effective reconciliation.

2. That UNOMSIL monitoring activities should continue to be conducted in accordance with the collaborative methods which have been developed during 1998. These methods can be rendered more effective by UNOMSIL support for the various data-gathering and analysis proposals being developed by the Human Rights community active in and concerning Sierra Leone.

3. That support and assistance continue to be provided by UNOMSIL to the National Commission for Democracy and Human Rights, the human rights NGO community and all other elements of the human rights community both in Sierra Leone and temporarily located in Conakry. Support can be evidenced by frequent visits to Freetown and active participation in the activities of the Conakry-based Human Rights Committee.

4. That consideration be given to the deployment to Freetown of a human rights /criminal investigation team to identify and secure evidence of violations and abuses of human rights and international humanitarian law with a view to eventual prosecution of perpetrators.

5. That UNOMSIL advise that any future peace settlement should not purport to confer immunity from prosecution for the perpetrators of any grave violations of human rights or international humanitarian law.

6. That UNOMSIL continue to urge the Government of Sierra Leone and ECOMOG to ensure their forces operate in conformity with the letter and spirit of international human rights and humanitarian law by, inter-alia, an immediate

cessation of summary executions; and that UNOMSIL call on the authorities to detain and prosecute the alleged perpetrators of such acts.

1297

AIDE MEMOIRE

RESPECT FOR HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

PRESENTED BY
THE UNITED NATIONS OBSERVER MISSION IN SIERRA LEONE

FOR USE BY
DELEGATES TO THE TALKS OF THE REVOLUTIONARY UNITED FRONT

TOGO, APRIL 1999

INTRODUCTION

1. On this important occasion of intra-RUF consultations in Lome, Togo, UNOMSIL would like, on behalf of the entire United Nations system, to raise some issues regarding the respect for International Human Rights and Humanitarian Law by rebel forces in Sierra Leone. This note is inspired by the desire of the UN and the rest of the international community to ensure that warring parties in the Sierra Leone conflict endeavor to respect existing international and domestic laws in order to minimize suffering especially to the civilian population.

2. The United Nations Observer Mission in Sierra Leone (UNOMSIL) was established by Security Council resolution on July 13 1998 and was mandated to, inter alia: "report on violations of international law and human rights in Sierra Leone". Since its arrival in Sierra Leone, UNOMSIL has, in consultation with the relevant UN agencies, endeavored to address the country's human rights/humanitarian needs and has assisted both Government and non-governmental agencies in formulating policies and programs aimed at protecting, enforcing and promoting international human rights and humanitarian laws and principles. UNOMSIL also continues to voice its concern in a constructive manner intended to assist in the correction of problems. It is in this spirit that UNOMSIL welcomes the opportunity to raise and possibly discuss these same issues with members of the RUF. We hope that this may be the first of a series of constructive discussions between the UN and RUF and we thank the RUF delegation for the attention given to these issues.

APPLICABLE INTERNATIONAL AND DOMESTIC LAWS

3. As you are aware, there exists an elaborate body of international and domestic laws that regulate the treatment of human beings and civilian property both in peacetime and during armed conflict. At the heart of these laws is the recognition of the inherent dignity of the human person. All human beings are born with certain fundamental and inalienable rights

which no person, government or authority should take away or attempt to limit without due process of law. These rights accrue to human beings universally and the role of governments and non-governmental entities exercising control over these human beings is to respect, protect and indeed promote them.

4. As a rebel movement exercising control over territory within Sierra Leone, you have an obligation under international law to ensure maximum protection of civilians and demobilized enemy soldiers within your control and others to whom you may come into contact from time to time during the course of the conflict.

5. International Humanitarian Law lays down the rules and general principles applicable in armed conflict. The main sources of this law are the four Geneva Conventions of 1949 and the two corresponding protocols signed in 1977. The aim of the Conventions is to reduce unnecessary suffering (both to civilians and soldiers) during armed conflict and to ensure the respect of the inherent dignity of the human person at all times. The Geneva Conventions cover conflicts both of an international and of a non-international character such as the one in Sierra Leone. With regard to human rights, the Universal Declaration of Human Rights clearly outlines most of the rights to which all human beings are entitled and which should be respected and protected both during peacetime or war. You may also wish to bear in mind that there are serious criminal sanctions in place internationally for all perpetrators of gross human rights violations and that the international community has firmly resolved to bring to justice all such perpetrators in order to break the cycle of impunity that has spurred the commission of human rights violations in many parts of the world.

TREATMENT OF CIVILIANS DURING ARMED CONFLICT

6. There have been persistent reports throughout the conflict in Sierra Leone of unarmed civilians being targeted by warring sides. International humanitarian law strictly prohibits this conduct and provides for the full protection of the civilian population and individual civilians during armed conflict. According to the Geneva Conventions, civilians shall enjoy general protection against the dangers arising from military operations and must never be the object of attack under any circumstances. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

7. International humanitarian law makes it unlawful to use civilians as human shields during armed conflict. There have been some reports suggesting that some rebel units in Sierra Leone have been engaged in this conduct. It is claimed that during the recent rebel incursion into Freetown, some rebel units forced civilians into the frontline in order to shield themselves from enemy fire. Reports from Makeni also indicate the continuation of this conduct. It is hoped that the RUF hierarchy will see to it that civilians within RUF-held territory are protected at all times and that the practice of using civilians as human shields will not be encouraged within the organization.

8. The Geneva Conventions also provide for the protection of objects indispensable to the

survival of the civilian population. Starvation of civilians as a method of combat is prohibited. In this regard it is prohibited to attack, destroy, remove or render useless things such as foodstuffs and food stores, crops, livestock, drinking water installations and irrigation works. Again, the aim here is to ensure that the civilian population is kept as much as possible from harm arising out of an armed confrontation. During the recent attack into Freetown, a significant portion of the civilian population was rendered homeless after rebels indiscriminately burned down private houses. This is prohibited under international law.

9. Under international humanitarian law, combatants shall refrain from ordering the displacement of civilian populations unless the security of the civilians involved or imperative military reasons so demand.

10. During armed conflict, only armed individuals, units or military facilities should be considered targets; it is prohibited for any combatant to order that there shall be no survivors, to threaten an adversary therewith or conduct hostilities on this basis. Last year, there were reports of a rebel offensive in some part of Sierra Leone known as "Operation no living thing". This policy contravenes the letter and spirit of international humanitarian law as it lumps together combatants and civilians with no special protection for civilian non-combatants.

11. The Sierra Leonean conflict has outraged the international community's conscience mainly due to the degree of brutality often meted out to civilians. There have been widespread reports of abductions, mutilations and amputations of people who were clearly not combatants. This conduct is clearly in contravention with international humanitarian law and the RUF must ensure that its forces disassociate themselves publicly from those engaged in those practices.

ABUSES AGAINST CHILDREN

12. Both international human rights and international humanitarian legal regimes accord special protection to children, in most cases the most vulnerable members of society. The Geneva Conventions contain provisions prohibiting the abuse of children, and there exists a special international convention (Convention on the Rights of the Child) which spells out rights to which all children under the age of 18 are entitled. The international community calls on the RUF and other rebel groups in Sierra Leone to respect these laws and ensure that children are not affected in any adverse way during this armed conflict.

13. There have been reports of systematic recruitment of children into the rebel army in Sierra Leone. This is unlawful under both international and domestic law. The Geneva Conventions make it illegal for children to be recruited in any armed force or group or to be allowed to take part in hostilities. Further, the Convention on the Rights of the Child describes a child as being any person below the age of 18. According to eyewitness accounts, the rebel army which entered Freetown in January of this year was dominated by children, some former abductees, under 18 years of age. The RUF should make it a firm policy not to recruit

1300 5/17

children within its ranks and an effort must be made to discharge all the children fighters still operating within the organization.

14. The use of children as sexual slaves or porters has also been attributed to rebel forces operating within Sierra Leone. This too is a violation of international humanitarian law and should be publicly and officially denounced by the RUF.

SEXUAL ABUSE

15. Rape and other forms of sexual violence have been a systematically perpetrated by rebel forces in Sierra Leone. In many incidents women and young girls have been targeted by combatants and rape used as a means of warfare, sometimes to terrorize civilian communities or to punish the victims for their perceived political beliefs. Again, this is clearly in contravention with international and domestic law. The Geneva Conventions also prohibit enforced prostitution and all other forms of indecent assault.

RIGHT OF HUMANITARIAN ACCESS DURING ARMED CONFLICT

16. International humanitarian law makes it illegal for groups controlling territory to hamper efforts to provide medical, humanitarian or spiritual assistance to civilian populations trapped in war zones. In Sierra Leone, there have been instances of priests being abducted, medical personnel arrested or humanitarian workers being denied access. The RUF has to ensure that its combatants respect the neutrality and dignity of aid workers as well as recognize the non-negotiable right of civilian populations to receive humanitarian assistance. In this regard we wish to refer you to a statement issued recently by the UN Humanitarian Co-ordinator in Sierra Leone which calls on "**all parties to the conflict to fulfil their humanitarian obligations by facilitating the creation of an enabling environment within which humanitarian agencies can effectively and appropriately respond to the emergency needs of Sierra Leoneans whose lives and livelihoods have been devastated by the ongoing conflict**".

17. Acts of terrorism against caregivers, especially the practice of taking hostages, are prohibited under international humanitarian law. Parties to all conflicts are under an obligation to provide protection to aircraft, vessels or vehicles belonging to non-parties to the conflict such as the UN or the ICRC provided the said aircraft, vessel or vehicle is clearly marked and is not being used to further the military agenda of any one party to the conflict.

OPERATION OF THE JUSTICE SYSTEM IN REBEL-CONTROLLED AREAS

18. Under the Constitution of Sierra Leone only the systems of courts recognized in law may carry out the administration of justice. However, it is known that some traditional courts continue to function in rebel controlled areas and that, de-facto, there are certain other quasi-

judicial activities. Without prejudice to their status in law, these courts and activities should strictly adhere to international standards, especially with regard to fairness and transparency in the formulation, interpretation and application of the rules. Furthermore, any courts or adjudicatory structures must possess clear prosecutorial, defense and appellate procedures and guarantees. RUF members should also benefit from fair procedures before they are disciplined or punished for infractions. The UN actively promotes abolition worldwide of the death penalty. In any case, no execution should ever be carried out except under the law of the land.

TREATMENT OF DEMOBILIZED ENEMY SOLDIERS

19. According to the Geneva Conventions, it is unlawful to attack, kill or otherwise cause suffering to enemy forces who have, through sickness or incapacitation, ceased to take part in hostilities. You have the duty wherever possible to either care for sick or wounded enemy soldiers or to facilitate the provision of care by a party neutral to the conflict. All persons not in active combat are entitled to respect for their person, honor and convictions and shall in all circumstances be treated humanely and without any adverse distinction. Discrimination based on race, tribe, color, gender or other criteria is prohibited under international human rights law whether exercised against demobilized enemy soldiers or civilians.

20. Surrendered enemy soldiers and prisoners of war are to be treated with due regard to their inherent dignity as members of the human race and should not be subjected to cruel or humiliating treatment such as torture, mutilation or any form of corporal punishment. This prohibition echoes that contained in the Universal Declaration of Human Rights which prohibits cruel, inhuman and degrading treatment or punishment under all circumstances.

PROPOSALS FOR ACTION

21. During a recent public statement, Cpl. Foday Sankoh expressed regret for the atrocities caused on civilians by rebel soldiers in Sierra Leone and indicated that the RUF would play its part in putting an end to the egregious human rights violations in the country. The UN welcomes this statement and invites the RUF to take this opportunity to make this position clear to all rebel combatants and to assure both Sierra Leoneans and the international community that they will respect international and domestic laws currently in force.

22. A policy memorandum to this effect should be drafted and disseminated to all field commanders and combatants to ensure that the message is received all the way down to the rank and file. The memorandum should contain an acknowledgement that violations of international humanitarian law attributed to the rebels are destroying the name and reputation of the RUF and other rebel groups in Sierra Leone and internationally.

23. Further, as a gesture of goodwill and commitment to the rules and principles of international law outlined above, the RUF should consider taking the following actions immediately:

- releasing all abductees currently under their control
- demobilizing and releasing to UNICEF all children serving as fighters within their ranks
- guaranteeing immediate and unrestricted humanitarian access to civilian populations within rebel-held areas.

24. UNOMSIL assures RUF delegates that the United Nations stands ready to help in any way possible to ensure that all parties to the Sierra Leone conflict abide by all international legal principles and laws. In this regard, UNOMSIL offers to provide training on internationally humanitarian law for key RUF commanders at a neutral location within the sub-region.

25. UNOMSIL encourages the RUF hierarchy to designate a high official within the organization to act as a focal point on issues relating to the observance of international humanitarian/human rights law by RUF. This would further demonstrate the RUF's commitment to finding a lasting solution to the Sierra Leonean crisis.

26. UNOMSIL would welcome the opportunity to further discuss this note and its proposals with the RUF Delegation.

PEACE AGREEMENT BETWEEN THE GOVERNMENT OF SIERRA LEONE AND THE REVOLUTIONARY UNITED FRONT OF SIERRA LEONE

1302

THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE and THE REVOLUTIONARY UNITED FRONT OF SIERRA LEONE (RUF/SL)

Having met in Lome, Togo, from the 25 May 1999, to 7 July 1999 under the auspices of the Current Chairman of ECOWAS, President Gnassingbe Eyadema;

Recalling earlier initiatives undertaken by the countries of the sub-region and the International Community, aimed at bringing about a negotiated settlement of the conflict in Sierra Leone, and culminating in the Abidjan Peace Agreement of 30 November, 1996 and the ECOWAS Peace Plan of 23 October, 1997;

Moved by the imperative need to meet the desire of the people of Sierra Leone for a definitive settlement of the fratricidal war in their country and for genuine national unity and reconciliation;

Committed to promoting full respect for human rights and humanitarian law;

Committed to promoting popular participation in the governance of the country and the advancement of democracy in a socio-political framework free of inequality, nepotism and corruption;

Concerned with the socio-economic well being of all the people of Sierra Leone;

Determined to foster mutual trust and confidence between themselves;

Determined to establish sustainable peace and security; to pledge forthwith, to settle all past, present and future differences and grievances by peaceful means; and to refrain from the threat and use of armed force to bring about any change in Sierra Leone;

Reaffirming the conviction that sovereignty belongs to the people, and that Government derives all its powers, authority and legitimacy from the people;

Recognising the imperative that the children of Sierra Leone, especially those affected by armed conflict, in view of their vulnerability, are entitled to special care and the protection of their inherent right to life, survival and development, in accordance with the provisions of the International Convention on the Rights of the Child;

Guided by the Declaration in the Final Communiqué of the Meeting in Lome of the Ministers of Foreign Affairs of ECOWAS of 25 May 1999, in which they stressed the importance of democracy as a factor of regional peace and security, and as essential to the socio-economic development of ECOWAS Member States; and in which they pledged their commitment to the consolidation of democracy and respect of human rights while reaffirming the need for all Member States to consolidate their democratic base, observe the principles of good governance and good economic management in order to ensure the emergence and development of a democratic culture which takes into account the interests of the peoples of West Africa;

Recommitting themselves to the total observance and compliance with the Cease-fire Agreement signed in Lome on 18 May 1999, and appended as Annex 1 until the signing of the present Peace Agreement;

HEREBY AGREE AS FOLLOWS:

PART ONE

CESSATION OF HOSTILITIES

ARTICLE 1

CEASE-FIRE

The armed conflict between the Government of Sierra Leone and the RUF/SL is hereby ended with immediate effect. Accordingly, the two sides shall ensure that a total and permanent cessation of hostilities is observed forthwith.

1304

ARTICLE II

CEASE-FIRE MONITORING

1. A Cease-fire Monitoring Committee (hereinafter termed the CMC) to be chaired by the United Nations Observer Mission in Sierra Leone (hereinafter termed UNOMSIL) with representatives of the Government of Sierra Leone, RUF/SL, the Civil Defence Forces (hereinafter termed the CDF) and ECOMOG shall be established at provincial and district levels with immediate effect to monitor, verify and report all violations of the cease-fire.

2. A Joint Monitoring Commission (hereinafter termed the JMC) shall be established at the national level to be chaired by UNOMSIL with representatives of the Government of Sierra Leone, RUF/SL, CDF, and ECOMOG. The JMC shall receive, investigate and take appropriate action on reports of violations of the cease-fire from the CMC. The parties agree to the definition of cease-fire violations as contained in Annex 2 which constitutes an integral part of the present Agreement.

3. The parties shall seek the assistance of the International Community in providing funds and other logistics to enable the JMC to carry out its mandate.

PART TWO

GOVERNANCE

The Government of Sierra Leone and the RUF/SL, recognizing the right of the people of Sierra Leone to live in peace, and desirous of finding a transitional mechanism to incorporate the RUF/SL into governance within the spirit and letter of the Constitution, agree to the following formulas for structuring the government for the duration of the period before the next elections, as prescribed by the Constitution, managing scarce public resources for the benefit of the development of the people of Sierra Leone and sharing the responsibility of implementing the peace. Each of these formulas (not in priority order) is contained in a separate Article of this Part of the present Agreement; and may be further detailed in protocols annexed to it.

Article III Transformation of the RUF/SL Into a Political Party

Article IV Enabling Members of the RUF/SL to Hold Public Office

Article V Enabling the RUF/SL to Join a Broad-Based Government of National Unity Through Cabinet Appointment

Article VI Commission for the Consolidation of Peace

Article VII Commission for the Management of Strategic Resources, National Reconstruction and Development

Article VIII Council of Elders and Religious Leaders.

ARTICLE III

TRANSFORMATION OF THE RUF/SL INTO A POLITICAL PARTY

1. The Government of Sierra Leone shall accord every facility to the RUF/SL to transform itself into a political party and enter the mainstream of the democratic process. To that end:

2. Immediately upon the signing of the present Agreement, the RUF/SL shall commence to organize itself to function as a political movement, with the rights, privileges and duties accorded to all political parties in Sierra Leone. These include the freedom to publish, unhindered access to the media, freedom of association, freedom of expression, freedom of assembly, and the right to mobilize and associate freely.

3. Within a period of thirty days, following the signing of the present Agreement, the necessary legal steps shall be taken by the Government of Sierra Leone to enable the RUF/SL to register as a political party.

4. The Parties shall approach the International Community with a view to mobilizing resources for the purposes of enabling the RUF/SL to function as a political party. These resources may include but shall not be limited to:

(i) Setting up a trust fund;

1305

(ii) Training for RUF/SL membership in party organization and functions; and

(iii) Providing any other assistance necessary for achieving the goals of this section.

ARTICLE IV

ENABLING MEMBERS OF THE RUF/SL TO HOLD PUBLIC OFFICE

1. The Government of Sierra Leone shall take the necessary steps to enable those RUF/SL members nominated by the RUF/SL to hold public office, within the time-frames agreed and contained in the present Agreement for the integration of the various bodies named herein.

2. Accordingly, necessary legal steps shall be taken by the Government of Sierra Leone, within a period of fourteen days following the signing of the present Agreement, to amend relevant laws and regulations that may constitute an impediment or bar to RUF/SL and AFRC personnel holding public office.

3. Within seven days of the removal of any such legal impediments, both parties shall meet to discuss and agree on the appointment of RUF/SL members to positions in parastatals, diplomacy and any other public sector.

ARTICLE V

ENABLING THE RUF/SL TO JOIN A BROAD-BASED GOVERNMENT OF NATIONAL UNITY THROUGH CABINET APPOINTMENTS

1. The Government of Sierra Leone shall accord every opportunity to the RUF/SL to join a broad-based government of national unity through cabinet appointments. To that end:

2. The Chairmanship of the Board of the Commission for the Management of Strategic Resources, National Reconstruction and Development (CMRRD) as provided for in Article VII of the present Agreement shall be offered to the leader of the RUF/SL, Corporal Foday Sankoh. For this purpose he shall enjoy the status of Vice President and shall therefore be answerable only to the President of Sierra Leone.

3. The Government of Sierra Leone shall give ministerial positions to the RUF/SL in a moderately expanded cabinet of 18, bearing in mind that the interests of other political parties and civil society organizations should also be taken into account, as follows:

(i) One of the senior cabinet appointments such as finance, foreign affairs and justice;

(ii) Three other cabinet positions.

4. In addition, the Government of Sierra Leone shall, in the same spirit, make available to the RUF/SL the following senior government positions: Four posts of Deputy Minister.

5. Within a period of fourteen days following the signing of the present Agreement, the necessary steps shall be taken by the Government of Sierra Leone to remove any legal impediments that may prevent RUF/SL members from holding cabinet and other positions.

ARTICLE VI

COMMISSION FOR THE CONSOLIDATION OF PEACE

1. A Commission for the Consolidation of Peace (hereinafter termed the CCP), shall be established within two weeks of the signing of the present Agreement to implement a post-conflict programme that ensures reconciliation and the welfare of all parties to the conflict, especially the victims of war. The CCP shall have the overall goal and responsibility for supervising and monitoring the implementation of and compliance with the provisions of the present Agreement relative to the promotion of national reconciliation and the consolidation of peace.

2. The CCP shall ensure that all structures for national reconciliation and the consolidation of peace already in existence and those provided for in the present Agreement are operational and given the necessary resources for realizing their respective mandates. These structures shall comprise:

(i) the Commission for the Management of Strategic Resources, National Reconstruction and Development;

(ii) the Joint Monitoring Commission;

(iii) the Provincial and District Cease-fire Monitoring Committees;

1306

(iv) the Committee for the Release of Prisoners of War and Non-Combatants;

(v) the Committee for Humanitarian Assistance;

(vi) the National Commission on Disarmament, Demobilization and Reintegration;

(vii) the National Commission for Resettlement, Rehabilitation and Reconstruction;

(viii) the Human Rights Commission; and

(ix) the Truth and Reconciliation Commission.

3. The CCP shall have the right to inspect any activity or site connected with the implementation of the present Agreement.

4. The CCP shall have full powers to organize its work in any manner it deems appropriate and to appoint any group or sub-committee which it deems necessary in the discharge of its functions.

5. The Commission shall be composed of the following members:

(i) Two representatives of the civil society;

(ii) One representative each named by the Government, the RUF/SL and the Parliament.

6. The CCP shall have its own offices, adequate communication facilities and secretarial support staff.

7. Recommendations for improvements or modifications shall be made to the President of sierra Leone for appropriate action. Likewise, failures of the structures to perform their assigned duties shall also be brought to the attention of the President.

8. Disputes arising out of the preceding paragraph shall be brought to the Council of Elders and Religious Leaders for resolution, as specified in Article VIII of the present Agreement.

9. Should Protocols be needed in furtherance of any provision in the present Agreement, the CCP shall have the responsibility for their preparation.

10. The mandate of the CCP shall terminate at the end of the next general elections.

ARTICLE VII

COMMISSION FOR THE MANAGEMENT OF STRATEGIC RESOURCES,

NATIONAL RECONSTRUCTION AND DEVELOPMENT

1. Given the emergency situation facing the country, the parties agree that the Government shall exercise full control over the exploitation of gold, diamonds and other resources, for the benefit of the people of Sierra Leone. Accordingly, a Commission for the Management of Strategic Resources, National Re construction and Development (hereinafter termed the CMRRD) shall be established and charged with the responsibility of securing and monitoring the legitimate exploitation of Sierra Leone's gold and diamonds, and other resources that are determined to be of strategic importance for national security and welfare as well as cater for post-war rehabilitation and reconstruction, as provided for under Article XXVIII of the present Agreement.

2. The Government shall take the necessary legal action within a period not exceeding two weeks from the signing of the present Agreement to the effect that all exploitation, sale, export, or any other transaction of gold and diamonds shall be forbidden except those sanctioned by the CMRRD. All previous concessions shall be null and void.

3. The CMRRD shall authorize licensing of artisanal production of diamonds and gold, in accordance with prevailing laws and regulations. All gold and diamonds extracted or otherwise sources from any Sierra Leonean territory shall be sold to the Government.

4. The CMRRD shall ensure, through the appropriate authorities, the security of the areas covered under this Article, and shall take all necessary measures against unauthorized exploitation.

1307

5. For the export or local resale of gold and diamonds by the Government, the CMRRD shall authorize a buying and selling agreement with one or more reputable international and specialized mineral companies. All exports of Sierra Leonean gold and diamonds shall be transacted by the Government, under these agreements.

6. The proceeds from the transactions of gold and diamonds shall be public monies which shall enter a special Treasury account to be spent exclusively on the development of the people of Sierra Leone, with appropriations for public education, public health, infrastructural development, and compensation for incapacitated war victims as well as post-war rehabilitation and reconstruction. Priority spending shall go to rural areas.

7. The Government shall, if necessary, seek the assistance and cooperation of other governments and their instruments of law enforcement to detect and facilitate the prosecution of violations of this Article.

8. The management of other natural resources shall be reviewed by the CMRRD to determine if their regulation is a matter of national security and welfare, and recommend appropriate policy to the Government.

9. The functions of the Ministry of Mines shall continued to be carried out by the current authorized ministry. However, in respect of strategic mineral resources, the CMRRD shall be an autonomous body in carrying out its duties concerning the regulation of Sierra Leone's strategic natural resources.

10. All agreements and transactions referred to in this Article shall be subject to full public disclosure and records of all correspondence, negotiations, business transactions and any other matters related to exploitation, management, local or international marketing, and any other matter shall be public documents.

11. The Commission shall issue monthly reports, including the details of all the transactions related to gold and diamonds, and other licenses or concessions of natural resources, and its own administrative costs.

12. The Commission shall be governed by a Board whose Chairmanship shall be offered to the Leader of the RUF/SL, Corporal Foday Sankoh. The Board shall also comprise:

(i) Two representatives of the Government appointed by the President;

(ii) Two representatives of the political party to be formed by the RUF/SL;

(iii) Three representatives of the civil society; and

(iv) Two representatives of other political parties appointed by Parliament.

13. The Government shall take the required administrative actions to implement the commitments made in the present Agreement; and in the case of enabling legislation, it shall draft and submit to Parliament within thirty days of the signature of the present Agreement, the relevant bills for their enactment into law.

14. The Government commits itself to propose and support an amendment to the Constitution to make the exploitation of gold and diamonds the legitimate domain of the people of Sierra Leone, and to determine that the proceeds be used for the development of Sierra Leone, particularly public education, public health, infrastructure development, and compensation of incapacitated war victims as well as post-war reconstruction and development.

ARTICLE VIII

COUNCIL OF ELDERS AND RELIGIOUS LEADERS

1. The signatories agree to refer any conflicting differences of interpretation of this Article or any other Article of the present Agreement or its protocols, to a Council of Elders and Religious Leaders comprised as follows:

(i) Two members appointed by the Inter-Religious Council;

(ii) One member each appointed by the Government and the RUF/SL; and

(iii) One member appointed by ECOWAS.

2. The Council shall designate its own chairperson from among its members. All of its decision shall be taken by the concurrence of at least four members, and shall be binding and public, provided that an aggrieved party may appeal to the Supreme Court.

1368

PART THREE

OTHER POLITICAL ISSUES

The Part of the present Agreement Consists of the following Articles

Article IX Pardon and Amnesty

Article X Review of the Present Constitution

Article XI Elections

Article XII National Electoral Commission

ARTICLE IX

PARDON AND AMNESTY

1. In order to bring lasting peace to Sierra Leone, the Government of Sierra Leone shall take appropriate legal steps to grant Corporal Foday Sankoh absolute and free pardon.

2. After the signing of the present Agreement, the Government of Sierra Leone shall also grant absolute and free pardon and reprieve to all combatants and collaborators in respect of anything done by them in pursuit of their objectives, up to the time of the signing of the present Agreement.

3. To consolidate the peace and promote the cause of national reconciliation, the Government of Sierra Leone shall ensure that no official or judicial action is taken against any member of the RUF/SL, ex-AFRC, ex-SLA or CDF in respect of anything done by them in pursuit of their objectives as members of those organisations, since March 1991, up to the time of the signing of the present Agreement. In addition, legislative and other measures necessary to guarantee immunity to former combatants, exiles and other persons, currently outside the country for reasons related to the armed conflict shall be adopted ensuring the full exercise of their civil and political rights, with a view to their reintegration within a framework of full legality.

ARTICLE X

REVIEW OF THE PRESENT CONSTITUTION

In order to ensure that the Constitution of Sierra Leone represents the needs and aspirations of the people of Sierra Leone and that no onstitutional or any other legal provision prevents the implementation of the present Agreement, the Government of Sierra Leone shall take the necessary steps to establish a Constitutional Review Committee to review the provisions of the present Constitution, and where deemed appropriate, recommend revisions and amendments, in accordance with Part V, Section 108 of the Constitution of 1991.

ARTICLE XI

DATE OF NEXT ELECTIONS

The next national elections in Sierra Leone shall beheid in accordance with the present Constitution of Sierra Leone.

ARTICLE XII

NATIONAL ELECTORAL COMMISSION

1. A new independent National Electoral Commission (hereinafter termed the NEC) shall be set up by the Government, not later than three months after the signing of the present Agreement.

2. In setting up the new NEC the President shall consult all political parties, including the RUF/SL, to determine the membership and terms

of reference of the Commission, paying particular attention to the need for a level playing field in the nation's elections.

1309

3. No member of the NEC shall be eligible for appointment to political office by any government formed as a result of an election he or she was mandated to conduct.

4. The NEC shall request the assistance of the International Community, including the UN, the OAU, ECOWAS and the Commonwealth of Nations, in monitoring the next presidential and parliamentary elections in Sierra Leone.

PART FOUR

POST-CONFLICT MILITARY AND SECURITY ISSUES

1. The Government of Sierra Leone and the RUF/SL, recognizing that the maintenance of peace and security is of paramount importance for the achievement of lasting peace in Sierra Leone and for the welfare of its people, have agreed to the following formulas for dealing with post-conflict military and security matters. Each of these formulas (not in priority order) is contained in separate Articles of this Part of the present Agreement and may be further detailed in protocols annexed to the Agreement.

Article XIII Transformation and New Mandate of ECOMOG

Article XIV New Mandate of UNOMSIL

Article XV Security Guarantees for Peace Monitors

Article XVI Encampment, Disarmament, Demobilization and Reintegration

Article XVII Restructuring and Training of the Sierra Leone Armed Forces

Article XVIII Withdrawal of Mercenaries

Article XIX Notification to Joint Monitoring Commission

Article Notification to Military Commands.

ARTICLE XIII

TRANSFORMATION AND NEW MANDATE OF ECOMOG

1. Immediately upon the signing of the present Agreement, the parties shall request ECOWAS to revise the mandate of ECOMOG in Sierra Leone as follows:

(i) Peacekeeping;

(ii) Security of the State of Sierra Leone;

i. Protection of UNOMSIL.
i. Protection of Disarmament, Demobilisation and Reintegration personnel.

2. The Government shall, immediately upon the signing of the present Agreement, request ECOWAS for troop contributions from at least two additional countries. The additional contingents shall be deployed not later than 30 days from the date of signature of the present Agreement. The Security Council shall be requested to provide assistance in support of ECOMOG.

3. The Parties agree to develop a timetable for the phased withdrawal of ECOMOG, including measures for securing all of the territory of Sierra Leone by the restructured armed forces. The phased withdrawal of ECOMOG will be linked to the phased creation and deployment of the restructured armed forces.

ARTICLE XIV

NEW MANDATE OF UNOMSIL

1310

1. The UN Security Council is requested to amend the mandate of UNOMSIL to enable it to undertake the various provisions outlined in the present Agreement.

ARTICLE XV

SECURITY GUARANTEES FOR PEACE MONITORS

1. The Government of Sierra Leone and the RUF/SL agree to guarantee the safety, security and freedom of movement of UNOMSIL Military Observers throughout Sierra Leone. This guarantee shall be monitored by the Joint Monitoring Commission.

2. The freedom of movement includes complete and unhindered access for UNOMSIL Military Observers in the conduct of their duties throughout Sierra Leone. Before and during the process of Disarmament, Demobilization and Reintegration, officers and escorts to be provided by both Parties shall be required to facilitate this access.

3. Such freedom of movement and security shall also be accorded to non-military UNOMSIL personnel such as Human Rights Officers in the conduct of their duties. These personnel shall, in most cases, be accompanied by UNOMSIL Military Observers.

4. The provision of security to be extended shall include United Nations aircraft, vehicles and other property.

ARTICLE XVI

ENCAMPMENT, DISARMAMENT, DEMOBILIZATION AND REINTEGRATION

1. A neutral peace keeping force comprising UNOMSIL and ECOMOG shall disarm all combatants of the RUF/SL, CDF, SLA and paramilitary groups. The encampment, disarmament and demobilization process shall commence within six weeks of the signing of the present Agreement in line with the deployment of the neutral peace keeping force.

2. The present SLA shall be restricted to the barracks and their arms in the armoury and their ammunitions in the magazines and placed under constant surveillance by the neutral peacekeeping force during the process of disarmament and demobilization.

3. UNOMSIL shall be present in all disarmament and demobilization locations to monitor the process and provide security guarantees to all ex-combatants.

4. Upon the signing of the present Agreement, the Government of Sierra Leone shall immediately request the International Community to assist with the provision of the necessary financial and technical resources needed for the adaptation and extension of the existing Encampment, Disarmament, Demobilization and Reintegration Programme in Sierra Leone, including payment of retirement benefits and other emoluments due to former members of the SLA.

ARTICLE XVII

RESTRUCTURING AND TRAINING OF THE SIERRA LEONE ARMED FORCES

1. The restructuring, composition and training of the new Sierra Leone armed forces will be carried out by the Government with a view to creating truly national armed forces, bearing loyalty solely to the State of Sierra Leone, and able and willing to perform their constitutional role.

2. Those ex-combatants of the RUF/SL, CDF and SLA who wish to be integrated into the new restructured national armed forces may do so provided they meet established criteria.

3. Recruitment into the armed forces shall reflect the geo-political structure of Sierra Leone within the established strength.

ARTICLE XVIII

1311

WITHDRAWAL OF MERCENARIES

All mercenaries, in any guise, shall be withdrawn from Sierra Leone immediately upon the signing of the present Agreement. Their withdrawal shall be supervised by the Joint Monitoring Commission.

ARTICLE XIX

NOTIFICATION TO JOINT MONITORING COMMISSION

Immediately upon the establishment of the JMC provided for in Article II of the present Agreement, each party shall furnish to the JMC information regarding the strength and locations of all combatants as well as the positions and descriptions of all known unexploded bombs (UXBs), explosive ordnance devices (EODs), minefields, booby traps, wire entanglements, and all other physical or military hazards. The JMC shall seek all necessary technical assistance in mine clearance and the disposal or destruction of similar devices and weapons under the operational control of the neutral peacekeeping force. The parties shall keep the JMC updated on changes in this information so that it can notify the public as needed, to prevent injuries.

ARTICLE XX

NOTIFICATION TO MILITARY COMMANDS

Each party shall ensure that the terms of the present Agreement, and written orders requiring compliance, are immediately communicated to all of its forces.

PART FIVE

HUMANITARIAN, HUMAN RIGHTS AND SOCIO-ECONOMIC ISSUES

1. The Government of Sierra Leone and the RUF\SL recognizing the importance of upholding, promoting and protecting the human rights of every Sierra Leonean as well as the enforcement of humanitarian law, agree to the following formulas for the achievement of these laudable objectives. Each of these formulas (not in priority order) is contained in separate Articles of this Part of the present Agreement

Article XXI Release of Prisoners and Abductees

Article XXII Refugees and Displaced Persons

Article XXIII Guarantee of the Security of Displaced Persons and Refugees

Article XXIV Guarantee and Promotion of Human Rights

Article XXV Human Rights Commission

Article XXVI Human Rights Violations

Article XXVII Humanitarian Relief

Article XXVIII Post War Rehabilitation and Reconstruction

Article XXIX Special Fund for War Victims

Article XXX Child Combatants

Article XXXI Education and Health

1312

ARTICLE XXI

RELEASE OF PRISONERS AND ABDUCTEES

All political prisoners of war as well as all non-combatants shall be released immediately and unconditionally by both parties, in accordance with the Statement of June 2, 1999, which is contained in Annex 3 and constitutes an integral part of the present Agreement.

ARTICLE XXII

REFUGEES AND DISPLACED PERSONS

The Parties through the National Commission for Resettlement, Rehabilitation and Reconstruction agree to seek funding from and the involvement of the UN and other agencies, including friendly countries, in order to design and implement a plan for voluntary repatriation and reintegration of Sierra Leonean refugees and internally displaced persons, including non-combatants, in conformity with international conventions, norms and practices.

ARTICLE XXIII

GUARANTEE OF THE SECURITY OF DISPLACED

PERSONS AND REFUGEES

As a reaffirmation of their commitment to the observation of the conventions and principles of human rights and the status of refugees, the Parties shall take effective and appropriate measures to ensure that the right of Sierra Leoneans to asylum is fully respected and that no camps or dwellings of refugees or displaced persons are violated.

ARTICLE XXIV

GUARANTEE AND PROMOTION OF HUMAN RIGHTS

1. The basic civil and political liberties recognized by the Sierra Leone legal system and contained in the declarations and principles of Human Rights adopted by the UN and OAU, especially the Universal Declaration of Human Rights and the African Charter on Human and People's Rights, shall be fully protected and promoted within Sierra Leonean society.

. These include the right to life and liberty, freedom from torture, the right to a fair trial, freedom of conscience, expression and association, and the right to take part in the governance of one's country.

ARTICLE XXV

HUMAN RIGHTS COMMISSION

1. The Parties pledge to strengthen the existing machinery for addressing grievances of the people in respect of alleged violations of their basic human rights by the creation, as a matter of urgency and not later than 90 days after the signing of the present Agreement, of an autonomous quasi-judicial national Human Rights Commission.

2. The Parties further pledge to promote Human Rights education throughout the various sectors of Sierra Leonean society, including the schools, the media, the police, the military and the religious community.

3. In pursuance of the above, technical and material assistance may be sought from the UN High Commissioner for Human Rights, the African Commission on Human and Peoples Rights and other relevant international organisations.

4. A consortium of local human rights and civil society groups in Sierra Leone shall be encouraged to help monitor human rights

observance.

1313

ARTICLE XXVI

HUMAN RIGHTS VIOLATIONS

1. A Truth and Reconciliation Commission shall be established to address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, get a clear picture of the past in order to facilitate genuine healing and reconciliation.

2. In the spirit of national reconciliation, the Commission shall deal with the question of human rights violations since the beginning of the Sierra Leonean conflict in 1991.

This Commission shall, among other things, recommend measures to be taken for the rehabilitation of victims of human rights violations.

3. Membership of the Commission shall be drawn from a cross-section of Sierra Leonean society with the participation and some technical support of the International Community. This Commission shall be established within 90 days after the signing of the present Agreement and shall, not later than 12 months after the commencement of its work, submit its report to the Government for immediate implementation of its recommendations.

ARTICLE XXVII

HUMANITARIAN RELIEF

1. The Parties reaffirm their commitment to their Statement on the Delivery of Humanitarian Assistance in Sierra Leone of June 3, 1999 which is contained in Annex 4 and constitutes an integral part of the present Agreement. To this end, the Government shall request appropriate international humanitarian assistance for the people of Sierra Leone who are in need all over the country.

2. The Parties agree to guarantee safe and unhindered access by all humanitarian organizations throughout the country in order to facilitate delivery of humanitarian assistance, in accordance with international conventions, principles and norms which govern humanitarian operations. In this respect, the parties agree to guarantee the security of the presence and movement of humanitarian personnel.

3. The Parties also agree to guarantee the security of all properties and goods transported, stocked or distributed by humanitarian organizations, as well as the security of their projects and beneficiaries.

4. The Government shall set up at various levels throughout the country, the appropriate and effective administrative or security bodies which will monitor and facilitate the implementation of these guarantees of safety for the personnel, goods and areas of operation of the humanitarian organizations.

ARTICLE XXVIII

POST - WAR REHABILITATION AND RECONSTRUCTION

1. The Government, through the National Commission for Resettlement, Rehabilitation and Reconstruction and with the support of the International Community, shall provide appropriate financial and technical resources for post-war rehabilitation, reconstruction and development.

2. Given that women have been particularly victimized during the war, special attention shall be accorded to their needs and potentials in formulating and implementing national rehabilitation, reconstruction and development programmes, to enable them to play a central role in the moral, social and physical reconstruction of Sierra Leone.

ARTICLE XXIX

1314

SPECIAL FUND FOR WAR VICTIMS

The Government, with the support of the International Community, shall design and implement a programme for the rehabilitation of war victims. For this purpose, a special fund shall be set up.

ARTICLE XXX

CHILD COMBATANTS

The Government shall accord particular attention to the issue of child soldiers. It shall, accordingly, mobilize resources, both within the country and from the International Community, and especially through the Office of the UN Special Representative for Children in Armed Conflict, UNICEF and other agencies, to address the special needs of these children in the existing disarmament, demobilization and reintegration processes.

ARTICLE XXXI

EDUCATION AND HEALTH

The Government shall provide free compulsory education for the first nine years of schooling (Basic Education) and shall endeavour to provide free schooling for a further three years. The Government shall also endeavour to provide affordable primary health care throughout the country.

PART SIX

IMPLEMENTATION OF THE AGREEMENT

ARTICLE XXXII

JOINT IMPLEMENTATION COMMITTEE

A Joint Implementation Committee consisting of members of the Commission for the Consolidation of Peace (CCP) and the Committee of Seven on Sierra Leone, as well as the Moral Guarantors, provided for in Article XXXIV of the present Agreement and other international supporters shall be established. Under the chairmanship of ECOWAS, the Joint Implementation Committee shall be responsible for reviewing and assessing the state of implementation of the Agreement, and shall meet at least once every three months. Without prejudice) the functions of the Commission for

the Consolidation of Peace as provided for in Article VI, the Joint Implementation Committee shall make recommendations deemed necessary to ensure effective implementation of the present Agreement according to the Schedule of Implementation, which appears as Annex 5.

ARTICLE XXXIII

REQUEST FOR INTERNATIONAL INVOLVEMENT

The parties request that the provisions of the present Agreement affecting the United Nations shall enter into force upon the adoption by the UN Security Council of a resolution responding affirmatively to the request made in this Agreement. Likewise, the decision-making bodies of the other international organisations concerned are requested to take similar action, where appropriate.

1315

PART SEVEN

MORAL GUARANTORS AND INTERNATIONAL SUPPORT

ARTICLE XXXIV

MORAL GUARANTORS

The Government of the Togolese Republic, the United Nations, the OAU, ECOWAS and the Commonwealth of Nations shall stand as Moral Guarantors that this Peace Agreement is implemented with integrity and in good faith by both parties.

ARTICLE XXXV

INTERNATIONAL SUPPORT

Both parties call on the International Community to assist them in implementing the present Agreement with integrity and good faith. The international organisations mentioned in Article XXXIV and the Governments of Benin, Burkina Faso, Côte d'Ivoire, Ghana, Guinea, Liberia, Libyan Arab Jamahiriya, Mali, Nigeria, Togo, the United Kingdom and the United States of America are facilitating and supporting the conclusion of this Agreement. These States and organisations believe that this Agreement must protect the paramount interests of the people of Sierra Leone in peace and security.

PART EIGHT

FINAL PROVISIONS

ARTICLE XXXVI

REGISTRATION AND PUBLICATION

The Sierra Leone Government shall register the signed Agreement not later than 15 days from the date of the signing of this Agreement. The signed Agreement shall also be published in the Sierra Leone Gazette not later than 48 (Forty - Eight) hours after the date of registration of this Agreement. This Agreement shall be laid before the Parliament of Sierra Leone not later than 21 (Twenty-One) days after the signing of this Agreement.

ARTICLE XXXVII

ENTRY INTO FORCE

The present Agreement shall enter into force immediately upon its signing by the Parties.

Done in Lomé this seven day of the month of July 1999 in twelve (12) original texts in English and French, each text being equally authentic.

1316

1317

1318

Alhaji Ahmad Tejan Kabbah
President of the Republic of Sierra Leone

Corporal Foday Saybana Sankoh
Leader of the Revolutionary United Front of Sierra Leone

His Excellency Gnassingbe Eyadema
President of the Togolese Republic
Chairman of ECOWAS

His Excellency Blaise Compaore
President of Burkina Faso

His Excellency Dahkpanah Dr. Charles Ghankey Taylor
President of the Republic of Liberia

His Excellency Olusegun Obasanjo
President and Commander-in-Chief of the Armed Forces
of the Federal Republic of Nigeria

His Excellency Youssoufou Bamba
Secretary of State at the Foreign Mission in charge of
International Cooperation of Cote d'Ivoire

His Excellency Victor Gbeho
Minister of Foreign Affairs of the Republic of Ghana

Mr. Roger Laloupo
Representative of the ECOWAS Special Representative

Ambassador Francis G. Okelo
Executive Secretary of the United Nations Secretary General

Ms. Adwoa Coleman
Representative Organization of African Unity

Dr. Moses K.Z. Anafu
Representative of the Commonwealth of Nations

ANNEX 1

AGREEMENT ON CEASEFIRE IN SIERRA LEONE

President Ahmed Tejan KABBAH and Rev. Jesse Jackson met on 18 May 1999 with Corporal Foday Saybana SANKOH, under the auspices of President Gnassingbe EYADEMA. At that meeting, the question of the peace process for Sierra Leone was discussed.

***

1319

The Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL),

- Desirous to promote the ongoing dialogue process with a view to establishing durable peace and stability in Sierra Leone; and

- Wishing to create an appropriate atmosphere conducive to the holding of peace talks in Lome, which began with the RUF internal consultations to be followed by dialogue between the Government and the RUF;

- Have jointly decided to:

1. Agree to ceasefire as from 24 May 1999, the day that President EYADEMA invited Foreign Ministers of ECOWAS to discuss problems pertaining to Sierra Leone. It was further agreed that the dialogue between the Government of Sierra Leone and RUF would commence on 25 May 1999;

2. Maintain their present and respective positions in Sierra Leone as of the 24th of May 1999; and refrain from any hostile or aggressive act which could undermine the peace process;

3. Commit to start negotiations in good faith, involving all relevant parties in the discussions, not later than May 25 in Lome;

4. Guarantee safe and unhindered access by humanitarian organizations to all people in need; establish safe corridors for the provision of food and medical supplies to ECOMOG soldiers behind RUF lines, and to RUF combatants behind ECOMOG lines;

5. Immediate release of all prisoners of war and non-combatants;

6. Request the United Nations, subject to the Security Council's authorisation, to deploy military observers as soon as possible to observe compliance by the Government forces (ECOMOG and Civil Defence Forces) and the RUF, including former AFRC forces, with this ceasefire agreement.

This agreement is without prejudice to any other agreement or additional protocols which may be discussed during the dialogue between the Government and the RUF.

Signed in Lome (Togo) 18 May 1999, in six (6) originals in English and French

For the Government of Sierra Leone

ALHADJI Dr. Ahmad Tejan KABBAH
President Of The Republic Of Sierra Leone

For the Revolutionary United Front Of Sierra Leone

Corporal Foday Saybana Sankoh, Leader of the
Revolutionary United Front (RUF)

WITNESSED BY:

For the Government of Togo and Current Chairman of ECOWAS

GNASSINGBE EYADEMA
President of the Republic of Togo

For the United Nations

Francis G. Okelo
Special Representative of the Secretary General

For the Organisation of African Unity (OAU)

Adwoa COLEMAN
Representative of the Organization of African Unity

US Presidential Special Envoy for the Promotion of Democracy in Africa

Rev. Jesse JACKSON

ANNEX 2

DEFINITION OF CEASE-FIRE VIOLATIONS

1. In accordance with Article II of the present Agreement, both parties agree that the following constitute cease-fire violations and a breach of the Cease-fire Agreement:

1320

a. The use of weapons of any kind in any circumstance including: -

(i) Automatic and semi-automatic rifles, pistols, machine guns and any other small arms weapon systems.

(ii) Heavy machine guns and any other heavy weapon systems.

(iii) Grenades and rocket-propelled grenade weapon systems.

(iv) Artillery, rockets, mortars and any other indirect fire weapon systems.

(v) All types of mine, explosive devices and improvised booby traps.

(vi) Air Defence weapon systems of any nature.

(vii) Any other weapon not included in the above paragraphs.

b. Troop movements of any nature outside of the areas recognized as being under the control of respective fighting forces without prior notification to the Cease-fire Monitoring Committee of any movements at least 48 hours in advance.

c. The movement of arms and ammunition. To be considered in the context of Security Council Resolution 1171 (1998).

d. Troop movements of any nature;

d. The construction and/or the improvement of defensive works and positions within respective areas of control, but outside a geographical boundary of 500m from existing similar positions.

f. Reconnaissance of any nature outside of respective areas of control.

g. Any other offensive or aggressive action.

2. Any training or other military activities not provided for in Articles XIII to XIX of the present Agreement, constitute a cease-fire violation.

3. In the event of a hostile external force threatening the territorial integrity or sovereignty of Sierra Leone, military action may be undertaken by the Sierra Leone Government.

ANNEX 3

STATEMENT BY THE GOVERNMENT OF SIERRA LEONE AND THE REVOLUTIONARY UNITED FRONT OF SIERRA LEONE ON THE RELEASE OF PRISONERS OF WAR AND NON-COMBATANTS

The Government of Sierra Leone (GOSL) and the Revolutionary United Front (RUF/SL) have agreed to implement as soon as possible the provision of the Cease-fire Agreement which was signed on 18 May 1999 in Lome, relating to the immediate release of prisoners of war and non-combatants.

Both sides reaffirmed the importance of the implementation of this provision in the interest of the furtherance of the talks.

They therefore decided that an appropriate Committee is established to handle the release of all prisoners of war and non-combatants.

Both the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone decided that such a Committee be established by the UN and chaired by the UN Chief Military Observer in Sierra Leone and comprising representatives of the International Committee of the Red Cross (ICRC), UNICEF and other relevant UN Agencies and NGOs.

This Committee should begin its work immediately by contacting both parties to the conflict with a view to effecting the immediate release

of these prisoners of war and non-combatants.

1321

Lomé - 2 June 1999

ANNEX 4

STATEMENT BY THE GOVERNMENT OF SIERRA LEONE AND THE REVOLUTIONARY UNITED FRONT OF SIERRA LEONE ON THE DELIVERY OF HUMANITARIAN ASSISTANCE IN SIERRA LEONE

The parties to the conflict in Sierra Leone meeting in Lome Togo on 3rd June 1999 in the context of the Dialogue between the Government of Sierra Leone (GSL) and the Revolutionary United Front of Sierra Leone (RUF/SL):

Reaffirm their respect for international convention, principles and norms, which govern the right of people to receive humanitarian assistance and the effective delivery of such assistance.

Reiterate their commitment to the implementation of the Cease-fire Agreement signed by the two parties on 18th May 1999 in Lome.

Aware of the fact that the protracted civil strife in Sierra Leone has created a situation whereby the vast majority of Sierra Leoneans in need of humanitarian assistance cannot be reached.

Hereby agree as follows:

1. That all duly registered humanitarian agencies shall be guaranteed safe and unhindered access to all areas under the control of the respective parties in order that humanitarian assistance can be delivered safely and effectively, in accordance with international conventions, principles and norms govern humanitarian operations.

2. In this respect the two parties shall:

a. guarantee safe access and facilitate the fielding of independent assessment missions by duly registered humanitarian agencies.

b. identify, in collaboration with the UN Humanitarian Co-ordinator in Sierra Leone and UNOMSIL, mutually agreed routes (road, air and waterways) by which humanitarian goods and personnel shall be transported to the beneficiaries to provide needed assistance.

c. allow duly registered humanitarian agencies to deliver assistance according to needs established through independent assessments.

d. guarantee the security of all properties and of and goods transported, stocked or distributed by the duly registered humanitarian agencies, as well as the security of their project areas and beneficiaries.

3. The two parties undertake to establish with immediate effect, and not later than seven days, an Implementation Committee formed by appropriately designated and mandated representatives from the Government of Sierra Leone, the Revolutionary United Front of Sierra Leone, the Civil Society, the NGO community, and the UNOMSIL; and chaired by the United Nations Humanitarian Co-ordinator, in co-ordination with the Special Representative of the Secretary General in Sierra Leone.

The Implementation Committee will be mandated to:

a. Ascertain and assess the security of proposed routes to be used by the humanitarian agencies, and disseminate information on routes to interested humanitarian agencies.

b. Receive and review complaints which may arise in the implementation of this arrangement, in order to re-establish full compliance.

4. The parties agree to set up at various levels in their areas of control, the appropriate and effective administrative and security bodies which will monitor and facilitate the effective delivery of humanitarian assistance in all approved points of delivery, and ensure the security of the personnel, goods and project areas of the humanitarian agencies as well as the safety of the beneficiaries.

Issued in Lomé
June 3 1999

1322

ANNEX 5

DRAFT SCHEDULE OF IMPLEMENTATION OF THE PEACE AGREEMENT

1. ACTIVITIES WITH SPECIFIC TIMING:

TIMING	ACTIVITIES	ACTION REQUIRED	FOLLOW-UP ACTION
DAY 1	Signing of the Peace Agreement		
	Amnesty	The Government to grant absolute and free pardon to the RUF leader Foday Sankoh through appropriate legal steps	
	Transformation and new mandate of ECOMOG	Request to ECOWAS by the parties for revision of the mandate of ECOMOG in Sierra Leone	
		Request to the UN Security Council to amend the mandate of UNOMSIL to enable it to undertake the various provisions outlined in the present Agreement;	
		Request to the international community to provide substantial financial and logistical assistance to facilitate implementation of the Peace Agreement.	
		Request to ECOWAS by the parties for contributions of additional troops.	
	Transformation of the RUF into a political party	RUF/SL to commence to organize itself to function as a political party	
	Encampment, disarmament, demobilization and reintegration (DDR)	Request for international assistance in adapting and extending the existing DDR programme	
	Withdrawal of mercenaries	Supervision by Joint Monitoring Commission	
	Notification to Joint Monitoring Commission	Communication by the parties of positions and description of all known warlike devices/materials	
	Notification to Military Commands	Communication by the parties of written orders requiring compliance	
DAY 15	Enabling members of the RUF/SL to hold public office, and to join a broad-based Government of National Unity through Cabinet appointments	Removal by the Government of all legal impediments	
	Commission for the Consolidation of Peace (CCP)	Creation of the Commission to implement a post-conflict reconciliation and welfare programme	Mandate of the Commission to terminate at the end of next general elections Jan.-Feb. 2001
	Commission for the Management of Strategic Resources, National Reconstruction and Development (CMRRD)	Ban on all exploitation, sale, export, or any transaction of gold and diamonds except those sanctioned by the CMRDD	
DAY 22	Enabling members of the RUF/SL to hold public office	Discussion and agreement between both parties on the appointment of RUF/SL members to positions of parastatal, diplomacy and any other public sector	For a period of fourteen days
DAY 31	Transformation of the RUF into a political party	Necessary legal steps by the Government for the registration of the RUF as a political party	
	Commission for the management of Strategic Resources, National Reconstruction and Development (CMRRD)	Preparation and submission by Government to the Parliament of relevant bills for enabling legislation commitments made under the peace agreement	
	Transformation, new mandate, and phased withdrawal of ECOMOG	Deployment of troops from at least two additional countries	
DAY 60	Completion of encamoment, disarmament and demobilization	Restriction of SLA soldiers to the barracks and storage of their arms and ammunition under constant surveillance by the Neutral Peace-Keeping Force during the disarmament process	
		Monitoring of disarmament and demobilization by UNOMSIL	
DAY 90	Human Rights Commission	Creation of an autonomous quasi judicial national Human Rights Commission	
		Request for technical and material assistance from the UN High Commissioner for Human Rights, the African	

1323

		Commission on Human Rights and Peoples Rights and other relevant organizations Creation of a Truth and Reconciliation Commission
	Elections	Establishment of a new independent National Electoral Commission (NEC) in consultation with all political parties including the RUF/SL Request for financial and logistical support for the operations of the NEC Request for assistance from the international community in monitoring the next presidential and parliamentary elections in Sierra Leone
DAY 456	Human Rights Violations	Submission by the Truth and Reconciliation Commission of its report and recommendation to the Government for immediate implementation

II. ACTIVITIES WITHOUT SPECIFIC TIMING: (SHORT/MEDIUM/LONG TERM):

SERIAL NO.	ACTIVITIES	ACTION REQUIRED	FOLLOW-UP ACTION
1.	Ceasefire monitoring (Ceasefire Agreement signed on 18 May 1999)	Establishment of a Ceasefire Monitoring Committee at provincial and district levels Request for international assistance in providing funds and other logistics for the operations of the JMC	JMC already established and operational
2.	Review of the present Constitution	Establishment of a Constitutional Review Committee	
3.	Mediation by the Council of Elders and Religious Leaders	Appointment of members of the Council by the interreligious Council, the Government, the RUF and ECOWAS	
4.	Timetable for the phased withdrawal of ECOMOG	Formulation of the timetable in connection with the phased creation and deployment of the restructured Armed Forces	
5.	Security guarantees for peace monitors	Communication, in writing, of security guarantees to UNMILOBs	
6.	Restructuring and training of the SLA	Creation by the Government of truly national armed forces reflecting the geo-political structure of Sierra Leone within the established	

1324

Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL)

The Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL).

Moved by the imperative need for a just and durable peace in Sierra Leone;

Inspired by the equally imperative need for genuine national unity and reconciliation to end the fratricidal war in Sierra Leone;

Committed to promoting popular participation in governance and full respect for human rights and humanitarian laws;

Dedicated to the advancement of democratic development and to the maintenance of a socio-political order free of inequality, despotism and corruption;

Convinced that a sense of common purpose and patriotism is the need of the hour;

HEREBY AGREE as follows:

ARTICLE 1

The armed conflict between the Government of Sierra Leone and the RUF/SL is hereby ended with immediate effect. Accordingly, the two foes will ensure that a total cessation of hostilities is observed forthwith.

ARTICLE 2

The Government and the RUF/SL undertake that no effort shall be spared to effect the scrupulous respect and implementation of the provisions contained in this Peace Agreement to ensure that the establishment and consolidation of a just peace becomes a priority in Sierra Leone.

ARTICLE 3

A national body to be known as the Commission for the Consolidation of Peace shall be established within two weeks of the signing of this Agreement. The Commission shall be a verification mechanism responsible for supervising and monitoring the implementation of and compliance with all the provisions contained in this Peace Agreement.

The Commission, in fulfilment of this task during the period of consolidating the peace, shall co-ordinate and facilitate the work of the following bodies which will proceed to establish:

(i) Socio-Economic Forum;
(ii) Citizen's Consultative Conferences;
(iii) Multi-partisan Council;
(iv) Trust Fund for the Consolidation of Peace;
(v) Demobilization and Resettlement Committee;
(vi) National Budget and Debt Committee.

1325

The Commission shall comprise representatives of the Government and the Revolutionary United Front of Sierra Leone, drawing on the resources of state and civic institutions as and when necessary.

The Commission shall have the power to recommend the preparation of enabling measures contained in this Peace Agreement. It shall have the power to issue publicly its conclusions. The parties undertake to comply with the conclusions of the Commission.

The Commission shall have the power to prepare preliminary legislative drafts necessary for the implementation and development of the provisions contained in the present Peace Agreement.

The Parties undertake to consult the Commission before taking decisions on measures relating to the present Peace Agreement.

The Commission may similarly consult the Parties at the highest level whenever it is appropriate.

The Commission shall have access to and may inspect any activity or site connected with the implementation of the present Peace Agreement. The Commission shall have full powers to organise its work in the manner in which it deems most appropriate and to appoint any group or sub-committee which it may deem useful in the discharge of its functions.

The Commission shall have its own offices, adequate communication facilities and adequate secretariat support staff.

A Trust Fund for the Consolidation of Peace shall be established to provide funding for the implementation of the present Peace Agreement.

ARTICLE 4

Citizens' Consultative Conferences shall be organised once a year the first of which shall be organised within one hundred and twenty days of the signing of the present Peace Agreement in order to encourage people's participation and to invite recommendations for the formulation of guidelines and their implementation that will ensure truly fair and representative political processes.

ARTICLE 5

The disarmament of combatants will be effected upon their entry into the designated assembly zones, and demobilization and reintegration as soon as practicable thereafter.

The upkeep and welfare of the encamped combatants shall be the primary responsibility of the Government of Sierra Leone in conjunction with the Commission for the Consolidation of Peace, assisted by the international community.

ARTICLE 6

The Parties commit themselves to a well planned national effort on encampment, disarmament, demobilization and resettlement linked to national development objectives. To that end, a Demobilization and Resettlement Committee shall be established within a month of the signing

1326

of the present Peace Agreement.

The Committee shall coordinate the encampment, disarmament, demobilization and resettlement of RUF/SL combatants. The Committee shall work in coordination with all the relevant institutions and agencies.

Both Parties shall consult on the nomination of the membership of the Committee which shall not exceed seven persons.

The Committee shall be provided with adequate funding.

ARTICLE 7

The Demobilization and Resettlement Committee shall identify assembly zones and camp areas for RUF/SL combatants where they shall be registered, encamped and disarmed. The movement into the Assembly Zones shall commence within once month of the signing of this Agreement and be completed as soon as practicable but no later than three months from this date.

ARTICLE 8

The Parties shall request the international community to help supervise and monitor the encampment, disarmament, demobilization and reintegration processes. The Joint Monitoring Group shall have observers at any of these processes.

ARTICLE 9

The Commission shall, as a priority, make recommendations on the restructuring and re-orientation of the military as well as its leadership. In this context, members of the RUF/SL who may wish to be part of the country's military can become part of the new unified armed forces within a framework to be discussed and agreed upon by the Commission.

ARTICLE 10

The Government of Sierra Leone shall ensure the return to barracks of those units of the army not required for normal security duties and the downsizing of the Armed Forces of Sierra Leone (RSLMF), taking into account the security needs of the country.

ARTICLE 11

A Neutral Monitoring Group (NMG) from the international community shall be responsible for monitoring breaches provided under this Peace Agreement.

Both Parties upon signing this Agreement shall request the international community to provide neutral monitors.

Such monitors when deployed shall be in position for an initial period of three months.

The Neutral Monitoring Group shall report any violations of the ceasefire to its headquarters which shall in turn communicate the same to the headquarters of the Joint Monitoring Group

1327

comprising of representative of the Government of Sierra Leone and the RUF based in Freetown.

ARTICLE 12

The Executive Outcomes shall be withdrawn five weeks after the deployment of the Neutral Monitoring Group (NMG). As from the date of the deployment of the Neutral Monitoring Group, the Executive Outcomes shall be confined to barracks under the supervision of the Joint Monitoring Group and the Neutral Monitoring Group. Government shall use all its endeavours, consistent with its treaty obligations, to repatriate other foreign troops no later than three months after the deployment of the Neutral Monitoring Group or six months after the signing of the Peace Agreement, whichever is earlier.

ARTICLE 13

The Parties agree that immediately following the signing of the present Peace Agreement, the RUF/SL shall commence to function as a political movement with the rights, privileges and duties provided by law; and that within thirty days, following that, the necessary conditions shall be created to enable the RUF/SL to register as a political movement according to law.

ARTICLE 14

To consolidate the peace and promote the cause of national reconciliation, the Government of Sierra Leone shall ensure that no official or judicial action is taken against any member of the RUF/SL in respect of anything done by them in pursuit of their objectives as members of that organization up to the time of the signing of this Agreement. In addition, legislative and other measures necessary to guarantee former RUF/SL combatants, exiles and other persons, currently outside the country for reasons related to the armed conflict shall be adopted ensuring the full exercise of their civil and political rights, with a view to their reintegration within a framework of full legality.

ARTICLE 15

The mandate and membership of the existing National Unity and Reconciliation Commission shall be expanded in consultation with the Commission for the Consolidation of Peace to enable it to undertake a sustained and effective campaign of civic education aimed at enhancing national unity and reconciliation, taking into account the imperative need to heal the wounds of the conflict.

ARTICLE 16

The Parties agree that the standards of accountability, integrity and probity in the public services of Sierra Leone shall be raised. To that end, immediate steps shall be taken to establish the office of Ombudsman to promote the implementation of a professional code of ethics, and the integrity and patriotism of all public servants. It shall also seek to eradicate all forms of corruption.

ARTICLE 17

The Parties shall approach the international community with a view to mobilizing resources which will be used to establish a trust fund to enable the RUF/SL to transform itself into a

1328

political party.

ARTICLE 18

The Parties agree to the principle of reforming the present electoral process in Sierra Leone. There shall, in that regard, be the full participation of citizens and their organizations in formulating electoral reforms.

The independence and integrity of the National Electoral Commission shall be guaranteed to ensure fair and acceptable electoral exercise.

In reconstituting the National Electoral Commission, the President shall consult all political parties and movements including the RUF/SL to determine the membership and terms of reference of that Commission, paying particular attention to the need for a level playing field in the nation's electoral politics.

Both the Government and the RUF/SL shall, together with other political parties, nominate men and women of professionalism, integrity and objectivity to the National Electoral Commission, not later than three months after the signing of the present Peace Agreement.

It is hereby agreed that no member of the National Electoral Commission shall be eligible for appointment to a political office by any government formed as a result of an election they were mandated to conduct.

ARTICLE 19

The Parties agree that the basic civil and political liberties which are recognised by the Sierra Leone legal system and are contained in the Declarations and Principles on Human Rights adopted by the UN and the OAU, especially the Universal Declaration of Human Rights and the African Charter on Human and People's Rights, shall be fully guaranteed and promoted within Sierra Leone society.

These include the right to life and liberty, freedom from torture; the right to a fair trial, freedom of conscience, expression and association, and the right to take part in the governance of one's country.

To foster national reconciliation and ensure the full and unrestricted participation of the RUF/SL in the political process, the RUF/SL shall enjoy:

(i) freedom of the press and access to the media in order that they may be heard and informed.
(ii) freedom of association, expression, assembly and the right to mobilise and demonstrate freely, and to communicate politically in order that they may organise effectively and set up appropriate infrastructure.

All political prisoners and prisoners of war, if any, shall be released.

ARTICLE 20

1329

To monitor compliance with the basic rights guaranteed in the present Peace Agreement, as well as to promote human rights education throughout the various sectors of Sierra Leonean society, including schools, the media, the police and the military, an independent National Commission on Human Rights shall be established.

In pursuance of the above, technical and material assistance may be sought from the UN Special Commission on Human Rights, UN Centre for Human Rights, African Commission on Human and People's Rights and other relevant international organisations.

The National Commission on Human Rights shall have the power to investigate human rights violations and to institute legal proceedings where appropriate.

Further, a consortium of local human rights groups shall be encouraged to help monitor human rights observance.

ARTICLE 21

The Parties undertake to respect the principles and rules of international humanitarian law.

ARTICLE 22

In the pursuit of the reconstruction, rehabilitation and socio-economic development of Sierra Leone as a matter of the utmost priority, special attention shall be given to rural and urban poor areas, war victims, disabled persons and other vulnerable groups. The Government in conjunction with the Committee for Demobilization and Resettlement shall co-operate with all political parties and movements, including the RUF/SL, to raise resources internationally for these objectives during the initial phase of the consolidation of peace.

ARTICLE 23

The Government shall do all in its power to mobilize resources internally and externally to meet the needs of the post-war reconstruction and socio-economic development.

ARTICLE 24

The Parties agree that the independence of the Judiciary shall be strengthened in accordance with its role of ensuring the fair and impartial dispensation of justice in a democratic order. The composition of the present Judicial and Legal Service Commission shall be determined so as to ensure the independence of the Judiciary from the other organs of state as well as the political parties. Its membership shall include, in addition to judges and representatives of the legal profession and public services, representatives of other sectors of society not directly connected with the administration of justice.

ARTICLE 25

The Police Force shall be strengthened to ensure that the rule of law is upheld throughout Sierra Leone. To that end, the present Police Force shall be vetted. Furthermore, the professional training of the Police Force shall henceforth assure a new orientation, bu emphasizing professionalism, the importance of human dignity and democratic values and respect and

1330

protection of human rights. It shall, further, emphasise that the conduct of members of the Police Force shall be free from all partisan considerations of politics, ideology and social position and that the Police Force shall avoid and combat corruption.

Nominations for the Police Council will come from wider sectors of society prior to their appointment so as to ensure their truly civilian and non-partisan character.

ARTICLE 26

It is recognised that there is a socio-economic dimension to the conflict which must also be addressed in order to consolidte the foundation of peace. Accordingly, the socio-economic policy of Sierra Leone shall be guided among other things, by the following principles, taking into account available resources:

i. Enhancement of the nation's productive capactiy through meaningful grassroots participation in the reconstruction and development of the country;

ii. The provision of equal opportunities to all Sierra Leoneans especially those in the countryside and the urban poor, with the aim of equitable distribution of the nation's resources thereby empowering them to contribute effectively to decisionmaking and implementation of policies which affect their lives;

iii. Improving the quality of life of the people through the provision of, inter alia,

a. primary health care in all villages and towns;

b. affordable and quality housing, especially in the countryside and poor urban areas;

c. improved educational services to enable all children of primary and junior-secondary school age to receive free and compulsory schooling as well as provide the opportunity for the youth and all other Sierra Leoneans to receive affordable quality education;

d. clean drinking water and sewerage system in every village and town;

e. provide job opportunities in a systematic and sustainable way for the people, especially the youth;

f. promote and sustain rural development and support agriculture in terms of technical, credit and marketing facilities;

g. provide support for production and provision of basic food and nutritional requirements of the people and food security in general;

h. protect the environment and regulate the exploitation of natural resources in the interest of the people, as well as prohibit monopolies;

i. provide the required infrastructure such as roads, transport and communications, energy and rural electrification, for improved living conditions, especially of the

1331

rural people;

j. seek to obtain debt relief in order to transfer funds from debt servicing to meet the urgent requirements of rebuilding a war-torn society.

ARTICLE 27

A broad-based Socio-Economic forum, in which the RUF/SL shall participate, shall be established with a feiw to enriching policy forumlation and execution in the socio-economic sector.

ARTICLE 28

The Government of Cote d'Ivoire, the United Nations, the OAU and the Commonwealth shall stand as moral guarantors that this Peace Agreement is implemented with integrity and in good faith by both parties.

Annex to this Agreement:

A nationwide sensitization programme for the peace process shall be pursued by the Parties, using all available means of communication to impress upon their combatants and the nation at large:

- the fact that hostilities have ended;
- the reasons for demobilization;
- the opportunities for reintegration of combatants; and
- the need for reconciliation and lasting peace.

Done in Abidjan this 30 day of the month of November, 1996.

Alhaji Dr. Ahmad Tejan Kabbah
President of the Republic of Sierra Leone

Corporal Foday Saybana Sankoh
Leader of the Revolutionary United Front (RUF)

Henri Konan Bedie
President of the Republic of Cote d'Ivoire

Berhanu Dinka
Special Envoy of the United Nations Secretary-General for Sierra Leone

Adwoa Coleman (M/S)
Representative of the Organization of African Unity (OAU)

Moses Anafu (DR)
Representative of the Commonwealth Organization

1332

ECOWAS SIX-MONTH PEACE PLAN FOR SIERRA LEONE
23 OCTOBER 1997 - 22 APRIL 1998

(SCHEDULE OF IMPLEMENTATION)

PREAMBLE:

Pursuant to the ECOWAS mandate to implement proposals for the resolution of the Sierra Leone crisis contained in the Final Communique of 26 June, 1997 in Conakry, a seven-point peace plan has been devised for the early return of constitutional governance to Sierra Leone. These are:

1. Cessation of hostilities throughout Sierra Leone

   i. With immediate effect
   ii. Establish monitoring and verification mechanism

Note: Process to be undertaken by ECOMOG, and the UN military observers. Participation of UN military observers needs the agreement of the UN Security Council.

2. Disarmament, Demobilisation and Reintegration of Combatants: 1 to 31 December, 1997

Note: ECOWAS Committee of Five Ministerial Assessment visit (20 November, 1997)

3. Commencement of Humanitarian Assistance: 14 November 1997

Note: ECOMOG to monitor the process

4. Return of Refugees and Displaced Persons

Commencement date: 1 December, 1997

UNHCR assisted repatriation and resettlement of refugees and displaced persons

5. Restoration of the constitutional Government and Broadening of the Power Base: Takes effect from 22 May, 1998.

6. Immunities and Guarantees: Takes effect from 22 May, 1998

ELABORATION OF ECOWAS PEACE PLAN

1. Cessation of Hostilities:

It is considered that cessation of hostilities should come into force immediately. However, this will have to be accompanied by a monitoring and verification regime. Leaders of the various combatant units will be expected to disseminate information concerning these measures and ensure compliance with them. These measures will be supervised by ECOMOG, assisted by UN military observation group. The verification process will continue right up to the termination of the peace plan, i.e. 22 April 1998.

1333

2. Disarmament, Demobilisation and Reintegration of Combatants:

It is considered that a minimum of 30 days would be required to conduct an effective disarmament and demobilisation of combatants. This should take place from 1 to 31 December, 1997. Given the nation-wide dislocation of infrastructures and administration, a simple and uncomplicated procedure is envisaged. Combatants will be directed to report at designated centres in order to be engaged in the disarmament process. ECOMOG will supervise the entire process of disarmament and demobilisation. Where necessary, incentives may have to be provided to encourage the voluntary participation of combatants in all this process.

3. Humanitarian Assistance:

Considering that sanctions/embargoes will be strictly enforced throughout the period of the implementation of the Sierra Leone peace plan, the flows of humanitarian assistance beginning 14 November 1997 will continue to be monitored by ECOMOG and UN military observers. To this effect, a mechanism will be established by ECOMOG to facilitate the flow of humanitarian assistance. All this will be worked within the context of UN Security Council Resolution.

4. Return of Refugees and Displaced Persons:

Recognising that refugees, particularly those in neighboring countries, may wish to voluntarily return following the cessation of hostilities, UNHCR assistance should begin from 1 December, 1997.

5. Restoration of Constitutional Government and Broadening of the Power Base:

The restoration of constitutional order to Sierra Leone is at the heart of the ECOWAS peace plan. Consequently, it is considered necessary that the Government of Tejan Kabbah should be enabled to exercise effective control once he is restored to office on 22 May 1998. Nevertheless, it is recognised that for an enduring peace to be restored which will enjoy the support of the majority of Sierra Leoneans and the confidence of the subregion, efforts should be made to ensure that an all-inclusive government is evolved. In this regard, the goodwill and assistance of the international community, both financial and material, would be necessary.

The interest of the various parties in Sierra Leone should be suitably accommodated. Accordingly, it is recommended that the new Cabinet should be a cabinet of inclusion.

Furthermore, in order to accommodate the aspirations of their supporters, Board and Senior Civil Service appointments are to reflect broad national character.

All the above power sharing formulas should come into effect 22 May 1998.

It is recognised that Corporal Foday Sankoh as a leader of RUF could continue to play an active role and participate in the peace process.

In the spirit of the Abidjan Accord and in the context of this Agreement, Corporal Foday Sankoh is expected to return to his country to make his contribution to the peace process.

6. Reintegration of Combatants:

1334

All those who disarm as a result of the implementation of the peace process, should be provided with either job training to fit them for alternative employment or given scholarships and grants for further education. Access to education at all levels should be made available to all demobilised persons. Ex-combatants should be provided with assistance to facilitate their re-integration into their communities. We strongly appeal to the UN, OAU, ECOWAS and indeed the international community to render appropriate assistance to achieve this objective.

7. Donor Appeals for Emergency Humanitarian Assistance for Reconstruction and Rehabilitation:

The United Nations and the OAU in cooperation with ECOWAS are requested to launch these appeals as soon as hostilities cease.

8. Immunities and Guarantees:

It is considered essential that unconditional immunities and guarantees from prosecution be extended to all involved in the unfortunate events of 25 May, 1997 with effect from 22 May 1998.

DONE AT CONAKRY, THIS 23RD DAY OF OCTOBER 1997

FOR THE COMMITTEE OF FIVE
OF ECOWAS ON SIERRA LEONE

Chief Tom Ikimi
Minister of Foreign Affairs
Federal Republic of Nigeria

Lamine Kamara
Minister of Foreign Affairs
Republic of Guinea

FOR THE DELEGATION REPRESENTING
MAJOR JOHNNY PAUL KOROMAH

Col Abdul Karim Sesay
Secretary General AFRC

Alimamy Pallo Bangura
Secretary of State for Foreign Affairs

WITNESSES

For U.N.

Prof. Ibrahima Fall
Asst. Secretary-General UN

For O.A.U.

Ms. Adwoa Coleman

1335

OAU Representative

1336

THE GOVERNMENT OF SIERRA LEONE AND RUF,

Reaffirming their determination to establish sustainable peace, stability and security in Sierra Leone;

Also reaffirming their commitment to the Lome Peace Agreement of 7 July 1999 as the framework for the restoration of genuine and lasting peace to the country;

Desirous of adopting effective confidence-building measures so as to create a conducive environment for fresh application of the Lome Peace Agreement which constitutes the most appropriate framework for the resolution of the conflict in Sierra Leone;

Welcoming the emergence of a new leadership within the RUF and noting its stated commitment to work towards the restoration of peace to Sierra Leone

HEREBY AGREE AS FOLLOWS:

1. To declare and observe a cease-fire and to halt hostilities with effect from Friday 10th November 2000 starting at 23:59 hours.
2. The parties agree to refrain from committing any acts or carrying out any activities that might constitute or facilitate a violation of the cease-fire.
3. They agree that the United Nations Mission in Sierra Leone shall supervise and monitor the cease-fire. The United Nations Mission in Sierra Leone shall also investigate and report on any acts of cease-fire violation.
4. Both parties agree that UNAMSIL shall have full liberty to deploy its troops and other personnel throughout Sierra Leone including the diamond producing areas in the discharge of its responsibilities.
5. The parties undertake, with a view to restoring the authority of the Government throughout the entire territory of Sierra Leone, to ensure free movement of persons and goods, unimpeded movement of humanitarian agencies, and of refugees and displaced persons.
6. The RUF commits itself to the immediate return of all weapons, ammunitions and other equipment seized by the RUF.
7. The two parties agree to recommence immediately the Disarmament, Demobilisation and Reintegration Programme.
8. The Government of Sierra Leone reaffirmed its commitment to accelerate the process of restructuring and training of the Sierra Leone armed forces open to all Sierra Leoneans eligible to enrol.
9. The following shall constitute a violation of this Agreement:

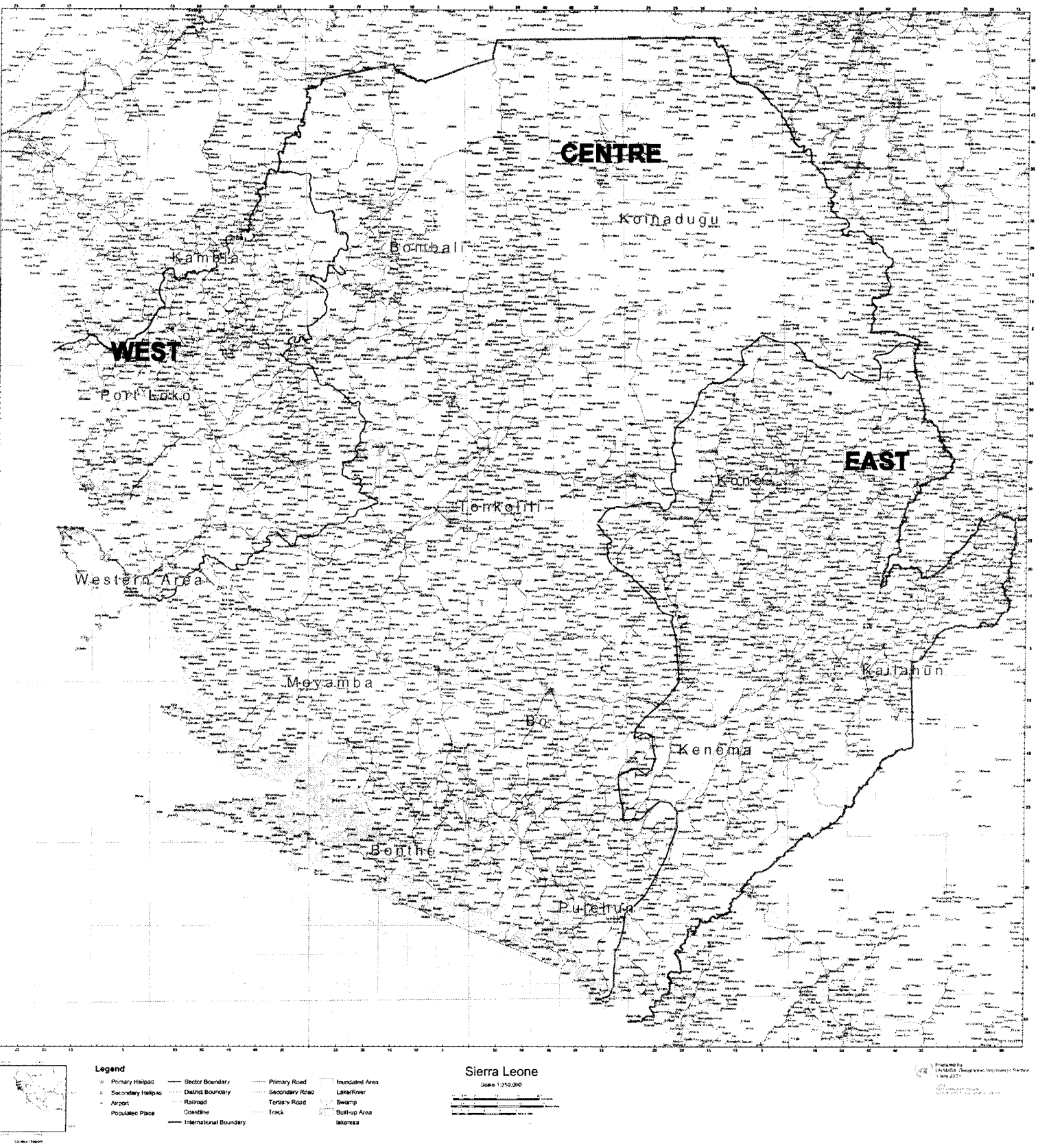
    i. all illegal importation of arms, ammunitions and other weapons of war;
    ii. any attack by one of the parties against the positions of the other party before, during or after the deployment of UNAMSIL troops;
    iii. laying of mines or incendiary devices after the entry into force of this Agreement, the refusal to disclose the existence of such mines or explosives and their location, and the deliberate refusal to cooperate by turning over the maps indicating such locations;
    iv. harassment or attacks, hostage taking, and seizure of arms and equipment belonging to troops serving under the United Nations Mission in Sierra Leone, or under the authority of the Government of Sierra Leone;
    v. obstructing the activities of the United Nations Mission in Sierra Leone.

10. The ultimate objective the the present Agreement is to ensure a cease-fire and to bring an end to the hostilities. Consequently, the parties agree to undertake with the participation of the ECOWAS Committee of six of the Medication and Security Council on Sierra Leone and the United Nations, a review of the implementation of this Agreement, thirty (30) days after its entry into force, to evaluate the timeliness of commencing fresh application of the Lome Peace Agreement.

Done at Abuja this 10th Day of November, 2000

1337

Sierra Leone



1337

ICRC

States party to the Geneva Conventions and their Additional Protocols
Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977

Geneva Conventions and Additional Protocols

The list of all ratifications, accessions and successions is based on information received from the Depositary of the Geneva Conventions and Protocols: **The Swiss Federal Department of Foreign Affairs in Bern.**

This list is updated everytime that a State is known to have deposited an instrument of ratification, accession or succession to the following treaties.

Contents:

1. **Abbreviations**
2. **Dates**
3. **Entry into force**
4. **Names of countries**
5. **Ratifications**
6. **Notes**
7. **Totals**

---

1. ABBREVIATIONS

R/A/S = **Ratification** : a treaty is generally open for signature for a certain time following the conference which has adopted it. However, a signature is not binding on a State unless it has been endorsed by ratification. The time limits having elapsed, the Conventions and the Protocols are no longer open for signature. The States which have not signed them may at any time accede or, in the appropriate circumstances, succeed to them.
Accession : instead of signing and then ratifying a treaty, a State may become party to it by the single act called accession.
Succession (declaration of) : a newly independent State may declare that it will abide by a treaty which was applicable to it prior to its independence. A State may also declare that it will provisionally abide by such treaties during the time it deems necessary to examine their texts carefully and to decide on accession or succession to some or all of the said treaties (declaration of provisional application of the treaties). At present no State is bound by such a declaration.

R/D = **Reservation/Declaration** : unilateral statement, however phrased or named, made by a State when ratifying, acceding or succeeding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State (provided that such reservations are not incompatible with the object and purpose of the treaty).

D90 = **Declaration** provided for under article 90 of Protocol I (prior acceptance of the competence of the International Fact-Finding Commission).

2. DATES

The dates indicated are those on which the Swiss Federal Department of Foreign Affairs received the official instrument from the State that was ratifying, acceding to or succeeding to the Conventions or Protocols or accepting the competence of the Commission provided for under Article 90 of Protocol I. They thus represent neither the date on which ratification, accession, succession or acceptance of the Commission was decided upon by the State concerned nor that on which the corresponding instrument was sent.

N.B.: *The dates given for succession to the Geneva Conventions by CONGO, JAMAICA, MADAGASCAR, MAURITANIA, NIGER, NIGERIA, RWANDA, SENEGAL, SIERRA LEONE and ZAIRE used to be those on which the corresponding instruments had been officially adopted. They have now been replaced by the dates on which the depositary received those instruments.*

3. ENTRY INTO FORCE

Except as mentioned in footnotes at the end of the tables, for all States the entry into force of the Conventions and of the Protocols occurs six months after the date given in the present document; for States which have made a declaration of succession, entry into force takes place retroactively, on the day of their accession to independence.

The 1949 Geneva Conventions entered into force on 21 October 1950.
The 1977 Protocols entered into force on 7 December 1978.

4. NAMES OF COUNTRIES

The names of countries given in the following list may differ from the official names of States.

5. RATIFICATIONS

COUNTRY	GENEVA CONVENTIONS			PROTOCOL I				PROTOCOL II		
	R/A/S		R/D	R/A/S		R/D	D90	R/A/S		R/D
Afghanistan	26.09.1956	R								
Albania	27.05.1957	R	X	16.07.1993	A			16.07.1993	A	
Algeria	20.06.1960; 03.07.1962	A		16.08.1989	A	X	16.08.1989	16.08.1989	A	
Andorra	17.09.1993	A								
Angola	20.09.1984	A	X	20.09.1984	A	X				
Antigua and Barbuda	06.10.1986	S		06.10.1986	A			06.10.1986	A	
Argentina	18.09.1956	R		26.11.1986	A	X	11.10.1996	26.11.1986	A	X
Armenia	07.06.1993	A		07.06.1993	A			07.06.1993	A	
Australia	14.10.1958	R	X	21.06.1991	R	X	23.09.1992	21.06.1991	R	
Austria	27.08.1953	R		13.08.1982	R	X	13.08.1982	13.08.1982	R	X
Azerbaijan	01.06.1993	A								

Bahamas	11.07.1975	S		10.04.1980	A			10.04.1980	A	
Bahrain	30.11.1971	A		30.10.1986	A			30.10.1986	A	
Bangladesh	04.04.1972	S		08.09.1980	A			08.09.1980	A	
Barbados	10.09.1968	S	X	19.02.1990	A			19.02.1990	A	
Belarus	03.08.1954	R		23.10.1989	R		23.10.1989	23.10.1989	R	
Belgium	03.09.1952	R		20.05.1986	R	X	27.03.1987	20.05.1986	R	
Belize	29.06.1984	A		29.06.1984	A			29.06.1984	A	
Benin	14.12.1961	S		28.05.1986	A			28.05.1986	A	
Bhutan	10.01.1991	A								
Bolivia	10.12.1976	R		08.12.1983	A		10.08.1992	08.12.1983	A	
Bosnia-Herzegovina	31.12.1992	S		31.12.1992	S		31.12.1992	31.12.1992	S	
Botswana	29.03.1968	A		23.05.1979	A			23.05.1979	A	
Brazil	29.06.1957	R		05.05.1992	A		23.11.1993	05.05.1992	A	
Brunei Darussalam	14.10.1991	A		14.10.1991	A			14.10.1991	A	
Bulgaria	22.07.1954	R		26.09.1989	R		09.05.1994	26.09.1989	R	
Burkina Faso	07.11.1961	S		20.10.1987	R			20.10.1987	R	
Burundi	27.12.1971	S		10.06.1993	A			10.06.1993	A	
Cambodia	08.12.1958	A		14.01.1998	A			14.01.1998	A	
Cameroon	16.09.1963	S		16.03.1984	A			16.03.1984	A	
Canada	14.05.1965	R		20.11.1990	R	X	20.11.1990	20.11.1990	R	X
Cape Verde	11.05.1984	A		16.03.1995	A		16.03.1995	16.03.1995	A	
Central African Republic	01.08.1966	S		17.07.1984	A			17.07.1984	A	
Chad	05.08.1970	A		17.01.1997	A			17.01.1997	A	
Chile	12.10.1950	R		24.04.1991	R		24.04.1991	24.04.1991	R	
China	28.12.1956	R	X	14.09.1983	A	X		14.09.1983	A	
Colombia	08.11.1961	R		01.09.1993	A		17.04.1996	14.08.1995	A	
Comoros	21.11.1985	A		21.11.1985	A			21.11.1985	A	
Congo	04.02.1967	S		10.11.1983	A			10.11.1983	A	
Congo (Dem. Rep.)	24.02.1961	S		03.06.1982	A		12.12.2002	12.12.2002	A	
Cook Islands	11.06.2001	S		07.05.2002	A		07.05.2002	07.05.2002	A	
Costa Rica	15.10.1969	A		15.12.1983	A		02.12.1999	15.12.1983	A	
Côte d'Ivoire	28.12.1961	S		20.09.1989	R			20.09.1989	R	
Croatia	11.05.1992	S		11.05.1992	S		11.05.1992	11.05.1992	S	
Cuba	15.04.1954	R		25.11.1982	A			23.06.1999	A	
Cyprus	23.05.1962	A		01.06.1979	R		14.10.2002	18.03.1996	A	
Czech Republic	05.02.1993	S	X	05.02.1993	S		02.05.1995	05.02.1993	S	

Denmark	27.06.1951	R		17.06.1982	R	X	17.06.1982	17.06.1982	R	
Djibouti	06.03.1978	S		08.04.1991	A			08.04.1991	A	
Dominica	28.09.1981	S		25.04.1996	A			25.04.1996	A	
Dominican Republic	22.01.1958	A		26.05.1994	A			26.05.1994	A	
East Timor	08.05.2003	A								
Ecuador	11.08.1954	R		10.04.1979	R			10.04.1979	R	
Egypt	10.11.1952	R		09.10.1992	R	X		09.10.1992	R	X
El Salvador	17.06.1953	R		23.11.1978	R			23.11.1978	R	
Equatorial Guinea	24.07.1986	A		24.07.1986	A			24.07.1986	A	
Eritrea	14.08.2000	A								
Estonia	18.01.1993	A		18.01.1993	A			18.01.1993	A	
Ethiopia	02.10.1969	R		08.04.1994	A			08.04.1994	A	
Fiji	09.08.1971	S								
Finland	22.02.1955	R		07.08.1980	R	X	07.08.1980	07.08.1980	R	
France	28.06.1951	R		11.04.2001	A	X		24.02.1984	A	X
Gabon	26.02.1965	S		08.04.1980	A			08.04.1980	A	
Gambia	20.10.1966	S		12.01.1989	A			12.01.1989	A	
Georgia	14.09.1993	A		14.09.1993	A			14.09.1993	A	
Germany	03.09.1954	A	X	14.02.1991	R	X	14.02.1991	14.02.1991	R	X
Ghana	02.08.1958	A		28.02.1978	R			28.02.1978	R	
Greece	05.06.1956	R		31.03.1989	R		04.02.1998	15.02.1993	A	
Grenada	13.04.1981	S		23.09.1998	A			23.09.1998	A	
Guatemala	14.05.1952	R		19.10.1987	R			19.10.1987	R	
Guinea	11.07.1984	A		11.07.1984	A		20.12.1993	11.07.1984	A	
Guinea-Bissau	21.02.1974	A	X	21.10.1986	A			21.10.1986	A	
Guyana	22.07.1968	S		18.01.1988	A			18.01.1988	A	
Haiti	11.04.1957	A								
Holy See	22.02.1951	R		21.11.1985	R	X		21.11.1985	R	X
Honduras	31.12.1965	A		16.02.1995	R			16.02.1995	R	
Hungary	03.08.1954	R		12.04.1989	R		23.09.1991	12.04.1989	R	
Iceland	10.08.1965	A		10.04.1987	R	X	10.04.1987	10.04.1987	R	
India	09.11.1950	R								
Indonesia	30.09.1958	A								
Iran (Islamic Rep.of)	20.02.1957	R	X							
Iraq	14.02.1956	A								
Ireland	27.09.1962	R		19.05.1999	R	X	19.05.1999	19.05.1999	R	X
Israel	06.07.1951	R	X							
Italy	17.12.1951	R		27.02.1986	R	X	27.02.1986	27.02.1986	R	

Jamaica	20.07.1964	S		29.07.1986	A			29.07.1986	A	
Japan	21.04.1953	A								
Jordan	29.05.1951	A		01.05.1979	R			01.05.1979	R	
Kazakhstan	05.05.1992	S		05.05.1992	S			05.05.1992	S	
Kenya	20.09.1966	A		23.02.1999	A			23.02.1999	A	
Kiribati	05.01.1989	S								
Korea (Dem.People's Rep.)	27.08.1957	A	X	09.03.1988	A					
Korea (Republic of)	16.08.1966	A	X	15.01.1982	R	X		15.01.1982	R	
Kuwait	02.09.1967	A	X	17.01.1985	A			17.01.1985	A	
Kyrgyzstan	18.09.1992	S		18.09.1992	S			18.09.1992	S	
Lao People's Dem.Rep.	29.10.1956	A		18.11.1980	R		30.01.1998	18.11.1980	R	
Latvia	24.12.1991	A		24.12.1991	A			24.12.1991	A	
Lebanon	10.04.1951	R		23.07.1997	A			23.07.1997	A	
Lesotho	20.05.1968	S		20.05.1994	A			20.05.1994	A	
Liberia	29.03.1954	A		30.06.1988	A			30.06.1988	A	
Libyan Arab Jamahiriya	22.05.1956	A		07.06.1978	A			07.06.1978	A	
Liechtenstein	21.09.1950	R		10.08.1989	R	X	10.08.1989	10.08.1989	R	X
Lithuania	03.10.1996	A		13.07.2000	A		13.07.2000	13.07.2000		
Luxembourg	01.07.1953	R		29.08.1989	R		12.05.1993	29.08.1989	R	
Macedonia	01.09.1993	S	X	01.09.1993	S	X	01.09.1993	01.09.1993	S	
Madagascar	18.07.1963	S		08.05.1992	R		27.07.1993	08.05.1992	R	
Malawi	05.01.1968	A		07.10.1991	A			07.10.1991	A	
Malaysia	24.08.1962	A								
Maldives	18.06.1991	A		03.09.1991	A			03.09.1991	A	
Mali	24.05.1965	A		08.02.1989	A		09.05.2003	08.02.1989	A	
Malta	22.08.1968	S		17.04.1989	A	X	17.04.1989	17.04.1989	A	X
Mauritania	30.10.1962	S		14.03.1980	A			14.03.1980	A	
Mauritius	18.08.1970	S		22.03.1982	A			22.03.1982	A	
Mexico	29.10.1952	R		10.03.1983	A					
Micronesia	19.09.1995	A		19.09.1995	A			19.09.1995	A	
Moldova (Republic of)	24.05.1993	A		24.05.1993	A			24.05.1993	A	
Monaco	05.07.1950	R		07.01.2000	A			07.01.2000	A	
Mongolia	20.12.1958	A		06.12.1995	R	X	06.12.1995	06.12.1995	R	
Morocco	26.07.1956	A								
Mozambique	14.03.1983	A		14.03.1983	A			12.11.2002	A	

Myanmar	25.08.1992	A								
Namibia	22.08.1991	S		17.06.1994	A		21.07.1994	17.06.1994	A	
Nepal	07.02.1964	A								
Netherlands	03.08.1954	R		26.06.1987	R	X	26.06.1987	26.06.1987	R	
New Zealand	02.05.1959	R	X	08.02.1988	R	X	08.02.1988	08.02.1988	R	
Nicaragua	17.12.1953	R		19.07.1999	R			19.07.1999	R	
Niger	21.04.1964	S		08.06.1979	R			08.06.1979	R	
Nigeria	20.06.1961	S		10.10.1988	A			10.10.1988	A	
Norway	03.08.1951	R		14.12.1981	R		14.12.1981	14.12.1981	R	
Oman	31.01.1974	A		29.03.1984	A	X		29.03.1984	A	X
Pakistan	12.06.1951	R	X							
Palau	25.06.1996	A		25.06.1996	A			25.06.1996	A	
Panama	10.02.1956	A		18.09.1995	R		26.10.1999	18.09.1995	R	
Papua New Guinea	26.05.1976	S								
Paraguay	23.10.1961	R		30.11.1990	A		30.01.1998	30.11.1990	A	
Peru	15.02.1956	R		14.07.1989	R			14.07.1989	R	
Philippines	06.10.1952	R						11.12.1986	A	
Poland	26.11.1954	R	X	23.10.1991	R		02.10.1992	23.10.1991	R	
Portugal	14.03.1961	R	X	27.05.1992	R		01.07.1994	27.05.1992	R	
Qatar	15.10.1975	A		05.04.1988	A	X	24.09.1991			
Romania	01.06.1954	R		21.06.1990	R		31.05.1995	21.06.1990	R	
Russian Federation	10.05.1954	R	X	29.09.1989	R	X	29.09.1989	29.09.1989	R	X
Rwanda	05.05.1964	S		19.11.1984	A		08.07.1993	19.11.1984	A	
Saint Kitts and Nevis	14.02.1986	S		14.02.1986	A			14.02.1986	A	
Saint Lucia	18.09.1981	S		07.10.1982	A			07.10.1982	A	
Saint Vincent Grenadines	01.04.1981	A		08.04.1983	A			08.04.1983	A	
Samoa	23.08.1984	S		23.08.1984	A			23.08.1984	A	
San Marino	29.08.1953	A		05.04.1994	R			05.04.1994	R	
Sao Tome and Principe	21.05.1976	A		05.07.1996	A			05.07.1996	A	
Saudi Arabia	18.05.1963	A		21.08.1987	A	X		28.11.2001	A	
Senegal	18.05.1963	S		07.05.1985.	R			07.05.1985	R	
Seychelles	08.11.1984	A		08.111984.	A		22.05.1992	08.11.1984	A	
Sierra Leone	10.06.1965	S		21.10.1986	A			21.10.1986	A	
Singapore	27.04.1973	A								
Slovakia	02.04.1993	S		02.04.1993	S		13.03.1995	02.04.1993	S	

Slovenia	26.03.1992	S		26.03.1992	S		26.03.1992	26.03.1992	S	
Solomon Islands	06.07.1981	S		19.09.1988	A			19.09.1988	A	
Somalia	12.07.1962	A								
South Africa	31.03.1952	A		21.11.1995	A			21.11.1995	A	
Spain	04.08.1952	R		21.04.1989	R	X	21.04.1989	21.04.1989	R	
Sri Lanka	28.02.1959	R								
Sudan	23.09.1957	A								
Suriname	13.10.1976	S	X	16.12.1985	A			16.12.1985	A	
Swaziland	28.06.1973	A		02.11.1995	A			02.11.1995	A	
Sweden	28.12.1953	R		31.08.1979	R	X	31.08.1979	31.08.1979	R	
Switzerland	31.03.1950	R		17.02.1982	R	X	17.02.1982	17.02.1982	R	
Syrian Arab Republic	02.11.1953	R		14.11.1983	A	X				
Tajikistan	13.01.1993	S		13.01.1993	S		10.09.1997	13.01.1993	S	
Tanzania (United Rep.of)	12.12.1962	S		15.02.1983	A			15.02.1983	A	
Thailand	29.12.1954	A								
Togo	06.01.1962	S		21.06.1984	R		21.11.1991	21.06.1984	R	
Tonga	13.04.1978	S		20.01.2003	A		20.01.2003	20.01.2003	A	
Trinidad and Tobago	24.09.1963	A		20.07.2001	A		20.07.2001	20.07.2001	A	
Tunisia	04.05.1957	A		09.08.1979	R			09.08.1979	R	
Turkey	10.02.1954	R								
Turkmenistan	10.04.1992	S		10.04.1992	S			10.04.1992	S	
Tuvalu	19.02.1981	S								
Uganda	18.05.1964	A		13.03.1991	A			13.03.1991	A	
Ukraine	03.08.1954	R	X	25.01.1990	R		25.01.1990	25.01.1990	R	
United Arab Emirates	10.05.1972	A		09.03.1983	A	X	06.03.1992	09.03.1983	A	X
United Kingdom	23.09.1957	R	X	28.01.1998	R	X	17.05.1999	28.01.1998	R	
United States of America	02.08.1955	R	X							
Uruguay	05.03.1969	R	X	13.12.1985	A		17.07.1990	13.12.1985	A	
Uzbekistan	08.10.1993	A		08.10.1993	A			08.10.1993	A	
Vanuatu	27.10.1982	A		28.02.1985	A			28.02.1985	A	
Venezuela	13.02.1956	R		23.07.1998	A			23.07.1998	A	
Viet Nam	28.06.1957	A	X	19.10.1981	R					
Yemen	16.07.1970	A	X	17.04.1990	R			17.04.1990	R	

Yugoslavia	16.10.2001	S		16.10.2001	S		16.10.2001	16.10.2001	S	
Zambia	19.10.1966	A		04.05.1995	A			04.05.1995	A	
Zimbabwe	07.03.1983	A		19.10.1992	A			19.10.1992	A	

6. NOTES

Djibouti. Djibouti's declaration of succession in respect of the First Convention was dated 26.01.78.
France. On accession to Protocol II, France made a communication concerning Protocol I.
Ghana. Entry into force of Protocols I and II on 07.12.78.
Namibia. An instrument of accession to the Geneva Conventions and their additional Protocols was deposited by the United Nations Council for Namibia on 18.10.83. In an instrument deposited on 22.08.91, Namibia declared its succession to the Geneva Conventions, which were previously applicable pursuant to South Africa's accession on 31.03.52.
Palestine. On 21 June 1989, the Swiss Federal Department of Foreign Affairs received a letter from the Permanent Observer of Palestine to the United Nations Office at Geneva informing the Swiss Federal Council "that the Executive Committee of the Palestine Liberation Organization, entrusted with the functions of the Government of the State of Palestine by decision of the Palestine National Council, decided, on 4 May 1989, to adhere to the Four Geneva Conventions of 12 August 1949 and the two Protocols additional thereto".
On 13 September 1989, the Swiss Federal Council informed the States that it was not in a position to decide whether the letter constituted an instrument of accession, "due to the uncertainty within the international community as to the existence or non-existence of a State of Palestine".
Philippines. The First Geneva Convention was ratified on 7.03.1951.
Republic of Korea. The Geneva Conventions entered into force on 23.09.66, the Republic of Korea having invoked Art.62/61/141/157 common respectively to the First, Second, Third and Fourth Conventions (immediate effect).
Sri Lanka. Accession to the Fourth Geneva Convention on 23 February 1959 (Ceylon had signed only the First, Second, and Third Conventions).
Switzerland. Entry into force of the Geneva Conventions on 21.10.50.
Trinidad and Tobago. Accession to the First Geneva Convention on 17.03.1963.

7. TOTALS

Number of States Parties to the Geneva Conventions of 1949	:	191
Number of States Parties to the Additional Protocol I	:	161
Number of States having made the declaration under Article 90	:	65
Number of States Parties to the Additional Protocol II	:	156
Number of States Members of the United Nations	:	191

States Members of U.N. or Parties to the Statute of the International Court of Justice, not being Party to the 1949 Geneva Conventions : MARSHALL, NAURU.

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field

Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949

***entry into force* 21 October 1950**

CHAPTER I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person. in particular murder of all kinds, mutilation, cruel

treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

Neutral Powers shall apply by analogy the provisions of the present Convention to the wounded and sick, and to members of the medical personnel and to chaplains of the armed forces of the Parties to the conflict, received or interned in their territory, as well as to dead persons found.

Article 5

For the protected persons who have fallen into the hands of the enemy, the present Convention shall apply until their final repatriation.

Article 6

In addition to the agreements expressly provided for in Articles 10, 15, 23, 28, 31, 36, 37 and 52, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of the wounded and sick, of members of the medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded and sick, as well as medical personnel and chaplains, shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 7

Wounded and sick, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 8

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate, to the greatest extent possible, the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

Article 9

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned. undertake for the protection of wounded and sick, medical personnel and chaplains, and for their relief.

Article 10

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded and sick, or medical personnel and chaplains do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required

to furnish sufficient assurances that it is a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article.

Article 11

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the wounded and sick, members of medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

CHAPTER II

WOUNDED AND SICK

Article 12

Members of the armed forces and other persons mentioned in the following Article, who are wounded or sick, shall be respected and protected in all circumstances.

They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

Only urgent medical reasons will authorize priority in the order of treatment to be administered.

Women shall be treated with all consideration due to their sex.

The Party to the conflict which is compelled to abandon wounded or sick to the enemy shall, as far as military considerations permit, leave with them a part of its medical personnel and material to assist in their care.

Article 13

The present Convention shall apply to the wounded and sick belonging to the following categories:

1. Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.

2. Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

(a) That of being commanded by a person responsible for his subordinates;

(b) That of having a fixed distinctive sign recognizable at a distance;

(c) That of carrying arms openly;

(d) That of conducting their operations in accordance with the laws and customs of war.

3. Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power. 4. Persons who accompany the armed forces without actually being members thereof, such as civil members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany.

5. Members of crews, including masters, pilots and apprentices of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions in international law. 6. Inhabitants of a non-occupied territory who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

Article 14

Subject to the provisions of Article 12, the wounded and sick of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them.

Article 15

At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled. Whenever circumstances permit, an armistice or a suspension of fire shall be arranged, or local arrangements made, to permit the removal, exchange and transport of the wounded left on the battlefield.

Likewise, local arrangements may be concluded between Parties to the conflict for the removal or exchange of wounded and sick from a besieged or encircled area, and for the passage of medical and religious personnel and equipment on their way to that area.

Article 16

Parties to the conflict shall record as soon as possible, in respect of each wounded, sick or dead person of the adverse Party falling into their hands, any particulars which may assist in his identification.

These records should if possible include:

(a) Designation of the Power on which he depends;

(b) Army, regimental, personal or serial number;

(c) Surname;

(d) First name or names;

(e) Date of birth;

(f) Any other particulars show n on hi s identity card or disc ;

(g) Date and place of capture or death;

(h) Particulars concerning wounds or illness, or cause of death.

As soon as possible the above mentioned information shall be forwarded to the Information Bureau described in Article 122 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoners of War Agency.

Parties to the conflict shall prepare and forward to each other through the same bureau, certificates of death or duly authenticated lists of the dead. They shall likewise collect and forward through the same bureau one half of a double identity disc, last wills or other documents of importance to the next of kin, money and in general all articles of an intrinsic or sentimental value, which are found on the dead. These articles, together with unidentified articles, shall be sent in sealed packets, accompanied by statements giving all particulars necessary for the identification of the deceased owners, as well as by a complete list of the contents of the parcel.

Article 17

Parties to the conflict shall ensure that burial or cremation of the dead, carried out individually as far as circumstances permit, is preceded by a careful examination, if possible by a medical examination, of the bodies, with a view to confirming death, establishing identity and enabling a report to be made. One half of the double identity disc, or the identity disc itself if it is a single disc, should remain on the body.

Bodies shall not be cremated except for imperative reasons of hygiene or for motives based on the religion of the deceased. In case of cremation, the circumstances and reasons for cremation shall be stated in detail in the death certificate or on the authenticated list of the dead.

They shall further ensure that the dead are honourably interred, if possible according to the rites of the religion to which they belonged, that their graves are respected, grouped if possible according to the nationality of the deceased, properly maintained and marked so that they may always be found. For this purpose, they shall organize at the commencement of hostilities an Official Graves Registration Service, to allow subsequent exhumations and to ensure the identification of bodies, whatever the site of the graves, and the possible transportation to the home country. These provisions shall likewise apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

As soon as circumstances permit, and at latest at the end of hostilities, these Services shall exchange, through the Information Bureau mentioned in the second paragraph of Article 16, lists showing the exact location and markings of the graves together with particulars of the dead interred therein.

Article 18

The military authorities may appeal to the charity of the inhabitants voluntarily to collect and care for, under their direction, the wounded and sick, granting persons who have responded to this appeal the necessary protection and facilities. Should the adverse party take or retake control of the area, he shall likewise grant these persons the same protection and the same facilities.

The military authorities shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously to collect and care for wounded or sick of whatever nationality. The civilian population shall respect these wounded and sick, and in particular abstain from offering them violence.

No one may ever be molested or convicted for having nursed the wounded or sick.

The provisions of the present Article do not relieve the occupying Power of its obligation to give both physical and moral care to the wounded and sick.

CHAPTER III

MEDICAL UNITS AND ESTABLISHMENTS

Article 19

Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict. Should they fall into the hands of the adverse Party, their personnel shall be free to pursue their duties, as long as the capturing Power has not itself ensured the necessary care of the wounded and sick found in such establishments and units.

The responsible authorities shall ensure that the said medical establishments and units are, as far as possible, situated in such a manner that attacks against military objectives cannot imperil their safety.

Article 20

Hospital ships entitled to the protection of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, shall not be attacked from the land.

Article 21

The protection to which fixed establishments and mobile medical units of the Medical Service are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after a due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded.

Article 22

The following conditions shall not be considered as depriving a medical unit or establishment of the protection guaranteed by Article 19:

1. That the personnel of the unit or establishment are armed, and that they use the arms in their own defence, or in that of the wounded and sick in their charge.

2. That in the absence of armed orderlies, the unit or establishment is protected by a picket or by sentries or by an escort.

3. That small arms and ammunition taken from the wounded and sick and not yet handed to the proper service, are found in the unit or establishment.

4. That personnel and material of the veterinary service are found in the unit or establishment, without forming an integral part thereof.

5. That the humanitarian activities of medical units and establishments or of their personnel extend to the care of civilian wounded or sick.

Article 23

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties to the conflict may establish in their own territory and, if the need arises, in occupied areas, hospital zones and localities so organized as to protect the wounded and sick from the effects of war, as well as the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the hospital zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital zones and localities.

CHAPTER IV

PERSONNEL

Article 24

Medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of disease, staff exclusively engaged in the administration of medical units and establishments, as well as chaplains attached to the armed forces, shall be respected and protected in all circumstances.

Article 25

Members of the armed forces specially trained for employment, should the need arise, as hospital orderlies, nurses or auxiliary stretcher-bearers, in the search for or the collection, transport or treatment of the wounded and sick shall likewise be respected and protected if they are carrying out these duties at the time when they come into contact with the enemy or fall into his hands.

Article 26

The staff of National Red Cross Societies and that of other Voluntary Aid Societies, duly recognized and authorized by their Governments, who may be employed on the same duties as the personnel named in Article 24, are placed on the same footing as the personnel named in the said Article, provided that the staff of such societies are subject to military laws and regulations.

Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of or during hostilities, but in any case before actually employing them, the names of the societies which it has authorized, under its responsibility, to render assistance to the regular medical service of its armed forces.

Article 27

A recognized Society of a neutral country can only lend the assistance of its medical personnel and units to a Party to the conflict with the previous consent of its own Government and the authorization of the Party to the conflict concerned. That personnel and those units shall be placed under the control of that Party to the conflict.

The neutral Government shall notify this consent to the adversary of the State which accepts such assistance. The Party to the conflict who accepts such assistance is bound to notify the adverse Party thereof before making any use of it.

In no circumstances shall this assistance be considered as interference in the conflict.

The members of the personnel named in the first paragraph shall be duly furnished with the

identity cards provided for in Article 40 before leaving the neutral country to which they belong.

Article 28

Personnel designated in Articles 24 and 26 who fall into the hands of the adverse Party shall be retained only in so far as the state of health, the spiritual needs and the number of prisoners of war require.

Personnel thus retained shall not be deemed prisoners of war. Nevertheless, they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949. Within the framework of the military laws and regulations of the Detaining Power, and under the authority of its competent service, they shall continue to carry out, in accordance with their professional ethics, their medical and spiritual duties on behalf of prisoners of war, preferably those of the armed forces to which they themselves belong. They shall further enjoy the following facilities for carrying out their medical or spiritual duties:

(a) They shall be authorized to visit periodically the prisoners of war in labour units or hospitals outside the camp. The Detaining Power shall put at their disposal the means of transport required.

(b) In each camp the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel. For this purpose, from the outbreak of hostilities, the Parties to the conflict shall agree regarding the corresponding seniority of the ranks of their medical personnel, including those of the societies designated in Article 26. In all questions arising out of their duties, this medical officer and the chaplains, shall have direct access to the military and medical authorities of the camp who shall grant them the facilities they may require for correspondence relating to these questions.

(c) Although retained personnel in a camp shall be subject to its internal discipline, they shall not, however, be required to perform any work outside their medical or religious duties.

During hostilities the Parties to the conflict shall make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief.

None of the preceding provisions shall relieve the Detaining Power of the obligations imposed upon it with regard to the medical and spiritual welfare of the prisoners of war.

Article 29

Members of the personnel designated in Article 25 who have fallen into the hands of the enemy shall be prisoners of war, but shall be employed on their medical duties in so far as the need arises.

Article 30

Personnel whose retention is not indispensable by virtue of the provisions of Article 28 shall be returned to the Party to the conflict to whom they belong, as soon as a road is open for their return and military requirements permit.

Pending their return, they shall not be deemed prisoners of war. Nevertheless, they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949. They shall continue to fulfil their duties under the orders of the adverse Party and shall preferably be engaged in the care of the wounded and sick of the Party to the conflict to which they themselves belong.

On their departure, they shall take with them the effects, personal belongings, valuables and instruments belonging to them.

Article 31

The selection of personnel for return under Article 30 shall be made irrespective of any consideration of race, religion or political opinion, but preferably according to the chronological order of their capture and their state of health.

As from the outbreak of hostilities, Parties to the conflict may determine by special agreement the percentage of personnel to be retained, in proportion to the number of prisoners and the distribution of the said personnel in the camps.

Article 32

Persons designated in Article 27 who have fallen into the hands of the adverse Party may not be detained.

Unless otherwise agreed, they shall have permission to return to their country, or if this is not possible, to the territory of the Party to the conflict in whose service they were, as soon as a route for their return is open and military considerations permit.

Pending their release, they shall continue their work under the direction of the adverse Party; they shall preferably be engaged in the care of the wounded and sick of the Party to the conflict in whose service they were.

On their departure, they shall take with them their effects, personal articles and valuables and the instruments, arms and if possible the means of transport belonging to them.

The Parties to the conflict shall secure to this personnel, while in their power, the same food, lodging, allowances and pay as are granted to the corresponding personnel of their armed forces. The food shall in any case be sufficient as regards quantity, quality and variety to keep the said personnel in a normal state of health.

CHAPTER V

BUILDINGS AND MATERIAL

Article 33

The material of mobile medical units of the armed forces which fall into the hands of the enemy shall be reserved for the care of wounded and sick.

The buildings, material and stores of fixed medical establishments of the armed forces shall

remain subject to the laws of war, but may not be diverted from that purpose as long as they are required for the care of wounded and sick. Nevertheless, the commanders of forces in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for the welfare of the wounded and sick who are nursed in them.

The material and stores defined in the present Article shall not be intentionally destroyed.

Article 34

The real and personal property of aid societies which are admitted to the privileges of the Convention shall be regarded as private property.

The right of requisition recognized for belligerents by the laws and customs of war shall not be exercised except in case of urgent necessity, and only after the welfare of the wounded and sick has been ensured.

CHAPTER VI

MEDICAL TRANSPORTS

Article 35

Transports of wounded and sick or of medical equipment shall be respected and protected in the same way as mobile medical units. Should such transports or vehicles fall into the hands of the adverse Party, they shall be subject to the laws of war, on condition that the Party to the conflict who captures them shall in all cases ensure the care of the wounded and sick they contain.

The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.

Article 36

Medical aircraft, that is to say, aircraft exclusively employed for the removal of wounded and sick and for the transport of medical personnel and equipment, shall not be attacked, but shall be respected by the belligerents, while flying at heights, times and on routes specifically agreed upon between the belligerents concerned.

They shall bear, clearly marked, the distinctive emblem prescribed in Article 38, together with their national colours, on their lower, upper and lateral surfaces. They shall be provided with any other markings or means of identification that may be agreed upon between the belligerents upon the outbreak or during the course of hostilities.

Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

Medical aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

In the event of an involuntary landing in enemy or enemy-occupied territory, the wounded and sick, as well as the crew of the aircraft shall be prisoners of war. The medical personnel shall

be treated according to Article 24, and the Articles following.

Article 37

Subject to the provisions of the second paragraph, medical aircraft of Parties to the conflict may fly over the territory of neutral Powers, land on it in case of necessity, or use it as a port of call. They shall give the neutral Powers previous notice of their passage over the said territory and obey all summons to alight, on land or water. They will be immune from attack only when flying on routes, at heights and at times specifically agreed upon between the Parties to the conflict and the neutral Power concerned.

The neutral Powers may, however, place conditions or restrictions on the passage or landing of medical aircraft on their territory. Such possible conditions or restrictions shall be applied equally to all Parties to the conflict.

Unless agreed otherwise between the neutral Power and the Parties to the conflict, the wounded and sick who are disembarked, with the consent of the local authorities, on neutral territory by medical aircraft, shall be detained by the neutral Power, where so required by international law, in such a manner that they cannot again take part in operations of war. The cost of their accommodation and internment shall be borne by the Power on which they depend.

CHAPTER VII

THE DISTINCTIVE EMBLEM

Article 38

As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the Medical Service of armed forces.

Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, those emblems are also recognized by the terms of the present Convention.

Article 39

Under the direction of the competent military authority, the emblem shall be displayed on the flags, armlets and on all equipment employed in the Medical Service.

Article 40

The personnel designated in Article 24 and in Articles 26 and 27 shall wear, affixed to the left arm, a water-resistant armlet bearing the distinctive emblem, issued and stamped by the military authority.

Such personnel, in addition to wearing the identity disc mentioned in Article 16, shall also carry a special identity card bearing the distinctive emblem. This card shall be water-resistant and of such size that it can be carried in the pocket. It shall be worded in the national language, shall

mention at least the surname and first names, the date of birth, the rank and the service number of the bearer, and shall state in what capacity he is entitled to the protection of the present Convention. The cards hall bear the photograph of the owner and also either his signature or his finger-prints or both. It shall be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of a similar type in the armed forces of the High Contracting Parties. The Parties to the conflict may be guided by the model which is annexed, by way of example, to the present Convention. They shall inform each other, at the outbreak of hostilities, of the model they are using. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country.

In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armlet. In case of loss, they shall be entitled to receive duplicates of the cards and to have the insignia replaced.

Article 41

The personnel designated in Article 25 shall wear, but only while carrying out medical duties, a white armlet bearing in its centre the distinctive sign in miniature; the armlet shall be issued and stamped by the military authority. Military identity documents to be carried by this type of personnel shall specify what special training they have received, the temporary character of the duties they are engaged upon, and their authority for wearing the armlet.

Article 42

The distinctive flag of the Convention shall be hoisted only over such medical units and establishments as are entitled to be respected under the Convention, and only with the consent of the military authorities.

In mobile units, as in fixed establishments, it may be accompanied by the national flag of the Party to the conflict to which the unit or establishment belongs.

Nevertheless, medical units which have fallen into the hands of the enemy shall not fly any flag other than that of the Convention.

Parties to the conflict shall take the necessary steps, in so far as military considerations permit, to make the distinctive emblems indicating medical units and establishments clearly visible to the enemy land, air or naval forces, in order to obviate the possibility of any hostile action.

Article 43

The medical units belonging to neutral countries, which may have been authorized to lend their services to a belligerent under the conditions laid down in Article 27, shall fly, along with the flag of the Convention, the national flag of that belligerent, wherever the latter makes use of the faculty conferred on him by Article 42.

Subject to orders to the contrary by the responsible military authorities, they may, on all occasions, fly their national flag, even if they fall into the hands of the adverse Party.

Article 44

With the exception of the cases mentioned in the following paragraphs of the present Article, the emblem of the Red Cross on a white ground and the words "Red Cross", or "Geneva Cross" may not be employed, either in time of peace or in time of war, except to indicate or to protect the medical units and establishments, the personnel and material protected by the present Convention and other Conventions dealing with similar matters. The same shall apply to the emblems mentioned in Article 38, second paragraph, in respect of the countries which use them. The National Red Cross Societies and other Societies designated in Article 26 shall have the right to use the distinctive emblem conferring the protection of the Convention only within the framework of the present paragraph.

Furthermore, National Red Cross (Red Crescent, Red Lion and Sun) Societies may, in time of peace, in accordance with their national legislation, make use of the name and emblem of the Red Cross for their other activities which are in conformity with the principles laid down by the International Red Cross Conferences. When those activities are carried out in time of war, the conditions for the use of the emblem shall be such that it cannot be considered as conferring the protection of the Convention; the emblem shall be comparatively small in size and may not be placed on armlets or on the roofs of buildings.

The international Red Cross organizations and their duly authorized personnel shall be permitted to make use, at all times, of the emblem of the Red Cross on a white ground.

As an exceptional measure, in conformity with national legislation and with the express permission of one of the National Red Cross (Red Crescent, Red Lion and Sun) Societies, the emblem of the Convention may be employed in time of peace to identify vehicles used as ambulances and to mark the position of aid stations exclusively assigned to the purpose of giving free treatment to the wounded or sick.

CHAPTER VIII

EXECUTION OF THE CONVENTION

Article 45

Each Party to the conflict, acting through its commanders-in-chief, shall ensure the detailed execution of the preceding Articles and provide for unforeseen cases, in conformity with the general principles of the present Convention. Article 46

Reprisals against the wounded, sick, personnel, buildings or equipment protected by the Convention are prohibited.

Article 47

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains.

Article 48

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

CHAPTER IX

REPRESSION OF ABUSES AND INFRACTIONS

Article 49

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Article 50

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Article 51

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Article 52

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be

decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

Article 53

The use by individuals, societies, firms or companies either public or private, other than those entitled thereto under the present Convention, of the emblem or the designation "Red Cross" or "Geneva Cross", or any sign or designation constituting an imitation there of, whatever the object of such use, and irrespective of the date of its adoption, shall be prohibited at all times.

By reason of the tribute paid to Switzerland by the adoption of the reversed Federal colours, and of the confusion which may arise between the arms of Switzerland and the distinctive emblem of the Convention, the use by private individuals, societies or firms, of the arms of the Swiss Confederation, or of marks constituting an imitation thereof, whether as trademarks or commercial marks, or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment, shall be prohibited at all times.

Nevertheless, such High Contracting Parties as were not party to the Geneva Convention of July 27, 1929, may grant to prior users of the emblems, designations, signs or marks designated in the first paragraph, a time limit not to exceed three years from the coming into force of the present Convention to discontinue such use, provided that the said use shall not be such as would appear, in time of war, to confer the protection of the Convention.

The prohibition laid down in the first paragraph of the present Article shall also apply, without effect on any rights acquired through prior use, to the emblems and marks mentioned in the second paragraph of Article 38.

Article 54

The High Contracting Parties shall, if their legislation is not already adequate, take measures necessary for the prevention and repression, at all times, of the abuses referred to under Article 53.

FINAL PROVISIONS

Article 55

The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Article 56

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference but which are parties to the Geneva Conventions of 1864, 1906 or 1929 for the Relief of the Wounded and Sick in Armies in the Field.

Article 57

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 58

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Article 59

The present Convention replaces the Convention of August 22, 1864, July 6, 1906, and July 27, 1929, in relations between the High Contracting Parties.

Article 60

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Article 61

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 62

The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Article 63

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Article 64

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

ANNEX I

Draft agreement relating to hospital zones and localities

Article 1

Hospital zones shall be strictly reserved for the persons named in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, and for the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

Article 2

No persons residing, in whatever capacity, in a hospital zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Article 3

The Power establishing a hospital zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

Article 4

Hospital zones shall fulfil the following conditions:

(a) They shall comprise only a small part of the territory governed by the Power which has established them.

(b) They shall be thinly populated in relation to the possibilities of accommodation.

(c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.

(d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war

Article 5

Hospital zones shall be subject to the following obligations:

(a) The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit.

(b) They shall in no case be defended by military means.

Article 6

Hospital zones shall be marked by means of red crosses (red crescents, red lions and suns) on a white background placed on the outer precincts and on the buildings. They may be similarly marked at night by means of appropriate illumination.

Article 7

The Powers shall communicate to all the High Contracting Parties in peacetime or on the outbreak of hostilities, a list of the hospital zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse Party has received the above-mentioned notification, the zone shall be regularly constituted.

If, however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article 8.

Article 8

Any Power having recognized one or several hospital zones instituted by the adverse Party shall be entitled to demand control by one or more Special Commissions, for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement.

For this purpose, the members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

Article 9

Should the Special Commissions note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time limit of five days within which the matter should be rectified. They shall duly notify the Power who has recognized the zone.

If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

Article 10

Any Power setting up one or more hospital zones and localities, and the adverse Parties to whom their existence has been notified, shall nominate or have nominated by neutral Powers, the persons who shall be members of the Special Commissions mentioned in Articles 8 and 9.

Article 1 1

In no circumstances may hospital zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

Article 12

In the case of occupation of a territory, the hospital zones therein shall continue to be respected and utilized as such. Their purpose may, however, be modified by the Occupying Powers on condition that all measures are taken to ensure the safety of the persons accommodated.

Article 13

The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital zones.

ANNEX II

1367

(Space reserved for the name of the country and military authority issuing this card)

IDENTITY CARD

for members of medical and religious personnel attached to the armed forces

---

Surname .....

First names.....

Date of Birth .....

Rank .....

Army Number .....

The bearer of this card is protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, in his capacity as .....

Date of issue

.....

Number of Card

.....

Reverse Side

Photo of bearer

signature of bearer or fingerprints or both

Embossed stamp of military authority issuing card

Height

Eyes

Hair

.....

.....

Other distinguishing marks

.....

.....

.....

.....

Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea

Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949

***entry into force* 21 October 1950**

CHAPTER I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed c onfl ict w hic h may ari se betwee n two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

    (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded, sick and shipwrecked shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

In case of hostilities between land and naval forces of Parties to the conflict, the provisions of the present Convention shall apply only to forces on board ship.

Forces put ashore shall immediately become subject to the provisions of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Article 5

Neutral Powers shall apply by analogy the provisions of the present Convention to the wounded, sick and shipwrecked, and to members of the medical personnel and to chaplains of the armed forces of the Parties to the conflict received or interned in their territory, as well as to dead persons found.

Article 6

In addition to the agreements expressly provided for in Articles 10, 18, 31, 38, 39, 40, 43 and 53, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of wounded, sick and shipwrecked persons, of members of the medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded, sick, and shipwrecked persons, as well as medical personnel and chaplains, shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 7

Wounded, sick and shipwrecked persons, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 8

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

Article 9

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of wounded, sick and shipwrecked persons, medical personnel and chaplains, and for their relief.

Article 10

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and effficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded, sick and shipwrecked, or medical personnel and chaplains do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions perforrned under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Comm ittee of the Red Cross , to as sume the humanitari an function s performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever, in the present Convention, mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article.

Article 11

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the wounded, sick and shipwrecked, medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

CHAPTER II

WOUNDED, SICK AND SHIPWRECKED

Article 12

Members of the arrned forces and other persons mentioned in the following Article, who are at sea and who are wounded, sick or shipwrecked, shall be respected and protected in all circumstances, it being understood that the term "shipwreck" means shipwreck from any cause and includes forced landings at sea by or from aircraft.

Such persons shall be treated humanely and cared for by the Parties to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

Only urgent medical reasons will authorize priority in the order of treatment to be administered. Women shall be treated with all consideration due to their sex.

Article 13

The present Convention shall apply to the wounded, sick and shipwrecked at sea belonging to the following categories:

1. Members of the arrned forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

2. Members of other militias and members of other volunteer corps including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

(a) That of being commanded by a person responsible for his subordinates;

(b) That of having a fixed distinctive sign recognizable at a distance;

(c) That of carrying arms openly;

(d) That of conducting their operations in accordance with the laws and customs of war.

3. Members of regular armed forces who profess allegiance to a Govemment or an authority not recognized by the Detaining Power.

4. Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces. provided that they have received authorization from the armed forces which they accompany.

5. Members of crews, including masters, pilots and apprentices of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

6. Inhabitants of a non-occupied territor,v who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

Article 14

All warships of a belligerent Party shall have the right to demand that the wounded, sick or shipwrecked on board military hospital ships, and hospital ships belonging to relief societies or to private individuals, as well as merchant vessels, yachts and other craft shall be surrendered, whatever their nationality, provided that the wounded and sick are in a ft state to be moved and that the warship can provide adequate facilities for necessary medical treatment.

Article 15

If wounded, sick or shipwrecked persons are taken on board a neutral warship or a neutral military aircraft, it shall be ensured, where so required by international law, that they can take

no further part in operations of war.

Article 16

Subject to the provisions of Article 12, the wounded, sick and shipwrecked of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them. The captor may decide, according to circumstances, whether it is expedient to hold them, or to convey them to a port in the captor's own country, to a neutral port or even to a port in enemy territory. In the last case, prisoners of war thus returned to their home country may not serve for the duration of the war.

Article 1 7

Wounded, sick or shipwrecked persons who are landed in neutral ports with the consent of the local authorities, shall, failing arrangements to the contrary between the neutral and the belligerent Powers, be so guarded by the neutral Power, where so required by international law, that the said persons cannot again take part in operations of war.

The costs of hospital accommodation and internment shall be borne by the Power on whom the wounded, sick or shipwrecked persons depend.

Article 18

After each engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the shipwrecked, wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled.

Whenever circumstances permit, the Parties to the conflict shall conclude local arrangements for the removal of the wounded and sick by sea from a besieged or encircled area and for the passage of medical and religious personnel and equipment on their way to that area.

Article 19

The Parties to the conflict shall record as soon as possible, in respect of each shipwrecked, wounded, sick or dead person of the adverse Party falling into their hands, any particulars which may assist in his identification. These records should if possible include:

(a) Designation of the Power on which he depends;

(b) Army, regimental, personal or serial number;

(c) Surname;

(d) First name or names;

(e) Date of birth; (f) Any other particulars shown on his identity card or disc; (g) Date and place of capture or death;

(h) Particulars concerning wounds or illness, or cause of death. As soon as possible the above-mentioned information shall be forwarded to the information bureau described in Article 122 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoners of War Agency.

Parties to the conflict shall prepare and forward to each other, through the same bureau, certificates of death or duly authenticated lists of the dead. They shall likewise collect and forward through the same bureau one half of the double identity disc, or the identity disc itself if it is a single disc, last wills or other documents of importance to the next of kin, money and in general all articles of an intrinsic or sentimental value, which are found on the dead. These articles, together with unidentified articles, shall be sent in sealed packets, accompanied by statements giving all particulars necessary for the identification of the deceased owners, as well as by a complete list of the contents of the parcel.

Article 20

Parties to the conflict shall ensure that burial at sea of the dead, carried out individually as far as circumstances permit, is preceded by a careful exarnination, if possible by a medical exarnination, of the bodies, with a view to confirming death, establishing identity and enabling a report to be made. Where a double identity disc is used, one half of the disc should remain on the body.

If dead persons are landed, the provisions of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, shall be applicable. Article 21

The Parties to the conflict may appeal to the charity of comrnanders of neutral merchant vessels, yachts or other craft, to take on board and care for wounded, sick or shipwrecked persons, and to collect the dead. Vessels of any kind responding to this appeal, and those having of their own accord collected wounded, sick or shipwrecked persons, shall enjoy special protection and facilities to carry out such assistance. They may, in no case, be captured on account of any such transport; but, in the absence of any promise to the contrary, they shall remain liable to capture for any violations of neutrality they may have committed.

CHAPTER III

HOSPITAL SHIPS

Article 22

Military hospital ships, that is to say, ships built or equipped by the Powers specially and solely with a view to assisting the wounded, sick and shipwrecked, to treating them and to transporting them, may in no circumstances be attacked or captured, but shal1 at all times be respected and protected, on condition that their names and descriptions have been notified to the Parties to the conflict ten days before those ships are employed. The characteristics which must appear in the notification shall include registered gross tonnage, the length from stem to stern and the number of masts and funnels.

Article 23

Establishments ashore entitled to the protection of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, shall be protected from bombardment or attack from the sea.

Article 24

Hospital ships utilized by National Red Cross Societies, by officially recognized relief societies or by private persons shall have the same protection as military hospital ships and shall be exempt from capture, if the Party to the conflict on which they depend has given them an official commission and in so far as the provisions of Article 22 concerning notification have been complied with. These ships must be provided with certificates from the responsible authorities, stating that the vessels have been under their control while fitting out and on departure.

Article 25

Hospital ships utilized by National Red Cross Societies, officially recognized relief societies, or private persons of neutral countries shall have the same protection as military hospital ships and shall be exempt from capture, on condition that they have placed themselves under the control of one of the Parties to the conflict, with the previous consent of their own governments and with the authorization of the Party to the conflict concerned, in so far as the provisions of Article 22 concerning notification have been complied with.

Article 26

The protection mentioned in Articles 22, 24 and 25 shall apply to hospital ships of any tonnage and to their lifeboats, wherever they are operating. Nevertheless, to ensure the maximum comfort and security, the Parties to the conflict shall endeavour to utilize, for the transport of wounded, sick and shipwrecked over long distances and on the high seas, only hospital ships of over 2,000 tons gross.

Article 27

Under the same conditions as those provided for in Articles 22 and 24, small craft employed by the State or by the officially recognized lifeboat institutions for coastal rescue operations shall also be respected and protected, so far as operational requirements permit.

The same shall apply so far as possible to fixed coastal installations used exclusively by these craft for their humanitarian missions.

Article 28

Should fighting occur on board a warship, the sick-bays shall be respected and spared as far as possible. Sick-bays and their equipment shall remain subject to the laws of warfare, but may not be diverted from their purpose so long as they are required for the wounded and sick. Nevertheless, the commander into whose power they have fallen may, after ensuring the proper care of the wounded and sick who are accommodated therein, apply them to other purposes in case of urgent military necessity.

Article 29

Any hospital ship in a port which falls into the hands of the enemy shall be authorized to leave the said port.

Article 30

The vessels described in Articles 22, 24, 25 and 27 shall afford relief and assistance to the wounded, sick and shipwrecked without distinction of nationality.

The High Contracting Parties undertake not to use these vessels for any military purpose.

Such vessels shall in no wise hamper the movements of the combatants.

During and after an engagement, they will act at their own risk.

Article 31

The Parties to the conflict shall have the right to control and search the vessels mentioned in Articles 22, 24, 25 and 27. They can refuse assistance from these vesselss order them off, make them take a certain course, control the use of their wireless and other means of communication, and even detain them for a period not exceeding seven days from the time of interception, if the gravity of the circumstances so requires. They may put a commissioner temporarily on board whose sole task shall be to see that orders given in virtue of the provisions of the preceding paragraph are carried out. As far as possible, the Parties to the conflict shall enter in the log of the hospital ship, in a language he can understand, the orders they have given the captain of the vessel. Parties to the conflict may, either unilaterally or by particular agreements, put on board their ships neutral observers who shall verify the strict observation of the provisions contained in tte present Convention.

Article 32

Vessels described in Articles 22, 24, 25 and 27 are not classed as warships as regards their stay in a neutral port.

Article 33

Merchant vessels which have been transformed into hospital ships cannot be put to any other use throughout the duration of hostilities.

Article 34

The protection to which hospital ships and sick-bays are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, narning in all appropriate cases a reasonable time limit, and after such warning has remained unheeded. In particular, hospital ships may not possess or use a secret code for their wireless or other means of communication.

Article 35

The following conditions shall not be considered as depriving hospital ships or sick-bays of vessels of the protection due to them: 1. The fact that the crews of ships or sick-bays are armed for the maintenance of order, for their own defence or that of the sick and wounded. 2. The presence on board of apparatus exclusively intended to facilitate navigation or communication. 3. The discovery on board hospital ships or in sick-bays of portable arms and ammunition taken from the wounded, sick and shipwrecked and not yet handed to the proper service. 4. The fact that the humanitarian activities of hospital ships and sickbays of vessels or of the crews extend to the care of wounded, sick or shipwrecked civilians. 5. The transport of equipment and of personnel intended exclusively for medical duties, over and above the normal requirements.

CHAPTER IV

PERSONNEL

Article 36

The religious, medical and hospital personnel of hospital ships and their crews shall be respected and protected; they may not be captured during the time they are in the service of the hospital ship, whether or not there are wounded and sick on board.

Article 37

The religious, medical and hospital personnel assigned to the medical or spiritual care of the persons designated in Articles 12 and 13 shall, if they fall into the hands of the enemy, be respected and protected; they may continue to carry out their duties as long as this is necessary for the care of the wounded and sick. They shall afterwards be sent back as soon as the Commander-in-Chief, under whose authority they are, considers it practicable. They may take with them, on leaving the ship, their personal property. If, however, it proves necessary to retain some of this personnel owing to the medical or spiritual needs of prisoners of war, everything possible shall be done for their earliest possible landing. Retained personnel shall be subject, on landing, to the provisions of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

CHAPITER V

MEDICAL TRANSPORTS

Article 38

Ships chartered for that purpose shall be authorized to transport equipment exclusively intended for the treatment of wounded and sick members of armed forces or for the prevention of disease, provided that the particulars regarding their voyage have been notified to the adverse Power and approved by the latter. The adverse Power shall preserve the right to board the carrier ships, but not to capture them or seize the equipment carried. By agreement amongst the Parties to the conflict, neutral observers may be placed on board such ships to verify the equipment carried. For this purpose, free access to the equipment shall be given.

Article 39

Medical aircraft, that is to say, aircraft exclusively employed for the removal of wounded, sick and shipwrecked, and for the transport of medical personnel and equipment, may not be the object of attack, but shall be respected by the Parties to the conflict, while flying at heights, at times and on routes specifically agreed upon between the Parties to the conflict concerned. They shall be clearly marked with the distinctive emblem prescribed in Article 41, together with their national colours, on their lower, upper and lateral surfaces. They shall be provided with any other markings or means of identification which may be agreed upon between the Parties to the conflict upon the outbreak or during the course of hostilities. Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited. Medical aircraft shall obey every summons to alight on land or water. In the event of having thus to alight, the aircraft with its occupants may continue its flight after examination, if any. In the event of alighting involuntarily on land or water in enemy or enemy-occupied territory, the wounded, sick and shipwrecked, as well as the crew of the aircraft shall be prisoners of war. The medical personnel shall be treated according to Articles 36 and 37.

Article 40

Subject to the provisions of the second paragraph, medical aircraft of Parties to the conflict may fly over the territory of neutral Powers, land thereon in case of necessity, or use it as a port of call. They shall give neu tral Powers prior notice of their passage over the said territory, and obey every summons to alight, on land or water. They will be immune from attack only when flying on routes, at heights and at times specifically agreed upon between the Parties to the conflict and the neutral Power concerned. The neutral Powers may, however, place conditions or restrictions on the passage or landing of medical aircraft on their territory. Such possible conditions or restrictions shall be applied equally to all Parties to the conflict. Unless otherwise agreed between the neutral Powers and the Parties to the conflict, the wounded, sick or shipwrecked who are disembarked with the consent of the local authorities on neutral territory by medical aircraft shall be detained by the neutral Power, where so required by international law, in such a manner that they cannot again take part in operations of war. The cost of their accommodation and internment shall be borne by the Power on which they depend.

CHAPTER VI

THE DISTINCTIVE EMBLEM

Article 41

Under the direction of the competent military authority, the emblem of the red cross on a white ground shall be displayed on the flags, armlets and on all equipment employed in the Medical Service. Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, these emblems are also recognized by the terms of the present Convention.

Article 42

The personnel designated in Articles 36 and 37 shall wear, affixed to the left arm, a water-resistant armlet bearing the distinctive emblem, issued and stamped by the military authority. Such personnel, in addition to wearing the identity disc mentioned in Article 19, shall also carry a special identity card bearing the distinctive emblem. This card shall be water-resistant and of

such size that it can be carried in the pocket. It shall be worded in the national language, shall mention at least the surname and first narnes, the date of birth, the rank and the service number of the bearer, and shall state in what capacity he is entitled to the protection of the present Convention. The card shall bear the photograph of the owner and also either his signature or his finger-prints or both. It shall be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of a similar type in the armed forces of the High Contracting Parties. The Parties to the conflict may be guided by the model which is annexed, by way of example, to the present Convention. They shall inform each other, at the outbreak of hostilities, of the model they are using. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country.

In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armlet. In cases of loss they shall be entitled to receive duplicates of the cards and to have the insignia replaced.

Article 43

The ships designated in Articles 22, 24, 25 and 27 shall be distinctively marked as follows:

(a) All exterior surfaces shall be white.

(b) One or more dark red crosses, as large as possible, shall be painted and displayed on each side of the hull and on the horizontal surfaces, so placed as to afford the greatest possible visibility from the sea and from the air.

All hospital ships shall make themselves known by hoisting their national flag and further, if they belong to a neutral state, the flag of the Party to the conflict whose direction they have accepted. A white flag with a red cross shall be flown at the mainmast as high as possible.

Lifeboats of hospital ships, coastal lifeboats and all small craft used by the Medical Service shall be painted white with dark red crosses prominently displayed and shall, in general, comply with the identification system prescribed above for hospital ships.

The above-mentioned ships and craft, which may wish to ensure by night and in times of reduced visibility the protection to which they are entitled, must, subject to the assent of the Party to the conflict under whose power they are, take the necessary measures to render their painting and distinctive emblems sufficiently apparent.

Hospital ships which, in accordance with Article 31, are provisionally detained by the enemy, must haul down the flag of the Party to the conflict in whose service they are or whose direction they have accepted.

Coastal lifeboats, if they continue to operate with the consent of the Occupying Power from a base which is occupied, may be allowed, when away from their base, to continue to fly their own national colours along with a flag carrying a red cross on a white ground, subject to prior notification to all the Parties to the conflict concemed. All the provisions in this Article relating to the red cross shall apply equally to the other emblems mentioned in Article 41. Parties to the

conflict shall at all times endeavour to conclude mutual agreements, in order to use the most modern methods available to facilitate the identification of hospital ships.

Article 44

The distinguishing signs referred to in Article 43 can only be used, whether in time of peace or war, for indicating or protecting the ships therein mentioned, except as may be provided in any other intemational Convention or by agreement between all the Parties to the conflict concerned.

Article 45

The High Contracting Parties shall, if their legislation is not already adequate, take the measures necessary for the prevention and repression, at all times, of any abuse of the distinctive signs provided for under Article 43.

CHAPTER VII

EXECU'TION OF THE CONVENTION

Article 46

Each Party to the conflict, acting through its Commanders-in-Chief, shall ensure the detailed execution of the preceding Articles and provide for unforeseen cases, in conformity with the general principles of the present Convention.

Article 47

Reprisals against the wounded, sick and shipwrecked persons, the personnel, the vessels or the equipment protected by the Convention are prohibited.

Article 48

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains.

Article 49

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

CHAPTER VIII

REPRESSION OF ABUSES AND INFRACTIONS

Article 50

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be comrnitted, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Article 51

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Article 52

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Article 53

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention. If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire, who will decide upon the procedure to be followed. Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay. FINAL PROVISIONS

Article 54

The present Convention is established in English and in French. Both texts are equally authentic. The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Article 55

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the narne of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference, but which are parties to the Xth Hague Convention of October 18, 1907, for the adaptation to Maritime Warfare of the principles of the Geneva Convention of 1906, or to the Geneva Conventions of 1864, 1906 or 1929 for the Relief of the Wounded and Sick in Armies in the Field.

Article 56

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose narne the Convention has been signed, or whose accession has been notified.

Article 57

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instruments of ratification.

Article 58

The present Convention replaces the Xth Hague Convention of October 18, 1907, for the adaptation to Maritime Warfare of the principles of the Geneva Convention of 1906, in relations between the High Contracting Parties.

Article 59

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Article 60

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 61

The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of

hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Article 62

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Article 63

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

IN WITNESS WFEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified

copies thereof to each of the signatory and acceding States.

ANNEX

Front

(Space reserved for the name of the country and military authority issuing this card)

IDENTITY CARD

for members of medical and religious personnel attached to the armed forces at sea

---

Surname .....

First
names.....

Date of
Birth .....

Rank .....

Army
Number .....

The bearer of this card is protected by the Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, in his capacity
as .....

Date of issue

.....

Number of Card

.....

Reverse Side

Photo of bearer

signature of bearer or
fingerprints or both

Embossed stamp of
military authority issuing card

Height

Eyes

Hair

....

Other distinguishing marks

.....
.....
.....
.....
.....

Geneva Convention relative to the Treatment of Prisoners of War

Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949

***entry into force* 21 October 1950**

PART I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

1. Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.

2. Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

(a) That of being commanded by a person responsible for his subordinates;

(b) That of having a fixed distinctive sign recognizable at a distance;

(c) That of carrying arms openly;

(d) That of conducting their operations in accordance with the laws and customs of war.

3. Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

4. Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

5. Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

6. Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

1. Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

2. The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of Articles 8, 10, 15, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.

Article 5

The present Convention shall apply to the persons referred to in Article 4 from the time they fall into the power of the enemy and until their final release and repatriation.

Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

Article 6

In addition to the agreements expressly provided for in Articles 10, 23, 28, 33, 60, 65, 66, 67, 72, 73, 75, 109, 110, 118, 119, 122 and 132, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of prisoners of war, as defined by the present Convention, nor restrict the rights which it confers upon them.

Prisoners of war shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 7

Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 8

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Article 9

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and for their relief.

Article 10

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When prisoners of war do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

Article 11

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for prisoners of war, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

PART II

GENERAL PROTECTION OF PRISONERS OF WAR

Article 12

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

Article 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

Article 14

Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

Article 15

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

Article 16

Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

PART III

CAPTIVITY

SECTION I

BEGINNING OF CAPTIVITY

Article 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information. If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

Article 18

All effects and articles of personal use, except arms, horses, military equipment and military documents shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise the sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

Article 19

Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

Article 20

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

SECTION II

INTERNMENT OF PRISONERS OF WAR

Chapter I

GENERAL OBSERVATIONS

Article 21

The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with

the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

Article 22

Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

Article 23

No prisoner of war may at any time be sent to or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG, placed so as to be clearly visible from the air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

Article 24

Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

Chapter II

QUARTERS, FOOD AND CLOTHING OF PRISONERS OF WAR

Article 25

Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

Article 26

The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

Article 27

Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

Article 28

Canteens shall be installed in all camps, where prisoners of war may procure foodstuffs, soap and tobacco and ordinary articles in daily use. The tariff shall never be in excess of local market prices. The profits made by camp canteens shall be used for the benefit of the prisoners; a special fund shall be created for this purpose. The prisoners' representative shall have the right to collaborate in the management of the canteen and of this fund.

When a camp is closed down, the credit balance of the special fund shall be handed to an international welfare organization, to be employed for the benefit of prisoners of war of the same nationality as those who have contributed to the fund. In case of a general repatriation, such profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Chapter III

HYGIENE AND MEDICAL ATTENTION

Article 29

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

Article 30

Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the

Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

Article 31

Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease. For this purpose the most efficient methods available shall be employed, e.g. periodic mass miniature radiography for the early detection of tuberculosis.

Article 32

Prisoners of war who, though not attached to the medical service of their armed forces, are physicians, surgeons, dentists, nurses or medical orderlies, may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war dependent on the same Power. In that case they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under Article 49.

Chapter IV

MEDICAL PERSONNEL AND CHAPLAINS RETAINED TO ASSIST PRISONERS OF WAR

Article 33

Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assisting prisoners of war, shall not be considered as prisoners of war. They shall, however, receive as a minimum the benefits and protection of the present Convention, and shall also be granted all facilities necessary to provide for the medical care of, and religious inistration to, prisoners of war.

They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war, preferably those belonging to the armed forces upon which they depend, within the scope of the military laws and regulations of the Detaining Power and under the control of its competent services, in accordance with their professional etiquette. They shall also benefit by the following facilities in the exercise of their medical or spiritual functions:

(a) They shall be authorized to visit periodically prisoners of war situated in working detachments or in hospitals outside the camp. For this purpose, the Detaining Power shall place at their disposal the necessary means of transport.

(b) The senior medical officer in each camp shall be responsible to the camp military authorities for everything connected with the activities of retained medical personnel. For this purpose, Parties to the conflict shall agree at the outbreak of hostilities on the subject of the corresponding ranks of the medical personnel, including that of societies mentioned in Article

26 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. This senior medical officer, as well as chaplains, shall have the right to deal with the competent authorities of the camp on all questions relating to their duties. Such authorities shall afford them all necessary facilities for correspondence relating to these questions.

(c) Although they shall be subject to the internal discipline of the camp in which they are retained, such personnel may not be compelled to carry out any work other than that concerned with their medical or religious duties.

During hostilities, the Parties to the conflict shall agree concerning the possible relief of retained personnel and shall settle the procedure to be followed.

None of the preceding provisions shall relieve the Detaining Power of its obligations with regard to prisoners of war from the medical or spiritual point of view.

Chapter V

RELIGIOUS, INTELLECTUAL AND PHYSICAL ACTIVITIES

Article 34

Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities.

Adequate premises shall be provided where religious services may be held.

Article 35

Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practising the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article 33, for visiting the prisoners of war outside their camp. They shall be free to correspond, subject to censorship, on matters concerning their religious duties with the ecclesiastical authorities in the country of detention and with international religious organizations. Letters and cards which they may send for this purpose shall be in addition to the quota provided for in Article 71.

Article 36

Prisoners of war who are ministers of religion, without having officiated as chaplains to their own forces, shall be at liberty, whatever their denomination, to minister freely to the members of their community. For this purpose, they shall receive the same treatment as the chaplains retained by the Detaining Power. They shall not be obliged to do any other work.

Article 37

When prisoners of war have not the assistance of a retained chaplain or of a prisoner of war minister of their faith, a minister belonging to the prisoners' or a similar denomination, or in his absence a qualified layman, if such a course is feasible from a confessional point of view, shall be appointed, at the request of the prisoners concerned, to fill this office. This appointment, subject to the approval of the Detaining Power, shall take place with the agreement of the community of prisoners concerned and, wherever necessary, with the approval of the local religious authorities of the same faith. The person thus appointed shall comply with all regulations established by the Detaining Power in the interests of discipline and military security.

Article 38

While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Prisoners shall have opportunities for taking physical exercise, including sports and games, and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.

Chapter VI

DISCIPLINE

Article 39

Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application.

Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces.

Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank.

Article 40

The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

Article 41

In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, at places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

Article 42

The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

Chapter VII

RANK OF PRISONERS OF WAR

Article 43

Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

Article 44

Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

Article 45

Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

Chapter VIII

TRANSFER OF PRISONERS OF WAR AFTER THEIR ARRIVAL IN CAMP

Article 46

The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

Article 47

Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or if they are exposed to greater risks by remaining on the spot than by being transferred.

Article 48

In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilograms per head.

Mail and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

SECTION III

LABOUR OF PRISONERS OF WAR

Article 49

The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

Article 50

Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

(a) Agriculture;

(b) Industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;

(c) Transport and handling of stores which are not military in character or purpose;

(d) Commercial business, and arts and crafts;

(e) Domestic service;

(f) Public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

Article 51

Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

Article 52

Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

Article 53

The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece-work are employed, the length of the working period shall not be rendered excessive thereby.

Article 54

The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.

Article 55

The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.
Article 56

The organization and administration of labour detachments shall be similar to those of prisoner of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

Article 57

The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

SECTION IV

FINANCIAL RESOURCES OF PRISONERS OF WAR

Article 58

Upon the outbreak of hostilities, and pending an arrangement on this matter with the Protecting Power, the Detaining Power may determine the maximum amount of money in cash or in any similar form, that prisoners may have in their possession. Any amount in excess, which was properly in their possession and which has been taken or withheld from them, shall be placed to their account, together with any monies deposited by them, and shall not be converted into any other currency without their consent.

If prisoners of war are permitted to purchase services or commodities outside the camp against payment in cash, such payments shall be made by the prisoner himself or by the camp administration who will charge them to the accounts of the prisoners concerned. The Detaining Power will establish the necessary rules in this respect.

Article 59

Cash which was taken from prisoners of war, in accordance with Article 18, at the time of their capture, and which is in the currency of the Detaining Power, shall be placed to their separate

accounts, in accordance with the provisions of Article 64 of the present Section.

The amounts, in the currency of the Detaining Power, due to the conversion of sums in other currencies that are taken from the prisoners of war at the same time, shall also be credited to their separate accounts.

Article 60

The Detaining Power shall grant all prisoners of war a monthly advance of pay, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

Category I: Prisoners ranking below sergeant: eight Swiss francs.

Category II: Sergeants and other non-commissioned officers, or prisoners of equivalent rank: twelve Swiss francs.

Category III: Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank: fifty Swiss francs.

Category IV: Majors, lieutenant-colonels, colonels or prisoners of equivalent rank: sixty Swiss francs.

Category V: General officers or prisoners of equivalent rank: seventy-five Swiss francs.

However, the Parties to the conflict concerned may by special agreement modify the amount of advances of pay due to prisoners of the preceding categories.

Furthermore, if the amounts indicated in the first paragraph above would be unduly high compared with the pay of the Detaining Power's armed forces or would, for any reason, seriously embarrass the Detaining Power, then, pending the conclusion of a special agreement with the Power on which the prisoners depend to vary the amounts indicated above, the Detaining Power:

(a) Shall continue to credit the accounts of the prisoners with the amounts indicated in the first paragraph above;

(b) May temporarily limit the amount made available from these advances of pay to prisoners of war for their own use, to sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own armed forces.

The reasons for any limitations will be given without delay to the Protecting Power.

Article 61

The Detaining Power shall accept for distribution as supplementary pay to prisoners of war sums which the Power on which the prisoners depend may forward to them, on condition that the sums to be paid shall be the same for each prisoner of the same category, shall be payable to all prisoners of that category depending on that Power, and shall be placed in their

separate accounts, at the earliest opportunity, in accordance with the provisions of Article 64. Such supplementary pay shall not relieve the Detaining Power of any obligation under this Convention.

Article 62

Prisoners of war shall be paid a fair working rate of pay by the detaining authorities direct. The rate shall be fixed by the said authorities, but shall at no time be less than one-fourth of one Swiss franc for a full working day. The Detaining Power shall inform prisoners of war, as well as the Power on which they depend, through the intermediary of the Protecting Power, of the rate of daily working pay that it has fixed.

Working pay shall likewise be paid by the detaining authorities to prisoners of war permanently detailed to duties or to a skilled or semi-skilled occupation in connection with the administration, installation or maintenance of camps, and to the prisoners who are required to carry out spiritual or medical duties on behalf of their comrades.

The working pay of the prisoners' representative, of his advisers, if any, and of his assistants, shall be paid out of the fund maintained by canteen profits. The scale of this working pay shall be fixed by the prisoners' representative and approved by the camp commander. If there is no such fund, the detaining authorities shall pay these prisoners a fair working rate of pay.

Article 63

Prisoners of war shall be permitted to receive remittances of money addressed to them individually or collectively.

Every prisoner of war shall have at his disposal the credit balance of his account as provided for in the following Article, within the limits fixed by the Detaining Power, which shall make such payments as are requested. Subject to financial or monetary restrictions which the Detaining Power regards as essential, prisoners of war may also have payments made abroad. In this case payments addressed by prisoners of war to dependants shall be given priority.

In any event, and subject to the consent of the Power on which they depend, prisoners may have payments made in their own country, as follows: the Detaining Power shall send to the aforesaid Power through the Protecting Power a notification giving all the necessary particulars concerning the prisoners of war, the beneficiaries of the payments, and the amount of the sums to be paid, expressed in the Detaining Power's currency. The said notification shall be signed by the prisoners and countersigned by the camp commander. The Detaining Power shall debit the prisoners' account by a corresponding amount; the sums thus debited shall be placed by it to the credit of the Power on which the prisoners depend.

To apply the foregoing provisions, the Detaining Power may usefully consult the Model Regulations in Annex V of the present Convention.

Article 64

The Detaining Power shall hold an account for each prisoner of war, showing at least the following:

1. The amounts due to the prisoner or received by him as advances of pay, as working pay or derived from any other source; the sums in the currency of the Detaining Power which were taken from him; the sums taken from him and converted at his request into the currency of the said Power.

2. The payments made to the prisoner in cash, or in any other similar form; the payments made on his behalf and at his request; the sums transferred under Article 63, third paragraph.

Article 65

Every item entered in the account of a prisoner of war shall be countersigned or initialled by him, or by the prisoners' representative acting on his behalf.

Prisoners of war shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts, which may likewise be inspected by the representatives of the Protecting Powers at the time of visits to the camp.

When prisoners of war are transferred from one camp to another, their personal accounts will follow them. In case of transfer from one Detaining Power to another, the monies which are their property and are not in the currency of the Detaining Power will follow them. They shall be given certificates for any other monies standing to the credit of their accounts.

The Parties to the conflict concerned may agree to notify to each other at specific intervals through the Protecting Power, the amount of the accounts of the prisoners of war.

Article 66

On the termination of captivity, through the release of a prisoner of war or his repatriation, the Detaining Power shall give him a statement, signed by an authorized officer of that Power, showing the credit balance then due to him. The Detaining Power shall also send through the Protecting Power to the government upon which the prisoner of war depends, lists giving all appropriate particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet by an authorized representative of the Detaining Power.

Any of the above provisions of this Article may be varied by mutual agreement between any two Parties to the conflict.

The Power on which the prisoner of war depends shall be responsible for settling with him any credit balance due to him from the Detaining Power on the termination of his captivity.

Article 67

Advances of pay, issued to prisoners of war in conformity with Article 60, shall be considered as made on behalf of the Power on which they depend. Such advances of pay, as well as all payments made by the said Power under Article 63, third paragraph, and Article 68, shall form the subject of arrangements between the Powers concerned, at the close of hostilities.

Article 68

Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work shall be referred to the Power on which he depends, through the Protecting Power. In accordance with Article 54, the Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. This statement will be signed by a responsible officer of the Detaining Power and the medical particulars certified by a medical officer.

Any claim by a prisoner of war for compensation in respect of personal effects, monies or valuables impounded by the Detaining Power under Article 18 and not forthcoming on his repatriation, or in respect of loss alleged to be due to the fault of the Detaining Power or any of its servants, shall likewise be referred to the Power on which he depends. Nevertheless, any such personal effects required for use by the prisoners of war whilst in captivity shall be replaced at the expense of the Detaining Power. The Detaining Power will, in all cases, provide the prisoner of war with a statement, signed by a responsible officer, showing all available information regarding the reasons why such effects, monies or valuables have not been restored to him. A copy of this statement will be forwarded to the Power on which he depends through the Central Prisoners of War Agency provided for in Article 123.

SECTION V

RELATIONS OF PRISONERS OF WAR WITH THE EXTERIOR

Article 69

Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section. They shall likewise inform the parties concerned of any subsequent modifications of such measures.

Article 70

Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

Article 71

Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article 70, and conforming as closely as possible to the models annexed to the present Convention. Further limitations may be imposed only if the Protecting Power is satisfied that it would be in the interests of the prisoners of war concerned to do so owing to difficulties of translation caused by the Detaining Power's inability to find sufficient qualified linguists to carry out the necessary censorship. If limitations must be placed on the

correspondence addressed to prisoners of war, they may be ordered only by the Power on which the prisoners depend, possibly at the request of the Detaining Power. Such letters and cards must be conveyed by the most rapid method at the disposal of the Detaining Power; they may not be delayed or retained for disciplinary reasons.

Prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or to give them news by the ordinary postal route, as well as those who are at a great distance from their homes, shall be permitted to send telegrams, the fees being charged against the prisoners of war's accounts with the Detaining Power or paid in the currency at their disposal. They shall likewise benefit by this measure in cases of urgency.

As a general rule, the correspondence of prisoners of war shall be written in their native language. The Parties to the conflict may allow correspondence in other languages.

Sacks containing prisoner of war mail must be securely sealed and labelled so as clearly to indicate their contents, and must be addressed to offices of destination.

Article 72

Prisoners of war shall be allowed to receive by post or by any other means individual parcels or collective shipments containing, in particular, foodstuffs, clothing, medical supplies and articles of a religious, educational or recreational character which may meet their needs, including books, devotional articles, scientific equipment, examination papers, musical instruments, sports outfits and materials allowing prisoners of war to pursue their studies or their cultural activities.

Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

The only limits which may be placed on these shipments shall be those proposed by the Protecting Power in the interest of the prisoners themselves, or by the International Committee of the Red Cross or any other organization giving assistance to the prisoners, in respect of their own shipments only, on account of exceptional strain on transport or communications.

The conditions for the sending of individual parcels and collective relief shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the prisoners of relief supplies. Books may not be included in parcels of clothing and foodstuffs. Medical supplies shall, as a rule, be sent in collective parcels.

Article 73

In the absence of special agreements between the Powers concerned on the conditions for the receipt and distribution of collective relief shipments, the rules and regulations concerning collective shipments, which are annexed to the present Convention, shall be applied.

The special agreements referred to above shall in no case restrict the right of prisoners' representatives to take possession of collective relief shipments intended for prisoners of war, to proceed to their distribution or to dispose of them in the interest of the prisoners.

Nor shall such agreements restrict the right of representatives of the Protecting Power, the

International Committee of the Red Cross or any other organization giving assistance to prisoners of war and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

Article 74

All relief shipments for prisoners of war shall be exempt from import, customs and other dues.

Correspondence, relief shipments and authorized remittances of money addressed to prisoners of war or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article 122 and the Central Prisoners of War Agency provided for in Article 123, shall be exempt from any postal dues, both in the countries of origin and destination, and in intermediate countries.

If relief shipments intended for prisoners of war cannot be sent through the post office by reason of weight or for any other cause, the cost of transportation shall be borne by the Detaining Power in all the territories under its control. The other Powers party to the Convention shall bear the cost of transport in their respective territories.

In the absence of special agreements between the Parties concerned, the costs connected with transport of such shipments, other than costs covered by the above exemption, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the rates charged for telegrams sent by prisoners of war, or addressed to them.

Article 75

Should military operations prevent the Powers concerned from fulfilling their obligation to assure the transport of the shipments referred to in Articles 70, 71, 72 and 77, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake to ensure the conveyance of such shipments by suitable means (railway wagons, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

(a) Correspondence, lists and reports exchanged between the Central Information Agency referred to in Article 123 and the National Bureaux referred to in Article 122;

(b) Correspondence and reports relating to prisoners of war which the Protecting Powers, the International Committee of the Red Cross or any other body assisting the prisoners, exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport, if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

In the absence of special agreements, the costs occasioned by the use of such means of

transport shall be borne proportionally by the Parties to the conflict whose nationals are benefited thereby.

Article 76

The censoring of correspondence addressed to prisoners of war or despatched by them shall be done as quickly as possible. Mail shall be censored only by the despatching State and the receiving State, and once only by each.

The examination of consignments intended for prisoners of war shall not be carried out under conditions that will expose the goods contained in them to deterioration; except in the case of written or printed matter, it shall be done in the presence of the addressee, or of a fellow-prisoner duly delegated by him. The delivery to prisoners of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

Article 77

The Detaining Powers shall provide all facilities for the transmission, through the Protecting Power or the Central Prisoners of War Agency provided for in Article 123, of instruments, papers or documents intended for prisoners of war or despatched by them, especially powers of attorney and wills.

In all cases they shall facilitate the preparation and execution of such documents on behalf of prisoners of war; in particular, they shall allow them to consult a lawyer and shall take what measures are necessary for the authentication of their signatures.

SECTION VI

RELATIONS BETWEEN PRISONERS OF WAR AND THE AUTHORITIES

Chapter I

COMPLAINTS OF PRISONERS OF WAR RESPECTING THE CONDITIONS OF CAPTIVITY

Article 78

Prisoners of war shall have the right to make known to the military authorities in whose power they are, their requests regarding the conditions of captivity to which they are subjected.

They shall also have the unrestricted right to apply to the representatives of the Protecting Powers either through their prisoners' representative or, if they consider it necessary, direct, in order to draw their attention to any points on which they may have complaints to make regarding their conditions of captivity.

These requests and complaints shall not be limited nor considered to be a part of the correspondence quota referred to in Article 71. They must be transmitted immediately. Even if they are recognized to be unfounded, they may not give rise to any punishment.

Prisoners' representatives may send periodic reports on the situation in the camps and the needs of the prisoners of war to the representatives of the Protecting Powers.

Chapter II

PRISONER OF WAR REPRESENTATIVES

Article 79

In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. These prisoners' representatives shall be eligible for re-election.

In camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognized as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistants shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

Article 80

Prisoners' representatives shall further the physical, spiritual and intellectual well-being of prisoners of war.

In particular, where the prisoners decide to organize amongst themselves a system of mutual assistance, this organization will be within the province of the prisoners' representative, in addition to the special duties entrusted to him by other provisions of the present Convention.

Prisoners' representatives shall not be held responsible, simply by reason of their duties, for any offences committed by prisoners of war.

Article 81

Prisoners' representatives shall not be required to perform any other work, if the accomplishment of their duties is thereby made more difficult.

Prisoners' representatives may appoint from amongst the prisoners such assistants as they may require. All material facilities shall be granted them, particularly a certain freedom of movement necessary for the accomplishment of their duties (inspection of labour detachments, receipt of supplies, etc.).

Prisoners' representatives shall be permitted to visit premises where prisoners of war are detained, and every prisoner of war shall have the right to consult freely his prisoners' representative.

All facilities shall likewise be accorded to the prisoners' representatives for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, the Mixed Medical Commissions and with the bodies which give assistance to prisoners of war. Prisoners' representatives of labour detachments shall enjoy the same facilities for communication with the prisoners' representatives of the principal camp. Such communications shall not be restricted, nor considered as forming a part of the quota mentioned in Article 71.

Prisoners' representatives who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

In case of dismissal, the reasons therefor shall be communicated to the Protecting Power.

Chapter III

PENAL AND DISCIPLINARY SANCTIONS

I. General provisions

Article 82

A prisoner of war shall be subject to the laws, regulations and orders in force in the armed forces of the Detaining Power; the Detaining Power shall be justified in taking judicial or disciplinary measures in respect of any offence committed by a prisoner of war against such laws, regulations or orders. However, no proceedings or punishments contrary to the provisions of this Chapter shall be allowed.

If any law, regulation or order of the Detaining Power shall declare acts committed by a prisoner of war to be punishable, whereas the same acts would not be punishable if committed by a member of the forces of the Detaining Power, such acts shall entail disciplinary punishments only.

Article 83

In deciding whether proceedings in respect of an offence alleged to have been committed by a prisoner of war shall be judicial or disciplinary, the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt, wherever possible, disciplinary rather than judicial measures.

Article 84

A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the rights and means of defence provided for in Article 105.

Article 85

Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

Article 86

No prisoner of war may be punished more than once for the same act, or on the same charge.

Article 87

Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishments, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

Article 88

Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offence.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

II. Disciplinary sanctions

Article 89

The disciplinary punishments applicable to prisoners of war are the following:

1. A fine which shall not exceed 50 per cent of the advances of pay and working pay which the prisoner of war would otherwise receive under the provisions of Articles 60 and 62 during a period of not more than thirty days.

2. Discontinuance of privileges granted over and above the treatment provided for by the present Convention.

3. Fatigue duties not exceeding two hours daily.

4. Confinement.

The punishment referred to under (3) shall not be applied to officers.

In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

Article 90

The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

Article 91

The escape of a prisoner of war shall be deemed to have succeeded when:

1. He has joined the armed forces of the Power on which he depends, or those of an allied Power;

2. He has left the territory under the control of the Detaining Power, or of an ally of the said Power;

3. He has joined a ship flying the flag of the Power on which he depends, or of an allied Power, in the territorial waters of the Detaining Power, the said ship not being under the control of the last-named Power.

Prisoners of war who have made good their escape in the sense of this Article and who are recaptured, shall not be liable to any punishment in respect of their previous escape.

Article 92

A prisoner of war who attempts to escape and is recaptured before having made good his escape in the sense of Article 91 shall be liable only to a disciplinary punishment in respect of this act, even if it is a repeated offence.

A prisoner of war who is recaptured shall be handed over without delay to the competent military authority.

Article 88, fourth paragraph, notwithstanding, prisoners of war punished as a result of an unsuccessful escape may be subjected to special surveillance. Such surveillance must not affect the state of their health, must be undergone in a prisoner of war camp, and must not entail the suppression of any of the safeguards granted them by the present Convention.

Article 93

Escape or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance if the prisoner of war is subjected to trial by judicial proceedings in respect of an offence committed during his escape or attempt to escape.

In conformity with the principle stated in Article 83, offences committed by prisoners of war with the sole intention of facilitating their escape and which do not entail any violence against life or limb, such as offences against public property, theft without intention of self-enrichment, the drawing up or use of false papers, the wearing of civilian clothing, shall occasion disciplinary punishment only.

Prisoners of war who aid or abet an escape or an attempt to escape shall be liable on this count to disciplinary punishment only.

Article 94

If an escaped prisoner of war is recaptured, the Power on which he depends shall be notified thereof in the manner defined in Article 122, provided notification of his escape has been made.

Article 95

A prisoner of war accused of an offence against discipline shall not be kept in confinement pending the hearing unless a member of the armed forces of the Detaining Power would be so kept if he were accused of a similar offence, or if it is essential in the interests of camp order and discipline.

Any period spent by a prisoner of war in confinement awaiting the disposal of an offence against discipline shall be reduced to an absolute minimum and shall not exceed fourteen days.

The provisions of Articles 97 and 98 of this Chapter shall apply to prisoners of war who are in confinement awaiting the disposal of offences against discipline.

Article 96

Acts which constitute offences against discipline shall be investigated immediately.

Without prejudice to the competence of courts and superior military authorities, disciplinary punishment may be ordered only by an officer having disciplinary powers in his capacity as camp commander, or by a responsible officer who replaces him or to whom he has delegated his disciplinary powers.

In no case may such powers be delegated to a prisoner of war or be exercised by a prisoner of war.

Before any disciplinary award is pronounced, the accused shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced to the accused prisoner of war and to the prisoners' representative.

A record of disciplinary punishments shall be maintained by the camp commander and shall be open to inspection by representatives of the Protecting Power.

Article 97

Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary requirements set forth in Article 25. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

Article 98

A prisoner of war undergoing confinement as a disciplinary punishment, shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles 78 and 126.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representative, who will hand over to the infirmary the perishable goods contained in such parcels.

III. Judicial proceedings

Article 99

No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by international law, in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel.

Article 100

Prisoners of war and the Protecting Powers shall be informed as soon as possible of the offences which are punishable by the death sentence under the laws of the Detaining Power.

Other offences shall not thereafter be made punishable by the death penalty without the concurrence of the Power upon which the prisoners of war depend.

The death sentence cannot be pronounced on a prisoner of war unless the attention of the court has, in accordance with Article 87, second paragraph, been particularly called to the fact that since the accused is not a national of the Detaining Power, he is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will.

Article 101

If the death penalty is pronounced on a prisoner of war, the sentence shall not be executed

before the expiration of a period of at least six months from the date when the Protecting Power receives, at an indicated address, the detailed communication provided for in Article 107.

Article 102

A prisoner of war can be validly sentenced only if the sentence has been pronounced by the same courts according to the same procedure as in the case of members of the armed forces of the Detaining Power, and if, furthermore, the provisions of the present Chapter have been observed.

Article 103

Judicial investigations relating to a prisoner of war shall be conducted as rapidly as circumstances permit and so that his trial shall take place as soon as possible. A prisoner of war shall not be confined while awaiting trial unless a member of the armed forces of the Detaining Power would be so confined if he were accused of a similar offence, or if it is essential to do so in the interests of national security. In no circumstances shall this confinement exceed three months.

Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

The provisions of Articles 97 and 98 of this Chapter shall apply to a prisoner of war whilst in confinement awaiting trial.

Article 104

In any case in which the Detaining Power has decided to institute judicial proceedings against a prisoner of war, it shall notify the Protecting Power as soon as possible and at least three weeks before the opening of the trial. This period of three weeks shall run as from the day on which such notification reaches the Protecting Power at the address previously indicated by the latter to the Detaining Power.

The said notification shall contain the following information:

1. Surname and first names of the prisoner of war, his rank, his army, regimental, personal or serial number, his date of birth, and his profession or trade, if any;

2. Place of internment or confinement;

3. Specification of the charge or charges on which the prisoner of war is to be arraigned, giving the legal provisions applicable;

4 . Designation of the court which will try the case, likewise the date and place fixed for the opening of the trial.

The same communication shall be made by the Detaining Power to the prisoners' representative.

If no evidence is submitted, at the opening of a trial, that the notification referred to above was received by the Protecting Power, by the prisoner of war and by the prisoners' representative concerned, at least three weeks before the opening of the trial, then the latter cannot take place and must be adjourned.

Article 105

The prisoner of war shall be entitled to assistance by one of his prisoner comrades, to defence by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter. He shall be advised of these rights by the Detaining Power in due time before the trial.

Failing a choice by the prisoner of war, the Protecting Power shall find him an advocate or counsel, and shall have at least one week at its disposal for the purpose. The Detaining Power shall deliver to the said Power, on request, a list of persons qualified to present the defence. Failing a choice of an advocate or counsel by the prisoner of war or the Protecting Power, the Detaining Power shall appoint a competent advocate or counsel to conduct the defence.

The advocate or counsel conducting the defence on behalf of the prisoner of war shall have at his disposal a period of two weeks at least before the opening of the trial, as well as the necessary facilities to prepare the defence of the accused. He may, in particular, freely visit the accused and interview him in private. He may also confer with any witnesses for the defence, including prisoners of war. He shall have the benefit of these facilities until the term of appeal or petition has expired.

Particulars of the charge or charges on which the prisoner of war is to be arraigned, as well as the documents which are generally communicated to the accused by virtue of the laws in force in the armed forces of the Detaining Power, shall be communicated to the accused prisoner of war in a language which he understands, and in good time before the opening of the trial. The same communication in the same circumstances shall be made to the advocate or counsel conducting the defence on behalf of the prisoner of war.

The representatives of the Protecting Power shall be entitled to attend the trial of the case, unless, exceptionally, this is held in camera in the interest of State security. In such a case the Detaining Power shall advise the Protecting Power accordingly.

Article 106

Every prisoner of war shall have, in the same manner as the members of the armed forces of the Detaining Power, the right of appeal or petition from any sentence pronounced upon him, with a view to the quashing or revising of the sentence or the reopening of the trial. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

Article 107

Any judgment and sentence pronounced upon a prisoner of war shall be immediately reported to the Protecting Power in the form of a summary communication, which shall also indicate whether he has the right of appeal with a view to the quashing of the sentence or the reopening of the trial. This communication shall likewise be sent to the prisoners' representative concerned. It shall also be sent to the accused prisoner of war in a language he

understands, if the sentence was not pronounced in his presence. The Detaining Power shall also immediately communicate to the Protecting Power the decision of the prisoner of war to use or to waive his right of appeal.

Furthermore, if a prisoner of war is finally convicted or if a sentence pronounced on a prisoner of war in the first instance is a death sentence, the Detaining Power shall as soon as possible address to the Protecting Power a detailed communication containing:

1. The precise wording of the finding and sentence;

2. A summarized report of any preliminary investigation and of the trial, emphasizing in particular the elements of the prosecution and the defence;

3. Notification, where applicable, of the establishment where the sentence will be served.

The communications provided for in the foregoing subparagraphs shall be sent to the Protecting Power at the address previously made known to the Detaining Power.

Article 108

Sentences pronounced on prisoners of war after a conviction has become duly enforceable, shall be served in the same establishments and under the same conditions as in the case of members of the armed forces of the Detaining Power. These conditions shall in all cases conform to the requirements of health and humanity.

A woman prisoner of war on whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women.

In any case, prisoners of war sentenced to a penalty depriving them of their liberty shall retain the benefit of the provisions of Articles 78 and 126 of the present Convention. Furthermore, they shall be entitled to receive and despatch correspondence, to receive at least one relief parcel monthly, to take regular exercise in the open air, to have the medical care required by their state of health, and the spiritual assistance they may desire. Penalties to which they may be subjected shall be in accordance with the provisions of Article 87, third paragraph.

PART IV

TERMINATION OF CAPTIVITY

SECTION I

DIRECT REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES

Article 109

Subject to the provisions of the third paragraph of this Article, Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavour, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under the first paragraph of this Article, may be repatriated against his will during hostilities.

Article 110

The following shall be repatriated direct:

1. Incurably wounded and sick whose mental or physical fitness seems to have been gravely diminished.

2. Wounded and sick who, according to medical opinion, are not likely to recover within one year, whose condition requires treatment and whose mental or physical fitness seems to have been gravely diminished.

3. Wounded and sick who have recovered, but whose mental or physical fitness seems to have been gravely and permanently diminished.

The following may be accommodated in a neutral country:

1. Wounded and sick whose recovery may be expected within one year of the date of the wound or the beginning of the illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery.

2. Prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose accommodation in a neutral country might remove such a threat.

The conditions which prisoners of war accommodated in a neutral country must fulfil in order to permit their repatriation shall be fixed, as shall likewise their status, by agreement between the Powers concerned. In general, prisoners of war who have been accommodated in a neutral country, and who belong to the following categories, should be repatriated:

1. Those whose state of health has deteriorated so as to fulfil the conditions laid down for direct repatriation;

2. Those whose mental or physical powers remain, even after treatment, considerably impaired.

If no special agreements are concluded between the Parties to the conflict concerned, to determine the cases of disablement or sickness entailing direct repatriation or accommodation in a neutral country, such cases shall be settled in accordance with the principles laid down in the Model Agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the Regulations concerning Mixed Medical

Commissions annexed to the present Convention.

Article 111

The Detaining Power, the Power on which the prisoners of war depend, and a neutral Power agreed upon by these two Powers, shall endeavour to conclude agreements which will enable prisoners of war to be interned in the territory of the said neutral Power until the close of hostilities.

Article 112

Upon the outbreak of hostilities, Mixed Medical Commissions shall be appointed to examine sick and wounded prisoners of war, and to make all appropriate decisions regarding them. The appointment, duties and functioning of these Commissions shall be in conformity with the provisions of the Regulations annexed to the present Convention.

However, prisoners of war who, in the opinion of the medical authorities of the Detaining Power, are manifestly seriously injured or seriously sick, may be repatriated without having to be examined by a Mixed Medical Commission.

Article 113

Besides those who are designated by the medical authorities of the Detaining Power, wounded or sick prisoners of war belonging to the categories listed below shall be entitled to present themselves for examination by the Mixed Medical Commissions provided for in the foregoing Article:

1. Wounded and sick proposed by a physician or surgeon who is of the same nationality, or a national of a Party to the conflict allied with the Power on which the said prisoners depend, and who exercises his functions in the camp.

2. Wounded and sick proposed by their prisoners' representative.

3. Wounded and sick proposed by the Power on which they depend, or by an organization duly recognized by the said Power and giving assistance to the prisoners.

Prisoners of war who do not belong to one of the three foregoing categories may nevertheless present themselves for examination by Mixed Medical Commissions, but shall be examined only after those belonging to the said categories.

The physician or surgeon of the same nationality as the prisoners who present themselves for examination by the Mixed Medical Commission, likewise the prisoners' representative of the said prisoners, shall have permission to be present at the examination.

Article 114

Prisoners of war who meet with accidents shall, unless the injury is self-inflicted, have the benefit of the provisions of this Convention as regards repatriation or accommodation in a neutral country.

Article 115

No prisoner of war on whom a disciplinary punishment has been imposed and who is eligible for repatriation or for accommodation in a neutral country, may be kept back on the plea that he has not undergone his punishment.

Prisoners of war detained in connection with a judicial prosecuti on or conviction and who are designated for repatriation or accommodation in a neutral country, may benefit by such measures before the end of the proceedings or the completion of the punishment, if the Detaining Power consents.

Parties to the conflict shall communicate to each other the names of those who will be detained until the end of the proceedings or the completion of the punishment.

Article 116

The costs of repatriating prisoners of war or of transporting them to a neutral country shall be borne, from the frontiers of the Detaining Power, by the Power on which the said prisoners depend.

Article 117

No repatriated person may be employed on active military service.

SECTION II

RELEASE AND REPATRIATION OF PRISONERS OF WAR AT THE CLOSE OF HOSTILITIES

Article 118

Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

In the absence of stipulations to the above effect in any agreement concluded between the Parties to the conflict with a view to the cessation of hostilities, or failing any such agreement, each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation in conformity with the principle laid down in the foregoing paragraph.

In either case, the measures adopted shall be brought to the knowledge of the prisoners of war.

The costs of repatriation of prisoners of war shall in all cases be equitably apportioned between the Detaining Power and the Power on which the prisoners depend. This apportionment shall be carried out on the following basis:

(a) If the two Powers are contiguous, the Power on which the prisoners of war depend shall bear the costs of repatriation from the frontiers of the Detaining Power.

(b) If the two Powers are not contiguous, the Detaining Power shall bear the costs of transport of prisoners of war over its own territory as far as its frontier or its port of embarkation nearest to the territory of the Power on which the prisoners of war depend. The Parties concerned shall agree between themselves as to the equitable apportionment of the remaining costs of the repatriation. The conclusion of this agreement shall in no circumstances justify any delay in the repatriation of the prisoners of war.

Article 119

Repatriation shall be effected in conditions similar to those laid down in Articles 46 to 48 inclusive of the present Convention for the transfer of prisoners of war, having regard to the provisions of Article 118 and to those of the following paragraphs.

On repatriation, any articles of value impounded from prisoners of war under Article 18, and any foreign currency which has not been converted into the currency of the Detaining Power, shall be restored to them. Articles of value and foreign currency which, for any reason whatever, are not restored to prisoners of war on repatriation, shall be despatched to the Information Bureau set up under Article 122.

Prisoners of war shall be allowed to take with them their personal effects, and any correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of repatriation so require, to what each prisoner can reasonably carry. Each prisoner shall in all cases be authorized to carry at least twenty-five kilograms.

The other personal effects of the repatriated prisoner shall be left in the charge of the Detaining Power which shall have them forwarded to him as soon as it has concluded an agreement to this effect, regulating the conditions of transport and the payment of the costs involved, with the Power on which the prisoner depends.

Prisoners of war against whom criminal proceedings for an indictable offence are pending may be detained until the end of such proceedings, and, if necessary, until the completion of the punishment. The same shall apply to prisoners of war already convicted for an indictable offence.

Parties to the conflict shall communicate to each other the names of any prisoners of war who are detained until the end of the proceedings or until punishment has been completed.

By agreement between the Parties to the conflict, commissions shall be established for the purpose of searching for dispersed prisoners of war and of assuring their repatriation with the least possible delay.

SECTION III

DEATH OF PRISONERS OF WAR

Article 120

Wills of prisoners of war shall be drawn up so as to satisfy the conditions of validity required by the legislation of their country of origin, which will take steps to inform the Detaining Power of its requirements in this respect. At the request of the prisoner of war and, in all cases, after

death, the will shall be transmitted without delay to the Protecting Power; a certified copy shall be sent to the Central Agency.

Death certificates in the form annexed to the present Convention, or lists certified by a responsible officer, of all persons who die as prisoners of war shall be forwarded as rapidly as possible to the Prisoner of War Information Bureau established in accordance with Article 122. The death certificates or certified lists shall show particulars of identity as set out in the third paragraph of Article 17, and also the date and place of death, the cause of death, the date and place of burial and all particulars necessary to identify the graves.

The burial or cremation of a prisoner of war shall be preceded by a medical examination of the body with a view to confirming death and enabling a report to be made and, where necessary, establishing identity.

The detaining authorities shall ensure that prisoners of war who have died in captivity are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked so as to be found at any time. Wherever possible, deceased prisoners of war who depended on the same Power shall be interred in the same place.

Deceased prisoners of war shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his express wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased.

In order that graves may always be found, all particulars of burials and graves shall be recorded with a Graves Registration Service established by the Detaining Power. Lists of graves and particulars of the prisoners of war interred in cemeteries and elsewhere shall be transmitted to the Power on which such prisoners of war depended. Responsibility for the care of these graves and for records of any subsequent moves of the bodies shall rest on the Power controlling the territory, if a Party to the present Convention. These provisions shall also apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

Article 121

Every death or serious injury of a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. Statements shall be taken from witnesses, especially from those who are prisoners of war, and a report including such statements shall be forwarded to the Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all measures for the prosecution of the person or persons responsible.

PART V

INFORMATION BUREAUX AND RELIEF SOCIETIES FOR PRISONERS OF WAR

Article 122

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall institute an official Information Bureau for prisoners of war who are in its power. Neutral or non-belligerent Powers who may have received within their territory persons belonging to one of the categories referred to in Article 4, shall take the same action with respect to such persons. The Power concerned shall ensure that the Prisoners of War Information Bureau is provided with the necessary accommodation, equipment and staff to ensure its efficient working. It shall be at liberty to employ prisoners of war in such a Bureau under the conditions laid down in the Section of the present Convention dealing with work by prisoners of war.

Within the shortest possible period, each of the Parties to the conflict shall give its Bureau the information referred to in the fourth, fifth and sixth paragraphs of this Article regarding any enemy person belonging to one of the categories referred to in Article 4, who has fallen into its power. Neutral or non-belligerent Powers shall take the same action with regard to persons belonging to such categories whom they have received within their territory.

The Bureau shall immediately forward such information by the most rapid means to the Powers concerned, through the intermediary of the Protecting Powers and likewise of the Central Agency provided for in Article 123.

This information shall make it possible quickly to advise the next of kin concerned. Subject to the provisions of Article 17, the information shall include, in so far as available to the Information Bureau, in respect of each prisoner of war, his surname, first names, rank, army, regimental, personal or serial number, place and full date of birth, indication of the Power on which he depends, first name of the father and maiden name of the mother, name and address of the person to be informed and the address to which correspondence for the prisoner may be sent.

The Information Bureau shall receive from the various departments concerned information regarding transfers, releases, repatriations, escapes, admissions to hospital, and deaths, and shall transmit such information in the manner described in the third paragraph above.

Likewise, information regarding the state of health of prisoners of war who are seriously ill or seriously wounded shall be supplied regularly, every week if possible.

The Information Bureau shall also be responsible for replying to all enquiries sent to it concerning prisoners of war, including those who have died in captivity; it will make any enquiries necessary to obtain the information which is asked for if this is not in its possession.

All written communications made by the Bureau shall be authenticated by a signature or a seal.

The Information Bureau shall furthermore be charged with collecting all personal valuables, including sums in currencies other than that of the Detaining Power and documents of importance to the next of kin, left by prisoners of war who have been repatriated or released, or who have escaped or died, and shall forward the said valuables to the Powers concerned.

Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full particulars of the identity of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Other personal effects of such prisoners of war shall be transmitted under arrangements agreed upon between the Parties to the conflict concerned.

Article 123

A Central Prisoners of War Information Agency shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency.

The function of the Agency shall be to collect all the information it may obtain through official or private channels respecting prisoners of war, and to transmit it as rapidly as possible to the country of origin of the prisoners of war or to the Power on which they depend. It shall receive from the Parties to the conflict all facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross, or of the relief Societies provided for in Article 125.

Article 124

The national Information Bureaux and the Central Information Agency shall enjoy free postage for mail, likewise all the exemptions provided for in Article 74, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

Article 125

Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organization assisting prisoners of war, shall receive from the said Powers, for themselves and their duly accredited agents, all necessary facilities for visiting the prisoners, distributing relief supplies and material, from any source, intended for religious, educational or recreative purposes, and for assisting them in organizing their leisure time within the camps. Such societies or organizations may be constituted in the territory of the Detaining Power or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the effective operation of adequate relief to all prisoners of war.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

As soon as relief supplies or material intended for the above-mentioned purposes are handed

over to prisoners of war, or very shortly afterwards, receipts for each consignment, signed by the prisoners' representative, shall be forwarded to the relief society or organization making the shipment. At the same time, receipts for these consignments shall be supplied by the administrative authorities responsible for guarding the prisoners.

PART VI

EXECUTION OF THE CONVENTION

SECTION I

GENERAL PROVISIONS

Article 126

Representatives or delegates of the Protecting Powers shall have permission to go to all places where prisoners of war may be, particularly to places of internment, imprisonment and labour, and shall have access to all premises occupied by prisoners of war; they shall also be allowed to go to the places of departure, passage and arrival of prisoners who are being transferred. They shall be able to interview the prisoners, and in particular the prisoners' representatives, without witnesses, either personally or through an interpreter.

Representatives and delegates of the Protecting Powers shall have full liberty to select the places they wish to visit. The duration and frequency of these visits shall not be restricted. Visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure.

The Detaining Power and the Power on which the said prisoners of war depend may agree, if necessary, that compatriots of these prisoners of war be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall enjoy the same prerogatives. The appointment of such delegates shall be submitted to the approval of the Power detaining the prisoners of war to be visited.

Article 127

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population.

Any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions.

Article 128

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the

present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Article 129

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the present Convention.

Article 130

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

Article 131

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Article 132

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

SECTION 11

FINAL PROVISIONS

Article 133

The present Convention is established in English and in French. Both texts are equally authentic. The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Article 134

The present Convention replaces the Convention of 27 July 1929, in relations between the High Contracting Parties.

Article 135

In the relations between the Powers which are bound by The Hague Convention respecting the Laws and Customs of War on Land, whether that of July 29, 1899, or that of October 18, 1907, and which are parties to the present Convention, this last Convention shall be complementary to Chapter II of the Regulations annexed to the above-mentioned Conventions of The Hague.

Article 136

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference, but which are parties to the Convention of July 27, 1929.

Article 137

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 138

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Article 139

From the date of its coming into force, it shall be open to any Power in whose name the

present Convention has not been signed, to accede to this Convention.

Article 140

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 141

The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Article 142

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Article 143

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

ANNEX I

Model agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war

(see Article 110)

I.-PRINCIPLES FOR DIRECT REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES

A. DIRECT REPATRIATION

The following shall be repatriated direct:

1.All prisoners of war suffering from the following disabilities as the result of trauma: loss of limb, paralysis, articular or other disabilities, when this disability is at least the loss of a hand or a foot, or the equivalent of the loss of a hand or a foot.

Without prejudice to a more generous interpretation, the following shall be considered as equivalent to the loss of a hand or a foot:

(a) Loss of a hand or of all the fingers, or of the thumb and forefinger of one hand; loss of a foot, or of all the toes and metatarsals of one foot.

(b) Ankylosis, loss of osseous tissue, cicatricial contracture preventing the functioning of one of the large articulations or of all the digital joints of one hand.

(c) Pseudarthrosis of the long bones.

(d) Deformities due to fracture or other injury which seriously interfere with function and weight-bearing power.

2. All wounded prisoners of war whose condition has become chronic, to the extent that prognosis appears to exclude recovery-in spite of treatment-within one year from the date of the injury, as. for example, in case of:

(a) Projectile in the heart. even if the Mixed Medical Commission should fail, at the time of their examination, to detect any serious disorders.

(b) Metallic splinter in the brain or the lungs, even if the Mixed Medical Commission cannot, at the time of examination, detect any local or general reaction.

(c)Osteomyelitis, when recovery cannot be foreseen in the course of the year following the injury, and which seems likely to result in ankylosis of a joint, or other impairments

equivalent to the loss of a hand or a foot.

(d) Perforating and suppurating injury to the large joints.

(e) Injury to the skull, with loss or shifting of bony tissue.

(f) Injury or burning of the face with loss of tissue and functional lesions.

(g) Injury to the spinal cord.

(h) Lesion of the peripheral nerves, the sequelae of which are equivalent to the loss of ahand or foot, and the cure of which requires more than a year from the date of injury, for example: injury to the brachial or lumbosacral plexus, the median or sciatic nerves, likewise combined injury to the radial and cubital nerves or to the lateral popliteal nerve *(N. peroneus communes)* and medial popliteal nerve *(N. tibialis);* etc. The separate injury of the 'radial (musculo-spiral), cubital. lateral or medial popliteal nerves shall not, however, warrant repatriation except in case of contractures or of serious neurotrophic disturbance.

(i) Injury to the urinary system, with incapacitating results.

3. All sick prisoners of war whose condition has become chronic to the extent that prognosis seems to exclude recovery-in spite of treatment-within one year from the inception of the disease, as, for example, in case of:

(a) Progressive tuberculosis of any organ which, according to medical prognosis, cannot be cured, or at least considerably improved, by treatment in a neutral country.

(b) Exudate pleurisy.

(c) Serious diseases of the respiratory organs of non-tubercular etiology, presumed incurable. for example: serious pulmonary emphysema, with or without bronchitis, chronic asthma:* chronic bronchitis* lasting more than one year in captivity; bronchiectasis,* etc.

(d) Serious chronic affections of the circulatory system, for example: valvular lesions and myocarditis* which have shown signs of circulatory failure during captivity, even though the Mixed Medical Commission cannot detect any such signs at the time of examination; affections of the pericardium and the vessels (Buerger's disease, aneurism of the large vessels); etc.

(e) Serious chronic affections of the digestive organs, for example: gastric or duodenal ulcer-, sequelae of gastric operations performed in captivity; chronic gastritis, enteritis or colitis, having lasted more than one year and seriously affecting the general condition: cirrhosis of the liver, chronic cholecystopathy;* etc.

(f) Serious chronic affections of the genito-urinary organs, for example: chronic diseases of the kidney with consequent disorders; nephrectomy because of a tubercular kidney; chronic pyelitis or chronic cystitis: hydronephrosis or pyonephrosis; chronic grave gynaecological conditions-, normal pregnancy, and obstetrical disorder, where it is

impossible to accommodate in a neutral country; etc.

(g) Serious chronic diseases of the central and peripheral nervous system, for example: all obvious psychoses and psychoneuroses, such as serious hysteria, serious captivity psychoneurosis, etc., duly verified by a specialist;* any epilepsy duly vcrified by the camp physicians.' cerebral arteriosclerosis- chronic neuritis lasting more than one year. etc.
(h) Serious chronic disease of the neuro-vegetative system, with considerable diminution of mental or physical fitness. noticeable loss of weight and general asthenia.

(i) Blindness of both eyes, or of one eve when the vision of the other is less than I in spite of the use of corrective glasses; diminution of visual acuity in cases where it is impossible to restore it by correction to an acuity of 1/2 in at least one eye;* other grave ocular affections, for example: glaucoma, iritis, choroiditis; trachoma, etc.

(k) Auditive disorders, such as total unilateral deafness, if the other car does not discern the ordinary spoken word at a distance of one metre;* etc.

(l) Serious affections of metabolism, for example: diabetes mellitus requiring insulin treatment; etc.

(m) Serious disorders of the endocrine glands, for example: thyrotoxicosis; hypothyrosis; Addison's disease; Simmonds' cachexia; tetany; etc.

(n) Grave and chronic disorders of the blood-forming organs.

(o) Serious cases of chronic intoxication, for example: lead poisoning, mercury poisoing, morphinism. cocainism, alcoholism; gas or radiation poisoning; etc.

(p) Chronic affections of locomotion, with obvious functional disorders, for example: arthritis deformans, primary and secondary progressive chronic polyarthritis; rheumatism with serious clinical symptoms; etc.

(q) Serious chronic skin diseases. not amenable to treatment.

(r) Any malignant growth.

(s) Serious chronic infectious diseases, persisting for one year after their inception, for example: malaria with decided organic impairment, amoebic or bacillary dysentery with grave disorders; tertiary visceral syphilis resistant to treatment; leprosy; etc.

(t) Serious avitaminosis or serious inanition.

---

*The decision of the Mixed Medical Commission shall be based to a great extent on the records kept by camp physicians and surgeons of the same nationality as the prisoners of war, or on an examination by medical specialists of the Detaining Power.

B. ACCOMMODATION IN NEUTRAL COUNTRIES

The following shall be eligible for accommodation in a neutral country:

1. All wounded prisoners of war who are not likely to recover in captivity, but who might be cured or whose condition might be considerably improved by accommodation in a neutral country.

2. Prisoners of war suffering from any form of tuberculosis, of whatever organ, and whose treatment in a neutral country would be likely to lead to recovery or at least to considerable improvement, with the exception of primary tuberculosis cured before captivity.

3. Prisoners of war suffering from affections requiring treatment of the respiratory, circulatory, digestive, nervous, sensory, genito-urinary, cutaneous. locomotive organs, etc., if such treatment would clearly have better results in a neutral country than in captivity.

4. Prisoners of war who have undergone a nephrectomy in captivity for a nontubercular renal affection; cases of osteomyelitis, on the way to recovery or latent; diabetes mellitus not requiring insulin treatment; etc.

5. Prisoners of war suffering from war or captivity neuroses.

Cases of captivity neurosis which are not cured after three months of accommodation in a neutral country, or which after that length of time are not clearly on the way to complete cure, shall be repatriated.

6. All prisoners of war suffering from chronic intoxication (gases, metals, alkaloids, etc.), for whom the prospects of cure in a neutral country are especially favourable.

7. All women prisoners of war who are pregnant or mothers with infants and small children.

The following cases shall not be eligible for accommodation in a neutral country:

1. All duly verified chronic psychoses.

2. All organic or functional nervous affections considered to be incurable.

3. All contagious diseases during the period in which they are transmissible, with the exception of tuberculosis.

II. GENERAL OBSERVATIONS

1. The conditions given shall, in a general way, be interpreted and applied in as broad a spirit as possible.

Neuropathic and psychopathic conditions caused by war or captivity, as well as cases of tuberculosis in all stages, shall above all benefit by such liberal interpretation. Prisoners of war Who have sustained several wounds, none of which, considered by itself, justifies repatriation, shall be examined in the same spirit, with due regard for the psychic traumatism due to the number of their wounds.

2. All unquestionable cases giving the right to direct repatriation (amputation, total blindness or deafness. open pulmonary tuberculosis, mental disorder. malignant growth, etc.)shall be examined and repatriated as soon as possible by the camp physicians or by military medical commissions appointed by the Detaining Power.

3. Injuries and diseases which existed before the war and which have not become worse. as well as war injuries which have not prevented subsequent military service, shall not entitle to direct repatriation.

4. The provisions of this Annex shall be interpreted and applied in a similar manner in all countries party to the conflict. The Powers and authorities concerned shall grant to Mixed Medical Commissions all the facilities necessary for the accomplishment of their task.

5. The examples quoted under (1) above represent only typical cases. Cases which do not correspond exactly to these provisions shall be judged in the spirit of the provisions of Article I 10 of the present Convention, and of the principles embodied in the present Agreement.

ANNEX II

Regulations concerning Mixed Medical Commissions
(see Article 112)

Article 1

The Mixed Medical Commissions provided for in Article 112 of the Convention shall be composed of three members, two of whom shall belong to a neutral country. the third being appointed by the Detaining Power. One of the neutral members shall take the chair.

Article 2

The two neutral members shall be appointed by the International Committee of the Red Cross, acting in agreement with the Protecting Power, at the request of the Detaining Power. They may be domiciled either in their country of origin, in any other neutral country, or in the territory of the Detaining Power.

Article 3

The neutral members shall be approved by the Parties to the conflict concerned, who notify their approval to the International Committee of the Red Cross and to the Protecting Power. Upon such notification, the neutral members shall be considered as effectively appointed.

Article 4

Deputy members shall also be appointed in sufficient number to replace the regular members in case of need. They shall be appointed at the same time as the regular members or, at least, as soon as possible.

Article 5

If for any reason the International Committee of the Red Cross cannot arrange for the appointment of the neutral members, this shall be done by the Power protecting the interests of the prisoners of war to be examined.

Article 6

So far as possible, one of the two neutral members shall be a surgeon and the other a physician.

Article 7

The neutral members shall be entirely independent of the Parties to the conflict, which shall

grant them all facilities in the accomplishment of their duties.

Article 8

By agreement with the Detaining Power, the International Committee of the Red Cross, when making the appointments provided for in Articles 2 and 4 of the present Regulations, shall settle the terms of service of the nominees.

Article 9

The Mixed Medical Commissions shall begin their work as soon as possible after the neutral members have been approved, and in any case within a period of three months from the date of such approval.

Article 10

The Mixed Medical Commissions shall examine all the prisoners designated in Article 113 of the Convention. They shall propose repatriation, rejection, or reference to a later examination. Their decisions shall be made by a majority vote.

Article 11

The decisions made by the Mixed Medical Commissions in each specific case shall be communicated, during the month following their visit, to the Detaining Power, the Protecting Power and the International Committee of the Red Cross. The Mixed Medical Commissions shall also inform each prisoner of war examined of the decision made, and shall issue to those whose repatriation has been proposed, certificates similar to the model appended to the present Convention.

Article 12

The Detaining Power shall be required to carry out the decisions of the Mixed Medical Commissions within three months of the time when it receives due notification of such decisions.

Article 13

If there is no neutral physician in a country where the services of a Mixed Medical Commission

seem to be required, and if it is for any reason impossible to appoint neutral doctors who are resident in another country, the Detaining Power, acting in agreement with the Protecting Power, shall set up a Medical Commission which shall undertake the same duties as a Mixed Medical Commission, subject to the provisions of Articles 1, 2, 3, 4, 5 and 8 of the Present Regulations.

Article 14

Mixed Medical Commissions shall function permanently and shall visit each camp at intervals of not more than six months.

ANNEX III

Regulations concerning collective relief
(see Article 73)

Article 1

Prisoners' representatives shall be allowed to distribute collective relief shipments for which they are sible, to all prisoners of war administered by their camp, including those who am in hospitals or in prisons or other penal establishments.

Article 2

The distribution of collective relief shipments shall be effected in accordance with the instructions of the donors and with a plan drawn up by the prisoners' representatives. 'Me issue of medical stores shall. however, be made for preference in agreement with the senior medical officers, and the latter may. in hospitals and infirmaries, waive the said instructions, if the needs of their patients so demand. Within the limits thus defined, the distribution shall always be carried out equitably.

Article 3

The said prisoners' representatives or their assistants shall be allowed to go to the points of arrival of relief supplies near their camps. so as to enable the prisoners' representatives or their assistants to verify the quality as well as the quantity of the goods received, and to make out detailed reports thereon for the donors.

Article 4

Prisoners' representatives shall be given the facilities necessary for verifying whether the distribution of collective relief in all sub-divisions and annexes of their camps has been carried out in accordance with their instructions.

Article 5

Prisoners' representatives shall be allowed to fill up, and cause to be filled up by the prisoners' representatives of labour detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution. requirements, quantities, etc.). Such forms and questionnaires, duly completed, shall be forwarded to the donors without delay.

Article 6

In order to secure the regular issue of collective relief to the prisoners of war in their camp. and to meet any needs that may arise from the arrival of new contingents of prisoners, prisoners' representatives shall be allowed to build up and maintain adequate reserve stocks of collective relief. For this purpose, they shall have suitable warehouses at their disposal; each warehouse shall be provided with two locks, the prisoners' representative holding the keys of one lock and the camp commander the keys of the other.

Article 7

When collective consignments of clothing am available each prisoner of war shall retain in his possession at least one complete set of clothes. If a prisoner has more than one set of clothes, the prisoners' representative shall be permitted to withdraw excess clothing from those with the largest number of sets, or particular articles in excess of one, if this is necessary in order to supply prisoners who are less well provided. He shall not, however, withdraw second sets of underclothing, socks or footwear, unless this is the only means of providing for prisoners of war with none.

Article 8

The High Contracting Parties, and the Detaining Powers in particular, shall authorize, as far as possible and subject to the regulations governing the supply of the population, all purchases of goods made in their territories for the distribution of collective relief to prisoners of war. They shall similarly facilitate the transfer of funds and other financial measures of a technical or administrative nature taken for the purpose of making such purchases.

Article 9

The foregoing provisions shall not constitute an obstacle to the right of prisoners of war to receive collective relief before their arrival in a camp or in the course of transfer, nor to the possibility of representatives of the Protecting Power, the International Committee of the Red Cross, or any other body giving assistance to prisoners which may be responsible for the forwarding of such supplies, ensuring the distribution thereof to the addressees by any other means that they may deem useful.

ANNEX IV.

A. IDENTITYCARD
(see Article 4)

[...]

B. CAPTURE CARD
(see Article 70)

[...]

C. CORRESPONDENCE CARD AND LETTER
(see Article 71)

[...]

D. NOTIFICATION OF DEATH
(see Article 120)

[...]

E. REPATRIATION CERTIFICATE
(see Annex II, Article 11)

REPATRIATION CERTIFICATE

Date:

Camp:

Hospital:

Surname:

First names:

Date of birth:

Rank:

Army number:

P. W. number:

Injury-Disease:

Decision of the Commission:

Chairman of the
Mixed Medical Commission:

A= direct repatriation
B= accommodation in a neutral country
NC= re-examination by next Commission

ANNEX V

Model regulations concerning payments sent by prisoners to their own country

1. The notification referred to in the third paragraph of Article 63 will show:
(a) Number as specified in Article 17, rank, surname and first names of the prisoner of war who is the payer;
(b) The name and address of the payee in the country of origin;
(c) The amount to be so paid in the currency of the country in which he is detained.
2. The notification will be signed by the prisoner of war, or his witnessed mark made upon if it he cannot write, and shall be countersigned by the prisoners' representative.
3. The camp commander will add to this notification a certiciate that the prisoner of war concerned has a credit balance of not less than the amount registered as payable.
4. The notification may be made up in lists, each sheet of such lists witnessed by the prisoners' representative and certified by the camp commander.

Geneva Convention relative to the Protection of Civilian Persons in Time of War

Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949

***entry into force* 21 October 1950**

PART I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

The provisions of Part II are, however, wider in application, as defined in Article 13.

Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, or by the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, shall not be considered as protected persons within the meaning of the present Convention.

Article 5

Where, in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as

having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity, and in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

Article 6

The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: I to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, and 143.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention. Article 7

In addition to the agreements expressly provided for in Articles 11, 14, 15, 17, 36, 108, 109, 132, 133 and 149, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, nor restrict the rights which it confers upon them.

Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 8

Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 9

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Article 10

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief.

Article 11

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When persons protected by the present Convention do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State with which the State of which they are nationals has not normal diplomatic representation.

Article 12

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement. For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for protected person, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross who shall be invited to take part in such a meeting.

PART II

GENERAL PROTECTION OF POPULATIONS

AGAINST CERTAIN CONSEQUENCES OF WAR

Article 13

The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war.

Article 14

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to-the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

Article 15

Any Party to the conflict may, either directly or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction:

(a) Wounded and sick combatants or non-combatants;

(b) Civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.

When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

Article 16

The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect.

As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

Article 1 7

The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.

Article 18

Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.

States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19.

Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, but only if so authorized by the State.

The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action.

In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

Article 19

The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a

reasonable time limit, and after such warning has remained unheeded.

The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants which have not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy.

Article 20

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armlet which they shall wear on the left arm while carrying out their duties. This armlet shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Other personnel who are engaged in the operation and administration of civilian hospitals shall be entitled to respect and protection and to wear the armlet, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed.

The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

Article 21

Convoys of vehicles or hospital trains on land or specially provided vessels on sea, conveying wounded and sick civilians, the infirm and maternity cases, shall be respected and protected in the same manner as the hospitals provided for in Article 18, and shall be marked, with the consent of the State, by the display of the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Article 22

Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases, or for the transport of medical personnel and equipment, shall not be attacked, but shall be respected while flying at heights, times and on routes specifically agreed upon between all the Parties to the conflict concerned.

They may be marked with the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

Article 23

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

(a) That the consignments may be diverted from their destination;

(b) That the control may not be effective; or

(c) That a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the

enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited there by being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

Article 24

The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

Article 25

All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay.

If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 140, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month.

Article 26

Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

PART III

STATUS AND TREATMENT OF PROTECTED PERSONS

SECTION I

PROVISIONS COMMON TO THE TERRITORIES OF THE PARTIES

TO TEE CONFLICT AND TO OCCUPIED TERRITORIES

Article 27

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard

to protected persons as may be necessary as a result of the war.

Article 28

The presence of a protected person may not be used to render certain points or areas immune from military operations.

Article 29

The Party to the conflict in whose hands protected persons may be is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.

Article 30

Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them.

These several organizations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations.

Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article 143, the Detaining or Occupying Powers shall facilitate as much as possible visits to protected persons by the representatives of other organizations whose object is to give spiritual aid or material relief to such persons.

Article 31

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Article 32

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person but also to any other measures of brutality whether applied by civilian or military agents.

Article 33

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Article 34

The taking of hostages is prohibited.

SECTION 11

ALIENS IN THE TERRITORY OF A PARTY TO THE CONFLICT

Article 35

All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use.

If any such person is refused permission to leave the territory, he shall be entitled to have such refusal reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose.

Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

Article 36

Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food. All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited. The practical details of such movements may, if necessary, be settled by special agreements between the Powers concerned.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

Article 37

Protected persons who are confined pending proceedings or serving a sentence involving loss of liberty shall during their confinement be humanely treated.

As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles.

Article 38

With the exception of special measures authorized by the present Convention, in particular by Articles 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:

1. They shall be enabled to receive the individual or collective relief that may be sent to them.

2. They shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.

3. They shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.

4. If they reside in an area particularly exposed to the dangers of war, they shall be authorized to move from that area to the same extent as the nationals of the State concerned.

5. Children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Article 39

Protected persons who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the Power in whose territory they are.

Where a Party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.

Protected persons may in any case receive allowances from their home country, the Protecting Power, or the relief societies referred to in Article 30.

Article 40

Protected persons may be compelled to work only to the same extent as nationals of the Party to the conflict in whose territory they are.

If protected persons are of enemy nationality, they may only be compelled to do work which is normally necessary to ensure the feeding, sheltering, clothing, transport and health of human beings and which is not directly related to the conduct of military operations.

In the cases mentioned in the two preceding paragraphs, protected persons compelled to work shall have the benefit of the same working conditions and of the same safeguards as national workers, in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for occupational accidents and diseases.

If the above provisions are infringed, protected persons shall be allowed to exercise their right

of complaint in accordance with Article 30.

Article 41

Should the Power in whose hands protected persons may be consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43.

In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residences by virtue of a decision placing them in assigned residence elsewhere. the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

Article 42

The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary.

If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

Article 43

Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision, if circumstances permit.

Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power.

Article 44

In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality de jure of an enemy State, refugees who do not, in fact, enjoy the protection of any government.

Article 45

Protected persons shall not be transferred to a Power which is not a party to the Convention.

This provision shall in no way constitute an obstacle to the repatriation of protected persons, or

to their return to their country of residence after the cessation of hostilities.

Protected persons may be transferred by the Detaining Power only to a Power which is a party to the present Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the present Convention. If protected persons are transferred under such circumstances, responsibility for the application of the present Convention rests on the Power accepting them, while they are in its custody. Nevertheless, if that Power fails to carry out the provisions of the present Convention in any important respect, the Power by which the protected persons were transferred shall, upon being so notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the protected persons. Such request must be complied with.

In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs.

The provisions of this Article do not constitute an obstacle to the extradition, in pursuance of extradition treaties concluded before the outbreak of hostilities, of protected persons accused of offences against ordinary criminal law.

Article 46

In so far as they have not been previously withdrawn, restrictive measures taken regarding protected persons shall be cancelled as soon as possible after the close of hostilities.

Restrictive measures affecting their property shall be cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities.

SECTION 111

OCCUPIED TERRITORIES

Article 47

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Article 48

Protected persons who are not nationals of the Power whose territory is occupied may avail themselves of the right to leave the territory subject to the provisions of Article 35, and decisions thereon shall be taken according to the procedure which the Occupying Power shall establish in accordance with the said Article.

Article 49

Individual or mass forcible transfers, as well as deportations of protected persons from

occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons do demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.

The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

Article 50

The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.

Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.

Article 51

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article.

In no case shall requisition of labour lead to a mobilization of workers in an organization of a military or semi-military character.

Article 52

No contract, agreement or regulation shall impair the right of any worker, whether voluntary or not and wherever he may be, to apply to the representatives of the Protecting Power in order to request the said Power's intervention.

All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited.

Article 53

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

Article 54

The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.

This prohibition does not prejudice the application of the second paragraph of Article 51. It does not affect the right of the Occupying Power to remove public officials from their posts.

Article 55

To the fullest extent of the means available to it the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.

The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements.

Article 56

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article 18. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20 and 21.

In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

Article 57

The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.

The material and stores of civilian hospitals cannot be requisitioned so long as they are necessary for the needs of the civilian population.

Article 58

The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities.

The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory.

Article 59

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

Article 60

Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.

Article 61

The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the cooperation and under the supervision of the Protecting Power. This duty may also be delegated, by agreement between the Occupying Power and the Protecting Power, to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.

Such consignments shall be exempt in occupied territory from all charges, taxes or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate the rapid distribution of these consignments.

All Contracting Parties shall endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.

Article 62

Subject to imperative reasons of security, protected persons in occupied territories shall be permitted to receive the individual relief consignments sent to them.

Article 63

Subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power:

(a) Recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions;

(b) The Occupying Power may not require any changes in the personnel or structure of these societies, which would prejudice the aforesaid activities.

The same principles shall apply to the activities and personnel of special organizations of a non-military character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian population by the maintenance of the essential public utility services, by the distribution of relief and by the organization of rescues.

Article 64

The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

Article 65

The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.

Article 66

In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article 64, the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied country.

Article 67

The courts shall apply only those provisions of law which were applicable prior to the offence, and which are in accordance with general principles of law, in particular the principle that the

penalty shall be proportioned to the offence. They shall take into consideration the fact that the accused is not a national of the Occupying Power.

Article 68

Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that, since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced against a protected person who was under eighteen years of age at the time of the offence.

Article 69

In all cases, the duration of the period during which a protected person accused of an offence is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment awarded.

Article 70

Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.

Nationals of the Occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

Article 71

No sentence shall be pronounced by the competent courts of the Occupying Power except

after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings. Furthermore, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars:

(a) Description of the accused;

(b) Place of residence or detention;

(c) Specification of the charge or charges (with mention of the penal provisions under which it is brought);

(d) Designation of the court which will hear the case;

(e) Place and date of the first hearing.

Article 72

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.

Failing a choice by the accused, the Protecting Power may provide him with an advocate or counsel. When an accused person has to meet a serious charge and the Protecting Power is not functioning, the Occupying Power, subject to the consent of the accused, shall provide an advocate or counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have the right at any time to object to the interpreter and to ask for his replacement.

Article 73

A convicted person shall have the right of appeal provided for by the laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

The penal procedure provided in the present Section shall apply, as far as it is applicable, to appeals. Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the Occupying Power.

Article 74

Representatives of the Protecting Power shall have the right to attend the trial of any protected person, unless the hearing has, as an exceptional measure, to be held in camera in the interests of the security of the Occupying Power, which shall then notify the Protecting Power. A notification in respect of the date and place of trial shall be sent to the Protecting Power.

Any judgment involving a sentence of death, or imprisonment for two years or more, shall be communicated, with the relevant grounds, as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article 71, and in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of judgments other than those referred to above shall be kept by the court and shall be open to inspection by representatives of the Protecting Power. Any period allowed for appeal in the case of sentences involving the death penalty, or imprisonment for two years or more, shall not run until notification of judgment has been received by the Protecting Power.

Article 75

In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve.

No death sentence shall be carried out before the expiration of a period of at least six months from the date of receipt by the Protecting Power of the notification of the final judgment confirming such death sentence, or of an order denying pardon or reprieve.

The six months period of suspension of the death sentence herein prescribed may be reduced in individual cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences.

Article 76

Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country.

They shall receive the medical attention required by their state of health.

They shall also have the right to receive any spiritual assistance which they may require.

Women shall be confined in separate quarters and shall be under the direct supervision of women.

Proper regard shall be paid to the special treatment due to minors.

Protected persons who are detained shall have the right to be visited by delegates of the Protecting Power and of the International Committee of the Red Cross, in accordance with the provisions of Article 143.

Such persons shall have the right to receive at least one relief parcel monthly.

Article 77

Protected persons who have been accused of offences or convicted by the courts in occupied territory shall be handed over at the close of occupation, with the relevant records, to the authorities of the liberated territory.

Article 78

If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.

Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.

SECTION IV

REGULATIONS FOR THE TREATMENT OF INTERNEES

Chapter I

GENERAL PROVISIONS

Article 79

The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

Article 80

Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status.

Article 81

Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health.

No deduction from the allowances, salaries or credits due to the internees shall be made for the repayment of these costs.

The Detaining Power shall provide for the support of those dependent on the internees, if such dependants are without adequate means of support or are unable to earn a living.

Article 82

The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.

Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them.

Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

Chapter II

PLACES OF INTERNMENT

Article 83

The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war.

The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment.

Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

Article 84

Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

Article 85

The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned , is in an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit.

The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees.

Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them.

Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

Article 86

The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services.

Article 87

Canteens shall be installed in every place of internment, except where other suitable facilities are available. Their purpose shall be to enable internees to make purchases, at prices not higher than local market prices, of foodstuffs and articles of everyday use, including soap and tobacco, such as would increase their personal well-being and comfort.

Profits made by canteens shall be credited to a welfare fund to be set up for each place of internment, and administered for the benefit of the internees attached to such place of internment. The Internee Committee provided for in Article 102 shall have the right to check the management of the canteen and of the said fund.

When a place of internment is closed down, the balance of the welfare fund shall be transferred to the welfare fund of a place of internment for internees of the same nationality, or, if such a place does not exist, to a central welfare fund which shall be administered for the benefit of all internees remaining in the custody of the Detaining Power. In case of a general release, the said profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Article 88

In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them.

All due precautions must be taken in places of internment against the danger of fire.

Chapter III

FOOD AND CLOTHING

Article 89

Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees.

Internees shall also be given the means by which they can prepare for themselves any additional food in their possession.

Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.

Internees who work shall receive additional rations in proportion to the kind of labour which they perform.

Expectant and nursing mothers and children under fifteen years of age shall be given additional food, in proportion to their physiological needs.

Article 90

When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power.

The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule.

Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires.

Chapter IV

HYGIENE AND MEDICAL ATTENTION

Article 91

Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as an appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases.

Maternity cases and internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population.

Internees shall, for preference, have the attention of medical personnel of their own nationality.

Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee who has undergone treatment an official certificate showing the nature of his illness or injury, and the duration and nature of the treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article 140.

Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other artificial appliances and spectacles, shall be free of charge to the internee.

Article 92

Medical inspections of internees shall be made at least once a month. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of internees, and to detect contagious diseases, especially tuberculosis, malaria, and venereal diseases. Such inspections shall include, in particular, the checking of weight of each internee and, at least once a year, radioscopic examination.

Chapter V

RELIGIOUS, INTELLECTUAL AND PHYSICAL ACTIVITIES

Article 93

Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities.

Ministers of religion who are interned shall be allowed to minister freely to the members of their community. For this purpose, the Detaining Power shall ensure their equitable allocation amongst the various places of internment in which there are internees speaking the same language and be longing to the same religion. Should such ministers be too few in number, the Detaining Power shall provide them with the necessary facilities, including means of transport, for moving from one place to another, and they shall be authorized to visit any internees who are in hospital. Ministers of religion shall be at liberty to correspond on matters concerning their ministry with the religious authorities in the country of detention and, as far as possible, with the international religious organizations of their faith. Such correspondence shall not be

considered as forming a part of the quota mentioned in Article 107. It shall, however, be subject to the provisions of Article 112.

When internees do not have at their disposal the assistance of ministers of their faith, or should these latter be too few in number, the local religious authorities of the same faith may appoint, in agreement with the Detaining Power, a minister of the internees' faith or, if such a course is feasible from a denominational point of view, a minister of similar religion or a qualified layman. The latter shall enjoy the facilities granted to the ministry he has assumed. Persons so appointed shall comply with all regulations laid down by the Detaining Power in the interests of discipline and security.

Article 94

The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees, whilst leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises.

All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.

Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people.

Article 95

The Detaining Power shall not employ internees as workers, unless they so desire. Employment which, if undertaken under compulsion by a protected person not in internment, would involve a breach of Articles 40 or 51 of the present Convention, and employment on work which is of a degrading or humiliating character are in any case prohibited.

After a working period of six weeks, internees shall be free to give up work at any moment, subject to eight days' notice.

These provisions constitute no obstacle to the right of the Detaining Power to employ interned doctors, dentists and other medical personnel in their professional capacity on behalf of their fellow internees, or to employ internees for administrative and maintenance work in places of internment and to detail such persons for work in the kitchens or for other domestic tasks, or to require such persons to undertake duties connected with the protection of internees against aerial bombardment or other war risks. No internee may, however, be required to perform tasks for which he is, in the opinion of a medical officer, physically unsuited.

The Detaining Power shall take entire responsibility for all working conditions, for medical attention, for the payment of wages, and for ensuring that all employed internees receive compensation for occupational accidents and diseases. The standards prescribed for the said working conditions and for compensation shall be in accordance with the national laws and regulations, and with the existing practice; they shall in no case be inferior to those obtaining for work of the same nature in the same district. Wages for work done shall be determined on

an equitable basis by special agreements between the internees, the Detaining Power, and, if the case arises, employers other than the Detaining Power, due regard being paid to the obligation of the Detaining Power to provide for free maintenance of internees and for the medical attention which their state of health may require. Internees permanently detailed for categories of work mentioned in the third paragraph of this Article shall be paid fair wages by the Detaining Power. The working conditions and the scale of compensation for occupational accidents and diseases to internees thus detailed shall not be inferior to those applicable to work of the same nature in the same district.

Article 96

All labour detachments shall remain part of and dependent upon a place of internment. The competent authorities of the Detaining Power and the commandant of a place of internment shall be responsible for the observance in a labour detachment of the provisions of the present Convention. The commandant shall keep an up-to-date list of the labour detachments subordinate to him and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross and of other humanitarian organizations who may visit the places of internment.

Chapter VI

PERSONAL PROPER AND FINANCIAL RESOURCES

Article 97

Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefor.

The amounts shall be paid into the account of every internee as provided for in Article 98. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent.

Articles which have above all a personal or sentimental value may not be taken away.

A woman internee shall not be searched except by a woman.

On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article 98, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt.

Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment.

Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases.

Article 98

All internees shall receive regular allowances, sufficient to enable them to purchase goods and articles, such as tobacco, toilet requisites, etc. Such allowances may take the form of credits or purchase coupons.

Furthermore, internees may receive allowances from the Power to which they owe allegiance, the Protecting Powers, the organizations which may assist them, or their families, as well as the income on their property in accordance with the law of the Detaining Power. The amount of allowances granted by the Power to which they owe allegiance shall be the same for each category of internees (infirm, sick, pregnant women, etc.), but may not be allocated by that Power or distributed by the Detaining Power on the basis of discrimination between internees which are prohibited by Article 27 of the present Convention.

The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances named in the present Article, the wages earned and the remittances received, together with such sums taken from him as may be available under the legislation in force in the territory in which he is interned. Internees shall be granted all facilities consistent with the legislation in force in such territory to make remittances to their families and to other dependants. They may draw from their accounts the amounts necessary for their personal expenses, within the limits fixed by the Detaining Power. They shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts. A statement of accounts shall be furnished to the Protecting Power on request, and shall accompany the internee in case of transfer.

Chapter VII

ADMINISTRATION AND DISCIPLINE

Article 99

Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application.

The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee.

Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment, in a language which they understand.

Every order and command addressed to internees individually must likewise be given in a language which they understand.

Article 100

The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body is prohibited.

In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited.

Article 101

Internees shall have the right to present to the authorities in whose power they are any petition with regard to the conditions of internment to which they are subjected.

They shall also have the right to apply without restriction through the Internee Committee or, if they consider it necessary, direct to the representatives of the Protecting Power, in order to indicate to them any points on which they may have complaints to make with regard to the conditions of internment.

Such petitions and complaints shall be transmitted forthwith and without alteration, and even if the latter are recognized to be unfounded, they may not occasion any punishment.

Periodic reports on the situation in places of internment and as to the needs of the internees may be sent by the Internee Committees to the representatives of the Protecting Powers.

Article 102

In every place of internment, the internees shall freely elect by secret ballot every six months, the members of a Committee empowered to represent them before the Detaining and the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. The members of the Committee shall be eligible for re-election.

Internees so elected shall enter upon their duties after their election has been approved by the detaining authorities. The reasons for any refusals or dismissals shall be communicated to the Protecting Powers concerned.

Article 103

The Internee Committees shall further the physical, spiritual and intellectual well-being of the internees.

In case the internees decide, in particular, to organize a system of mutual assistance amongst themselves, this organization would be within the competence of the Committees in addition to the special duties entrusted to them under other provisions of the present Convention.

Article 104

Members of Internee Committees shall not be required to perform any other work, if the accomplishment of their duties is rendered more difficult thereby.

Members of Internee Committees may appoint from amongst the internees such assistants as

they may require. All material facilities shall be granted to them, particularly a certain freedom of movement necessary for the accomplishment of their duties (visits to labour detachments, receipt of supplies, etc.).

All facilities shall likewise be accorded to members of Internee Committees for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, and with the organizations which give assistance to internees. Committee members in labour detachments shall enjoy similar facilities for communication with their Internee Committee in the principal place of internment. Such communications shall not be limited, nor considered as forming a part of the quota mentioned in Article 107.

Members of Internee Committees who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

Chapter VIII

RELATIONS WITH THE EXTERIOR

Article 105

Immediately upon interning protected persons, the Detaining Power shall inform them, the Power to which they owe allegiance and their Protecting Power of the measures taken for executing the provisions of the present Chapter. The Detaining Power shall likewise inform the Parties concerned of any subsequent modifications of such measures.

Article 106

As soon as he is interned, or at the latest not more than one week after his arrival in a place of internment, and likewise in cases of sickness or transfer to another place of internment or to a hospital, every internee shall be enabled to send direct to his family, on the one hand, and to the Central Agency provided for by Article 140, on the other, an internment card similar, if possible, to the model annexed to the present Convention, informing his relatives of his detention, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any way.

Article 107

Internees shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each internee, the said number shall not be less than two letters and four cards monthly; these shall be drawn up so as to conform as closely as possible to the models annexed to the present Convention. If limitations must be placed on the correspondence addressed to internees, they may be ordered only by the Power to which such internees owe allegiance, possibly at the request of the Detaining Power. Such letters and cards must be conveyed with reasonable despatch; they may not be delayed or retained for disciplinary reasons.

Internees who have been a long time without news, or who find it impossible to receive news from their relatives, or to give them news by the ordinary postal route, as well as those who are at a considerable distance from their homes, shall be allowed to send telegrams, the charges

being paid by them in the currency at their disposal. They shall likewise benefit by this provision in cases which are recognized to be urgent.

As a rule, internees' mail shall be written in their own language. The Parties to the conflict may authorize correspondence in other languages.

Article 108

Internees shall be allowed to receive, by post or by any other means, individual parcels or collective shipments containing in particular foodstuffs, clothing, medical supplies, as well as books and objects of a devotional, educational or recreational character which may meet their needs. Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

Should military necessity require the quantity of such shipments to be limited, due notice thereof shall be given to the Protecting Power and to the International Committee of the Red Cross, or to any other organization giving assistance to the internees and responsible for the forwarding of such shipments.

The conditions for the sending of individual parcels and collective shipments shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the internees of relief supplies. Parcels of clothing and foodstuffs may not include books. Medical relief supplies shall, as a rule, be sent in collective parcels.

Article 109

In the absence of special agreements between Parties to the conflict regarding the conditions for the receipt and distribution of collective relief shipments, the regulations concerning collective relief which are annexed to the present Convention shall be applied.

The special agreements provided for above shall in no case restrict the right of Internee Committees to take possession of collective relief shipments intended for internees, to undertake their distribution and to dispose of them in the interests of the recipients.

Nor shall such agreements restrict the right of representatives of the Protecting Powers, the International Committee of the Red Cross, or any other organization giving assistance to internees and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

Article 110

All relief shipments for internees shall be exempt from import, customs and other dues.

All matter sent by mail, including relief parcels sent by parcel post and remittances of money, addressed from other countries to internees or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article 136 and the Central Information Agency provided for in Article 140, shall be exempt from all postal dues both in the countries of origin and destination and in intermediate countries. To this end. in particular, the exemption provided by the Universal Postal Convention of 1947 and by the agreements of the

Universal Postal Union in favour of civilians of enemy nationality detained in camps or civilian prisons, shall be extended to the other interned persons protected by the present Convention. The countries not signatory to the above-mentioned agreements shall be bound to grant freedom from charges in the same circumstances.

The cost of transporting relief shipments which are intended for internees and which, by reason of their weight or any other cause, cannot be sent through the post office, shall be borne by the Detaining Power in all the territories under its control. Other Powers which are Parties to the present Convention shall bear the cost of transport in their respective territories.

Costs connected with the transport of such shipments, which are not covered by the above paragraphs, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the charges for telegrams sent by internees, or addressed to them.

Article 111

Should military operations prevent the Powers concerned from fulfilling their obligation to ensure the conveyance of the mail and relief shipments provided for in Articles 106, 107, 108 and 113, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake the conveyance of such shipments by suitable means (rail, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport, and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

(a) Correspondence, lists and reports exchanged between the Central Information Agency referred to in Article 140 and the National Bureaux referred to in Article 136;

(b) Correspondence and reports relating to internees which the Protecting Powers, the International Committee of the Red Cross or any other organization assisting the internees exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

The costs occasioned by the use of such means of transport shall be borne, in proportion to the importance of the shipments, by the Parties to the conflict whose nationals are benefited thereby.

Article 112

The censoring of correspondence addressed to internees or despatched by them shall be done as quickly as possible.

The examination of consignments intended for internees shall not be carried out under conditions that will expose the goods contained in them to deterioration. It shall be done in the

presence of the addressee, or of a fellow-internee duly delegated by him. The delivery to internees of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by the Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

Article 113

The Detaining Powers shall provide all reasonable facilities for the transmission, through the Protecting Power or the Central Agency provided for in Article 140, or as otherwise required, of wills, powers of attorney letters of authority, or any other documents intended for internees or despatched by them.

In all cases the Detaining Power shall facilitate the execution and authentication in due legal form of such documents on behalf of internees, in particular by allowing them to consult a lawyer.

Article 114

The Detaining Power shall afford internees all facilities to enable them to manage their property, provided this is not incompatible with the conditions of internment and the law which is applicable. For this purpose, the said Power may give them permission to leave the place of internment in urgent cases and if circumstances allow.

Article 115

In all cases where an internee is a party to proceedings in any court, the Detaining Power shall, if he so requests, cause the court to be informed of his detention and shall, within legal limits, ensure that all necessary steps are taken to prevent him from being in any way prejudiced, by reason of his internment, as regards the preparation and conduct of his case or as regards the execution of any judgment of the court.

Article 116

Every internee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible.

As far as is possible, internees shall be permitted to visit their homes in urgent cases, particularly in cases of death or serious illness of relatives.

Chapter IX

PENAL AND DISCIPLINARY SANCTIONS

Article 117

Subject to the provisions of the present Chapter, the laws in force in the territory in which they are detained will continue to apply to internees who commit offences during internment.

If general laws, regulations or orders declare acts committed by internees to be punishable, whereas the same acts are not punishable when committed by persons who are not internees, such acts shall entail disciplinary punishments only.

No internee may be punished more than once for the same act, or on the same count.

Article 118

The courts or authorities shall in passing sentence take as far as possible into account the fact that the defendant is not a national of the Detaining Power. They shall be free to reduce the penalty prescribed for the offence with which the internee is charged and shall not be obliged, to this end, to apply the minimum sentence prescribed.

Imprisonment in premises without daylight, and, in general, all forms of cruelty without exception are forbidden.

Internees who have served disciplinary or judicial sentences shall not be treated differently from other internees.

The duration of preventive detention undergone by an internee shall be deducted from any disciplinary or judicial penalty involving confinement to which he may be sentenced.

Internee Committees shall be informed of all judicial proceedings instituted against internees whom they represent, and of their result.

Article 119

The disciplinary punishments applicable to internees shall be the following:

1. A fine which shall not exceed 50 per cent of the wages which the internee would otherwise receive under the provisions of Article 95 during a period of not more than thirty days.

2. Discontinuance of privileges granted over and above the treatment provided for by the present Convention.

3. Fatigue duties, not exceeding two hours daily, in connection with the maintenance of the place of internment.

4. Confinement.

In no case shall disciplinary penalties be inhuman, brutal or dangerous for the health of internees. Account shall be taken of the internee's age, sex and state of health.

The duration of any single punishment shall in no case exceed a maximum of thirty consecutive days, even if the internee is answerable for several breaches of discipline when his case is dealt with, whether such breaches are connected or not.

Article 120

Internees who are recaptured after having escaped or when attempting to escape shall be liable only to disciplinary punishment in respect of this act, even if it is a repeated offence.

Article 118, paragraph 3, notwithstanding, internees punished as a result of escape or attempt to escape, may be subjected to special surveillance, on condition that such surveillance does not affect the state of their health, that it is exercised in a place of internment and that it does not entail the abolition of any of the safeguards granted by the present Convention.

Internees who aid and abet an escape, or attempt to escape, shall be liable on this count to disciplinary punishment only.

Article 121

Escape, or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance in cases where an internee is prosecuted for offences committed during his escape.

The Parties to the conflict shall ensure that the competent authorities exercise leniency in deciding whether punishment inflicted for an offence shall be of a disciplinary or judicial nature, especially in respect of acts committed in connection with an escape, whether successful or not.

Article 122

Acts which constitute offences against discipline shall be investigated immediately. This rule shall be applied, in particular, in cases of escape or attempt to escape. Recaptured internees shall be handed over to the competent authorities as soon as possible.

In case of offences against discipline, confinement awaiting trial shall be reduced to an absolute minimum for all internees, and shall not exceed fourteen days. Its duration shall in any case be deducted from any sentence of confinement.

The provisions of Articles 124 and 125 shall apply to internees who are in confinement awaiting trial for offences against discipline.

Article 123

Without prejudice to the competence of courts and higher authorities, disciplinary punishment may be ordered only by the commandant of the place of internment, or by a responsible officer or official who replaces him, or to whom he has delegated his disciplinary powers.

Before any disciplinary punishment is awarded, the accused internee shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced in the presence of the accused and of a member of the Internee Committee.

The period elapsing between the time of award of a disciplinary punishment and its execution

shall not exceed one month.

When an internee is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

A record of disciplinary punishments shall be maintained by the commandant of the place of internment and shall be open to inspection by representatives of the Protecting Power.

Article 124

Internees shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

The premises in which disciplinary punishments are undergone shall conform to sanitary requirements; they shall in particular be provided with adequate bedding. Internees undergoing punishment shall be enabled to keep themselves in a state of cleanliness.

Women internees undergoing disciplinary punishment shall be confined in separate quarters from male internees and shall be under the immediate supervision of women.

Article 125

Internees awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, if they so request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the infirmary of the place of internment or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of their punishment; such consignments shall meanwhile be entrusted to the Internee Committee, who will hand over to the infirmary the perishable goods contained in the parcels.

No internee given a disciplinary punishment may be deprived of the benefit of the provisions of Articles 107 and 143 of the present Convention.

Article 126

The provisions of Articles 71 to 76 inclusive shall apply, by analogy, to proceedings against internees who are in the national territory of the Detaining Power.

Chapter X

TRANSFERS OF INTERNEES

Article 127

The transfer of internees shall always be effected humanely. As a general rule, it shall be carried out by rail or other means of transport, and under conditions at least equal to those obtaining for the forces of the Detaining Power in their changes of station. If, as an exceptional measure, such removals have to be effected on foot, they may not take place unless the internees are in a fit state of health, and may not in any case expose them to excessive fatigue.

The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health, and also with the necessary clothing, adequate shelter and the necessary medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during transfer, and shall establish before their departure a complete list of all internees transferred.

Sick, wounded or infirm internees and maternity cases shall not be transferred if the journey would be seriously detrimental to them, unless their safety imperatively so demands.

If the combat zone draws close to a place of internment, the internees in the said place shall not be transferred unless their removal can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

When making decisions regarding the transfer of internees, the Detaining Power shall take their interests into account and, in particular, shall not do anything to increase the difficulties of repatriating them or returning them to their own homes.

Article 128

In the event of transfer, internees shall be officially advised of their departure and of their new postal address. Such notification shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited if the conditions of transfer so require, but in no case to less than twenty-five kilograms per internee.

Mail and parcels addressed to their former place of internment shall be forwarded to them without delay.

The commandant of the place of internment shall take, in agreement with the Internee Committee, any measures needed to ensure the transport of the internees' community property and of the luggage the internees are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph.

Chapter XI

DEATHS

Article 129

The wills of internees shall be received for safe-keeping by the responsible authorities; and in the event of the death of an internee his will shall be transmitted without delay to a person

whom he has previously designated.

Deaths of internees shall be certified in every case by a doctor, and a death certificate shall be made out, showing the causes of death and the conditions under which it occurred.

An official record of the death, duly registered, shall be drawn up in accordance with the procedure relating thereto in force in the territory where the place of internment is situated, and a duly certified copy of such record shall be transmitted without delay to the Protecting Power as well as to the Central Agency referred to in Article 140.

Article 130

The detaining authorities shall ensure that internees who die while interned are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, properly maintained, and marked in such a way that they can always be recognized.

Deceased internees shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be' cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his expressed wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased. The ashes shall be retained for safe-keeping by the detaining authorities and shall be transferred as soon as possible to the next of kin on their request.

As soon as circumstances permit, and not later than the close of hostilities, the Detaining Power shall forward lists of graves of deceased internees to the Powers on whom the deceased internees depended, through the Information Bureaux provided for in Article 136. Such lists shall include all particulars necessary for the identification of the deceased internees, as well as the exact location of their graves.

Article 131

Every death or serious injury of an internee, caused or suspected to have been caused by a sentry, another internee or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Projecting Power. The evidence of any witnesses shall be taken, and a report including such evidence shall be prepared and forwarded to the said Protecting power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all necessary steps to ensure the prosecution of the person or persons responsible.

Chapter XII

RELEASE, REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES

Article 132

Each interned person shall be released by the Detaining Power as soon as the reasons which

necessitated his internment no longer exist.

The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, the repatriation, the return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick, and internees who have been detained for a long time.

Article 133

Internment shall cease as soon as possible after the close of hostilities.

Internees, in the territory of a Party to the conflict, against whom penal proceedings are pending for offences not exclusively subject to disciplinary penalties, may be detained until the close of such proceedings and, if circumstances require, until the completion of the penalty. The same shall apply to internees who have been previously sentenced to a punishment depriving them of liberty.

By agreement between the Detaining Power and the Powers concerned, committees may be set up after the close of hostilities, or of the occupation of territories, to search for dispersed internees.

Article 134

The High Contracting Parties shall endeavour, upon the close of hostilities or occupation, to ensure the return of all internees to their last place of residence, or to facilitate their repatriation.

Article 135

The Detaining Power shall bear the expense of returning released internees to the places where they were residing when interned, or, if it took them into custody while they were in transit or on the high seas, the cost of completing their journey or of their return to their point of departure.

Where a Detaining Power refuses permission to reside in its territory to a released internee who previously had his permanent domicile therein, such Detaining Power shall pay the cost of the said internee's repatriation. If, however, the internee elects to return to his country on his own responsibility or in obedience to the Government of the Power to which he owes allegiance, the Detaining Power need not pay the expenses of his journey beyond the point of his departure from its territory. The Detaining Power need not pay the costs of repatriation of an internee who was interned at his own request.

If internees are transferred in accordance with Article 45, the transferring and receiving Powers shall agree on the portion of the above costs to be borne by each.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

SECTION V

INFORMATION BUREAUX AND CENTRAL AGENCY

Article 136

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall establish an official Information Bureau responsible for receiving and transmitting information in respect of the protected persons who are in its power.

Each of the Parties to the conflict shall, within the shortest possible period, give its Bureau information of any measure taken by it concerning any protected persons who are kept in custody for more than two weeks, who are subjected to assigned residence or who are interned. It shall, furthermore, require its various departments concerned with such matters to provide the aforesaid Bureau promptly with information concerning all changes pertaining to these protected persons, as, for example, transfers, release, repatriations, escapes, admittances to hospitals, births and deaths.

Article 137

Each national Bureau shall immediately forward information concerning protected persons by the most rapid means to the Powers of whom the aforesaid persons are nationals, or to Powers in whose territory they resided, through the intermediary of the Protecting Powers and likewise through the Central Agency provided for in Article 140. The Bureaux shall also reply to all enquiries which may be received regarding protected persons.

Information Bureaux shall transmit information concerning a protected person unless its transmission might be detrimental to the person concerned or to his or her relatives. Even in such a case, the information may not be withheld from the Central Agency which, upon being notified of the circumstances, will take the necessary precautions indicated in Article 140.

All communications in writing made by any Bureau shall be authenticated by a signature or a seal.

Article 138

The information received by the national Bureau and transmitted by it shall be of such a character as to make it possible to identify the protected person exactly and to advise his next of kin quickly. The information in respect of each person shall include at least his surname, first names, place and date of birth, nationality, last residence and distinguishing characteristics, the first name of the father and the maiden name of the mother, the date, place and nature of the action taken with regard to the individual, the address at which correspondence may be sent to him and the name and address of the person to be informed.

Likewise, information regarding the state of health of internees who are seriously ill or seriously wounded shall be supplied regularly and if possible every week.

Article 139

Each national Information Bureau shall, furthermore, be responsible for collecting all personal

valuables left by protected persons mentioned in Article 136, in particular those who have been repatriated or released, or who have escaped or died; it shall forward the said valuables to those concerned, either direct, or, if necessary, through the Central Agency. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full identity particulars of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Detailed records shall be maintained of the receipt and despatch of all such valuables.

Article 140

A Central Information Agency for protected persons, in particular for internees, shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency, which may be the same as that provided for in Article 123 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

The function of the Agency shall be to collect all information of the type set forth in Article 136 which it may obtain through official or private channels and to transmit it as rapidly as possible to the countries of origin or of residence of the persons concerned, except in cases where such transmissions might be detrimental to the persons whom the said information concerns, or to their relatives. It shall receive from the Parties to the conflict all reasonable facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross and of the relief Societies described in Article 142.

Article 141

The national Information Bureaux and the Central Information Agency shall enjoy free postage for all mail, likewise the exemptions provided for in Article 110, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

PART IV

EXECUTION OF THE CONVENTION

SECTION I

GENERAL PROVISIONS

Article 142

Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organizations assisting the protected persons, shall receive from these Powers, for themselves or their duly accredited agents, all facilities for visiting the

protected persons, for distributing relief supplies and material from any source, intended for educational, recreational or religious purposes , or for assisting them in organizing their leisure time within the places of internment. Such societies or organizations may be constituted in the territory of the Detaining Power, or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the supply of effective and adequate relief to all protected persons.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

Article 143

Representatives or delegates of the Protecting Powers shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work.

They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter.

Such visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure Their duration and frequency shall not be restricted.

Such representatives and delegates shall have full liberty to select the places they wish to visit. The Detaining or Occupying Power, the Protecting Power and when occasion arises the Power of origin of the persons to be visited, may agree that compatriots of the internees shall be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall also enjoy the above prerogatives. The appointment of such delegates shall be submitted to the approval of the Power governing the territories where they will carry out their duties.

Article 144

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population.

Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions.

Article 145

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the

present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Article 146

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another

High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Article 147

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Article 148

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Article 149

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

SECTION 11

FINAL PROVISIONS

Article 150

The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Article 151

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949.

Article 152

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 153

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Article 154

In the relations between the Powers who are bound by The Hague Conventions respecting the Laws and Customs of War on Land, whether that of 29 July, 1899, or that of 18 October, 1907, and who are parties to the present Convention, this last Convention shall be supplementary to Sections II and III of the Regulations annexed to the above-mentioned Conventions of The Hague.

Article 155

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Article 156

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 157

The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Article 158

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release, repatriation and re-establishment of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Article 159

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal

Council shall transmit certified copies thereof to each of the signatory and acceding States.

ANNEX I

Draft agreement relating to hospital and safety zones and localities

Article I

Hospital and safety zones shall be strictly reserved for the persons mentioned in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August, 1949, and in Article 14 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August, 1949, and for the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

Article 2

No persons residing, in whatever capacity, in a hospital and safety zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Article 3

The Power establishing a hospital and safety zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

Article 4

Hospital and safety zones shall fulfil the following conditions:

(a) They shall comprise only a small part of the territory governed by the Power which has established them.

(b) They shall be thinly populated in relation to the possibilities of accommodation.

(c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.

(d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

Article 5

Hospital and safety zones shall be subject to the following obligations:

(a) The lines of communication and means of transport which they possess shall not be used

for the transport of military personnel or material, even in transit.

(b) They shall in no case be defended by military means.

Article 6

Hospital and safety zones shall be marked by means of oblique red bands on a white ground, placed on the buildings and outer precincts.

Zones reserved exclusively for the wounded and sick may be marked by means of the Red Cross (Red Crescent, Red Lion and Sun) emblem on a white ground.

They may be similarly marked at night by means of appropriate illumination.

Article 7

The Powers shall communicate to all the High Contracting Parties in peacetime or on the outbreak of hostilities, a list of the hospital and safety zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse Party has received the above-mentioned notification, the zone shall be regularly established.

If, however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article 8.

Article 8

Any Power having recognized one or several hospital and safety zones instituted by the adverse Party shall be entitled to demand control by one or more Special Commissions. for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement.

For this purpose, members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

Article 9

Should the Special Commissions note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time limit of five days within which the matter should be rectified. They shall duly notify the Power who has recognized the zone.

If, when the time limit has expired. the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

Article 10

Any Power setting up one or more hospital and safety zones, and the adverse Parties to whom their existence has been notified, shall nominate or have nominated by the Protecting Powers or by other neutral Powers, persons eligible to be members of the Special Commissions mentioned in Articles 8 and 9.

Article 11

In no circumstances may hospital and safety zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

Article 12

In the case of occupation of a territory, the hospital and safety zones therein shall continue to be respected and utilized as such.

Their purpose may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

Article 13

The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital and safety zones.

ANNEX 11

Draft regulations concerning collective relief

Article I

The Internee Committees shall be allowed to distribute collective relief shipments for which they are responsible. to all internees who are dependent for administration on the said Committee's place of internment, including those internees who are in hospitals, or in prisons or other penitentiary establishments.

Article 2

The distribution of collective relief shipments shall be effected in accordance with the instructions of the donors and with a plan drawn up by the Internee Committees. The issue of medical stores shall, however, be made for preference in agreement with the senior medical officers, and the latter may, in hospitals and infirmaries, waive the said instructions, if the needs of their patients so demand. Within the limits thus defined, the distribution shall always be carried out equitably.

Article 3

Members of Internee Committees shall be allowed to go to the railway stations or other points of arrival of relief supplies near their places of internment so as to enable them to verify the

quantity as well as the quality of the goods received and to make out detailed reports thereon for the donors.

Article 4

Internee Committees shall be given the facilities necessary for verifying whether the distribution of collective relief in all subdivisions and annexes of their places of internment has been carried out in accordance with their instructions.

Article 5

Internee Committees shall be allowed to complete, and to cause to be completed by members of the Internee Committees in labour detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution, requirements, quantities, etc.). Such forms and questionnaires, duly completed, shall be forwarded to the donors without delay.

Article 6

In order to secure the regular distribution of collective relief supplies to the internees in their place of internment, and to meet any needs that may arise through the arrival of fresh parties of internees, the Internee Committees shall be allowed to create and maintain sufficient reserve stocks of collective relief. For this purpose, they shall have suitable warehouses at their disposal; each warehouse shall be provided with two locks, the Internee Committee holding the keys of one lock, and the commandant of the place of internment the keys of the other.

Article 7

The High Contracting Parties, and the Detaining Powers in particular, shall, so far as is in any way possible and subject to the regulations governing the food supply of the population, authorize purchases of goods to be made in their territories for the distribution of collective relief to the internees. They shall likewise facilitate the transfer of funds and other financial measures of a technical or administrative nature taken for the purpose of making such purchases.

Article 8

The foregoing provisions shall not constitute an obstacle to the right of internees to receive collective relief before their arrival in a place of internment or in the course of their transfer, nor to the possibility of representatives of the Protecting Power, or of the International Committee of the Red Cross or any other humanitarian organization giving assistance to internees and responsible for forwarding such supplies, ensuring the distribution thereof to the recipients by any other means they may deem suitable.

Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)

Adopted on 8 June 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts

***entry into force* 7 December 1978, in accordance with Article 23**

Preamble

The High Contracting Parties,

Recalling that the humanitarian principles enshrined in Article 3 common to the Geneva Conventions of 12 August 1949 constitute the foundation of respect for the human person in cases of armed conflict not of an international character,

Recalling furthermore that international instruments relating to human rights offer a basic protection to the human person,

Emphasizing the need to ensure a better protection for the victims of those armed conflicts,

Recalling that, in cases not covered by the law in force, the human person remains under the protection of the principles of humanity and the dictates of the public conscience,

Have agreed on the following:

PART I

SCOPE OF THIS PROTOCOL

Article 1.-Material field of application

1. This Protocol, which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions of application, shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.

2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

Article 2.-Personal field of application

1. This Protocol shall be applied without any adverse distinction founded on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria (hereinafter referred to as "adverse distinction") to all persons affected by an armed conflict as defined in Article 1.

2. At the end of the armed conflict, all the persons who have been deprived of their liberty or whose liberty has been restricted for reasons related to such conflict, as well as those deprived of their liberty or whose liberty is restricted after the conflict for the same reasons, shall enjoy the protection of Articles 5 and 6 until the end of such deprivation or restriction of liberty.

Article 3.-Non-intervention

1. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.

2. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the High Contracting Party in the territory of which that conflict occurs.

PART II

HUMANE TREATMENT

Article 4.-Fundamental guarantees

1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.

2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph I are and shall remain prohibited at any time and in any place whatsoever:

(a) Violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

(b) Collective punishments;

(c) Taking of hostages;

(d) Acts of terrorism;

(e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

(f)Slavery and the slave trade in all their forms;

(g) Pillage;

(h) Threats to commit any of the foregoing acts.

3. Children shall be provided with the care and aid they require, and in particular:

(a) They shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;

(b) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated;

(c) Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;

(d) The special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of sub-paragraph (c) and are captured;

(e) Measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.

Article 5.-Persons whose liberty has been restricted

1. In addition to the provisions of Article 4, the following provisions shall be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained:

(a) The wounded and the sick shall be treated in accordance with Article 7;

(b) The persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;

(c) They shall be allowed to receive individual or collective relief;

(d) They shall be allowed to practise their religion and, if requested and appropriate, to receive spiritual assistance from persons, such as chaplains, performing religious functions;

(e) They shall, if made to work, have the benefit of working conditions and

safeguards similar to those enjoyed by the local civilian population.

2. Those who are responsible for the internment or detention of the persons referred to in paragraph I shall also, within the limits of their capabilities, respect the following provisions relating to such persons:

(a) Except when men and women of a family are accommodated together, women shall be held in quarters separated from those of men and shall be under the immediate supervision of women;

(b) They shall be allowed to send and receive letters and cards, the number of which may be limited by the competent authority if it deems necessary;

(c) Places of internment and detention shall not be located close to the combat zone. The persons referred to in paragraph 1 shall be evacuated when the places where they are interned or detained become particularly exposed to danger arising out of the armed conflict, if their evacuation can be carried out under adequate conditions of safety;

(d) They shall have the benefit of medical examinations;

(e) Their physical or mental health and integrity shall not be endangered by an unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned, and which is not consistent with the generally accepted medical standards applied to free persons under similar medical circumstances.

3. Persons who are not covered by paragraph I but whose liberty has been restricted in any way whatsoever for reasons related to the armed conflict shall be treated humanely in accordance with Article 4 and with paragraphs 1 (a), (c) and (d), and 2 (b) of this Article.

4. If it is decided to release persons deprived of their liberty, necessary measures to ensure their safety shall be taken by those so deciding.

Article 6.-Penal prosecutions

1. This Article applies to the prosecution and punishment of criminal offences related to the armed conflict.

2. No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality. In particular:

(a) The procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;

(b) No one shall be convicted of an offence except on the basis of individual penal responsibility;

(c) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under the law, at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;

(d) Anyone charged with an offence is presumed innocent until proved guilty according to law;

(e) Anyone charged with an offence shall have the right to be tried in his presence;

(f) No one shall be compelled to testify against himself or to confess guilt.

3. A convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.

4. The death penalty shall not be pronounced on persons who were under the age of eighteen years at the time of the offence and shall not be carried out on pregnant women or mothers of young children.

5. At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.

PART III

WOUNDED, SICK AND SHIPWRECKED

Article 7.-Protection and care

1. All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected.

2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones.

Article 8.-Search

Whenever circumstances permit, and particularly after an engagement, all possible measures shall be taken, without delay, to search for and collect the wounded, sick and shipwrecked, to protect them against pillage and ill- treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled, and decently dispose of them.

Article 9.-Protection of medical and religious personnel

1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.

2. In the performance of their duties medical personnel may not be required to give priority to any person except on medical grounds.

Article 10.-General protection of medical duties

1. Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.

2. Persons engaged in medical activities shall neither be compelled to perform acts or to carry out work contrary to, nor be compelled to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or this Protocol.

3. The professional obligations of persons engaged in medical activities regarding information which they may acquire concerning the wounded and sick under their care shall, subject to national law, be respected.

4. Subject to national law, no person engaged in medical activities may be penalized in any way for refusing or failing to give information concerning the wounded and sick who are, or who have been, under his care.

Article 11.-Protection of medical units and transports

1. Medical units and transports shall be respected and protected at all times and shall not be the object of attack.

2. The protection to which medical units and transports are entitled shall not cease unless they are used to commit hostile acts, outside their humanitarian function. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

Article 12.-The distinctive emblem

Under the direction of the competent authority concerned, the distinctive emblem of the red cross, red crescent or red lion and sun on a white ground shall be displayed by medical and religious personnel and medical units, and on medical transports. It shall be respected in all circumstances. It shall not be used improperly.

PART IV

CIVILIAN POPULATION

Article 13.-Protection of the civilian population

1. The civilian population and individual civilians shall enjoy general protection against

the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities.

Article 14.-Protection of objects indispensable to the survival of the civilian population

Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.

Article 15.-Protection of works and installations containing dangerous forces

Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population.

Article 16.-Protection of cultural objects and of places of worship

Without prejudice to the provisions of The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, it is prohibited to commit any acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort.

Article 17.-Prohibition of forced movement of civilians

1. The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

2. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.

Article 18.-Relief societies and relief actions

1. Relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations, may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict. The civilian population may, even on its own initiative, offer to collect and care for the

wounded, sick and shipwrecked.

2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.

PART V

FINAL PROVISIONS

Article 19.-Dissemination

This Protocol shall be disseminated as widely as possible.

Article 20.-Signature

This Protocol shall be open for signature by the Parties to the Conventions six months after the signing of the Final Act and will remain open for a period of twelve months.

Article 21.-Ratification

This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Conventions.

Article 22.-Accession

This Protocol shall be open for accession by any Party to the Conventions which has not signed it. The instruments of accession shall be deposited with the depositary.

Article 23.-Entry into force

1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.

2. For each Party to the Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

Article 24.-Amendment

1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary which shall decide, after consultation with all the High Contracting Parties and the International Committee of the Red Cross, whether a conference should be convened to consider the proposed amendment.

2. The depositary shall invite to that conference all the High Contracting Parties as well

as the Parties to the Conventions, whether or not they are signatories of this Protocol.

Article 25.-Denunciation

1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect six months after receipt of the instrument of denunciation. If, however, on the expiry of six months, the denouncing Party is engaged in the situation referred to in Article I, the denunciation shall not take effect before the end of the armed conflict. Persons who have been deprived of liberty, or whose liberty has been restricted, for reasons related to the conflict shall nevertheless continue to benefit from the provisions of this Protocol until their final release.

2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.

Article 26.-Notifications

The depositary shall inform the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol, of:

(a) Signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 21 and 22;

(b) The date of entry into force of this Protocol under Article 23; and

(c) Communications and declarations received under Article 24.

Article 27.-Registration

1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

2. The depositary shall also inform the Secretariat of the United Nations of all ratifications and accessions received by it with respect to this Protocol.

Article 28.-Authentic texts

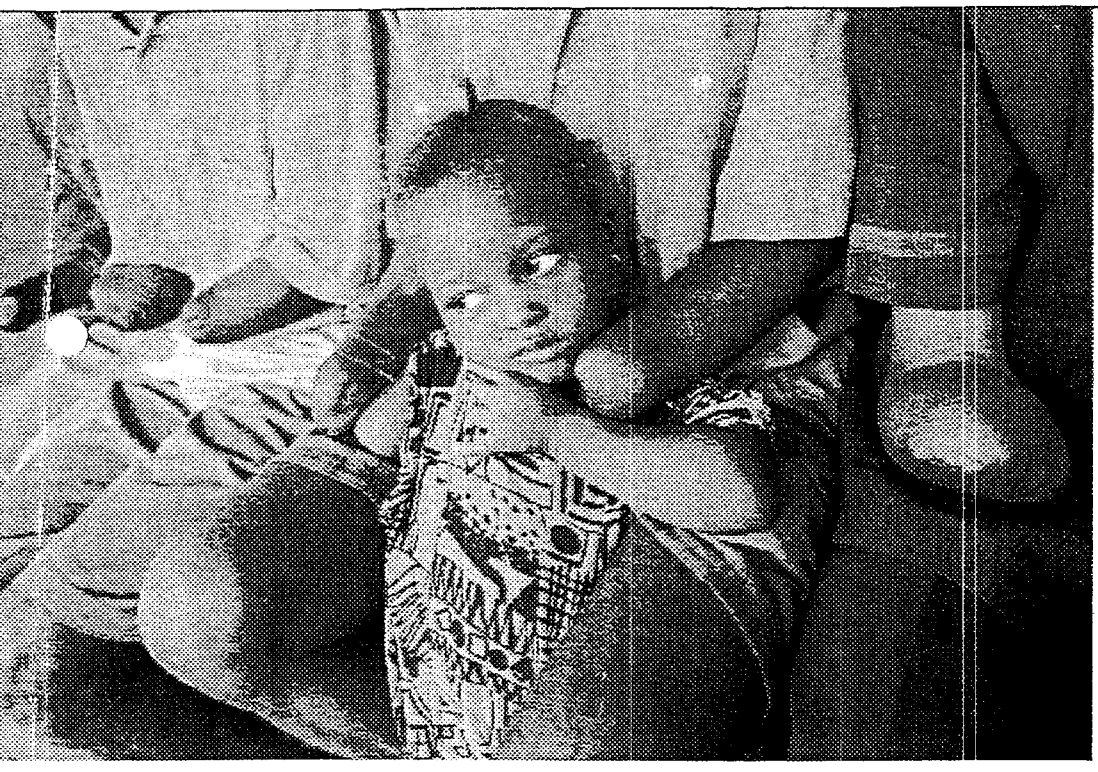
The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Conventions.

350 Fifth Avenue 34th Floor
New York, N.Y. 10118-3299
(212) 290-4700
http://www.hrw.org

1503

Sierra Leone

Vol. 11, No. 3 (A) - JUNE 1999



This two-year-old girl lost her right arm when her grandmother was shot and killed by Revolutionary United Front rebels. She was being carried on her grandmother's back and was injured by the same bullet that killed her grandmother. The four other men all had their hands amputated by rebels--two of them lost both of their hands.

©Copyright June 1999
Corinne Dufka/Human Rights Watch

Getting Away with Murder, Mutilation, and Rape
New Testimony from Sierra Leone

I. EXECUTIVE SUMMARY
II. RECOMMENDATIONS
III. BACKGROUND
IV. HUMAN RIGHTS ABUSES COMMITTED BY RUF REBELS
V. HUMAN RIGHTS ABUSES COMMITTED BY ECOMOG, SIERRA LEONEAN DEFENSE FORCES, AND POLICE
VI. CHILDREN AS VICTIMS AND PERPETRATORS OF GROSS HUMAN RIGHTS ABUSES
VII. INTERNATIONAL RESPONSE
VIII. ACKNOWLEDGEMENTS

1504

TABLE OF CONTENTS

I. SUMMARY 1

II. RECOMMENDATIONS 4
To the RUF: 4
To the Government of Sierra Leone: 5
To ECOMOG/ECOWAS: 6
To the International Community: 6

III. BACKGROUND 6

IV. HUMAN RIGHTS ABUSES COMMITTED BY RUF REBELS 9
Systematic Targeting of Civilians 9
Massacres, Individual Murders, and Fire-Related Deaths 10
Burning Alive 15
The Use of Games to Maximize Terror 16
Targeting of Particular Groups 18
The Use of Civilians as Human Shields 23
The Use of Drugs by the RUF and Forced Drugging of Civilians 26
Mutilation and Amputation 27
Rape and Sexual Assault 31
Abduction 38
Treatment of Prisoners 40
Violations of Medical Neutrality 41

V. HUMAN RIGHTS ABUSES COMMITTED BY ECOMOG, SIERRA LEONEAN DEFENSE FORCES, AND POLICE 42
Summary Executions 42
Looting and Brutality 49
Detention 49
Execution of a Journalist 49
Failure to Minimize Civilian Casualties 50

VI. CHILDREN AS VICTIMS AND PERPETRATORS OF GROSS HUMAN RIGHTS ABUSES 50

VII. INTERNATIONAL RESPONSE 51
ECOWAS, ECOMOG, and the Organization of African Unity (OAU) 52
The United Nations 52
The Sierra Leone Contact Group 54
The United Kingdom, European Union, and United States 54
The Commonwealth 55

VIII. ACKNOWLEDGEMENTS 56

I. SUMMARY

In the early hours of January 6, 1999, rebels of the Revolutionary United Front (RUF) launched an offensive against the Sierra Leonean capital, Freetown, capturing it from government troops and the soldiers of the Nigerian-led peacekeeping force known as ECOMOG, the Economic Community of West African States (ECOWAS) Cease-fire Monitoring Group. The battle for Freetown and the ensuing three week rebel occupation of the capital was characterized by the systematic and widespread perpetration of all classes of atrocities against the civilian population, of over one million inhabitants, and marked the most intensive and concentrated period of human rights violations in Sierra Leone's eight-year civil war.

As the rebels took control of street after street, they turned their weapons on the civilian population. By the end of January, both government and independent sources estimated that several thousands of civilians had been killed. The rebels dragged entire family units out of their homes and murdered them, hacked off the hands of children and adults, burned people alive in their houses, and rounded up hundreds of young women, took them to urban rebel bases, and sexually abused them. As the ECOMOG forces counterattacked and the RUF retreated through the capital, the rebels set fire to neighborhoods, leaving entire city blocks in ashes and over 51,000 people homeless.[1] And, while the RUF took with them almost no prisoners of war, they withdrew to the hills with thousands of abductees, mostly children and young women.

This latest rebel offensive brought to the capital the same class of atrocities witnessed in Sierra Leone's rural provinces over the last eight years and is the latest cycle of violence in an armed conflict that has claimed an estimated 50,000 lives and caused the displacement of more than one million Sierra Leoneans. Since launching the rebellion in 1991, the RUF has fought to overthrow successive governments it accuses of widespread corruption, nepotism, and mismanagement of the country's vast diamond and mineral resources. However, since its inception, the RUF has failed publicly and clearly to articulate an alternative political agenda and has consistently committed gross and large scale atrocities against civilians.

In December 1998, following the capture of the diamond rich Kono district and subsequently Makeni, Sierra Leone's fifth largest city, thousands of RUF fighters started moving towards the capital. By early January 1999, they had reached the peninsula on which Freetown is located and gathered less than twenty miles west of the capital city. On January 6, the rebels broke through the highly stretched and poorly manned ECOMOG defenses, ill-prepared for a rebel offensive in force, and proceeded to march through the eastern suburbs and straight into the city center. Their efforts to capture the westernmost part of the capital, containing the ECOMOG headquarters, Wilberforce Military Barracks, and the suburbs housing the country's wealthy elite, were frustrated as ECOMOG launched a major counteroffensive and started pushing them eastward from where they came.

While the rebels were only able to occupy the city center for less than one week, it took ECOMOG forces over three weeks to flush them from the three densely populated eastern suburbs of Kissy, Wellington, and Calaba Town. It was in these three suburbs, particularly towards the end of the occupation, that the vast majority of atrocities occurred.

The rebels made little distinction between civilian and military targets. They repeatedly stated that they believed civilians should be punished for what they perceived to be their support for the existing government. While there was some targeting of particular groups, the vast majority of atrocities were committed by rebels who chose their victims apparently at random. The arbitrary nature of these attacks served to create an atmosphere of complete terror.

While it is difficult to ascertain at what level the perpetration of human rights abuses was ordered by the RUF high command, many of the attacks seemed to be well organized, and some were clearly planned and premeditated. Victims and witnesses described widespread participation and very few accounts of individual combatants or commanders trying to halt the abuses. Operations to round up civilians for mutilation, rape, and execution are well documented, as is the existence of units specializing in the perpetration of particular forms of these atrocities.

The RUF's incursion into Freetown was built around the use of civilian human shields. As they began their march, the rebels used gunfire to create panic and produce a mass civilian exodus westward towards the city center. The rebels then mixed in with and marched behind the thousands of civilians making up the human shield. The tactic was effective for the rebels, but proved frustrating for the ECOMOG soldiers, who were unable to see and properly engage their opponents; and deadly for civilians who

---

[1]Human Rights Watch interview, United Nations Humanitarian Assistance Coordination Unit (HACU), Freetown, May 18, 1999.

were in the line of fire once the fighting began. Human shields were also used as defense against ECOMOG air power and during subsequent assaults on ECOMOG positions.

Upon gaining control of a neighborhood or suburb, the rebels went on systematic looting raids in which families were hit by wave after wave of rebels demanding money and valuables. Those who didn't have what the rebels demanded were frequently murdered. Civilians were also executed for resisting rape or abduction, trying to flee, trying to protect a friend or family member, or for refusing to follow instructions.

The largest number of killings took place within the context of attacks on civilians gathered in houses, compounds,[2] and places of refuge such as churches and mosques. A study carried out in Freetown's biggest hospital found that some 80 percent of all war-wounded were survivors of mass killings and massacres. Human Rights Watch took testimonies from scores of witnesses to such atrocities—including a January 6 attack on a family in which all but one of their seven children were killed; a January 19 attack on the church of the Brotherhood of the Cross and Star in Wellington, in which twelve people were gunned down; a January 21 attack on a compound in Kissy in which seventeen people were murdered and later burned; and a January 22 attack on the Rogbalan Mosque in Kissy, in which sixty-six people were massacred.

There were also frequent accounts of people being burned alive in their houses, often after having been wounded. Children and the elderly were particularly vulnerable. Witnesses described rebels throwing civilians, sometimes children, into burning houses and shooting at those trying to escape. Family members trying to rescue their children or other relatives from a burning house were threatened with death and forced to abandon them to the fire.

The rebels carried out large numbers of mutilations, in particular amputation of hands, arms, legs, and other parts of the body—a horrific practice developed during offensives in the rural parts of Sierra Leone. In Freetown, several hundred people, mostly men, but also women and children, were killed and maimed in this way. Hospitals registered ninety-seven victims of hand and leg amputation, including twenty-six civilians both of whose hands were hacked off. Among those who had reached a hospital were a two-year-old toddler who had lost one arm, and at least twelve children under the age of eleven who had either lost a limb or suffered serious lacerations from these attacks.

Throughout the occupation, the rebels perpetrated organized and widespread sexual violence against girls and women. The rebels launched operations in which they rounded up girls and women, brought them to rebel command centers, and then subjected them to individual and gang-rape. The sexual abuse was frequently characterized by extreme brutality. Young girls under seventeen, and particularly virgins, were specifically targeted, and hundreds of them were later abducted by the rebels.

While most victims were seemingly chosen at random, the rebels directly targeted a few groups, namely Nigerian nationals, unarmed policemen, and journalists. At least sixty-three Nigerians, most of whom were traders or businessmen, were hunted down and murdered in particularly brutal ways. The rebels also killed at least eighty-five unarmed police officers, and several local and one international journalist. Witnesses described seeing rebels with lists containing the names of journalists who had criticized them in the past and of other pro-democracy and human rights activists. The Catholic archbishop, four Xavierian fathers, and six Sisters of Charity were abducted and held for over ten days. The rebels later killed four of the sisters and wounded one Xavierian father.

As the rebels withdrew, they took with them thousands of civilians, mostly young people and particularly young women. The abductions were often violent, and family members attempting to resist the abductions were often beaten or killed. Families who had more than one child abducted were not uncommon, and there are several cases of entire family units being taken. By June 1999, the Ministry of Social Welfare, Gender, and Children's Affairs had registered 573 adults who had either been abducted or gone missing, and UNICEF had classed as abducted some 1,500 children registered as having gone missing during the offensive. In March 1999, rebels released fifty-one of the abductees; since then, hundreds more have managed to escape.

The rebels ignored medical neutrality and threatened hospital personnel. Freetown's largest hospital was turned into a temporary rebel base for hundreds of combatants. There, and in other hospitals, rebels tortured, robbed, and removed patients

[2] A collection of rooms or small dwellings, often behind one wall, which houses members of an extended family or several families and which share cooking, washing, and toilet facilities.

from their beds, and, in at least one case, dragged a patient out of the hospital to be killed. They ordered hospital personnel at gunpoint not to treat civilians and threatened them with death if rebel commanders died. Hospitals and clinics were looted, ambulances were destroyed, and several medical facilities were set on fire.

As the rebels withdrew from the capital they set entire city blocks and suburban streets on fire. Housing authorities registered the destruction of 5,788 homes and residential buildings within the greater Freetown area. Within the eastern suburb of Calaba Town, the authorities calculated some 80 percent of residential structures had been left in ashes, and within densely populated Kissy the estimate was over 65 percent. According to the Ministry of Trade, Industry and Transport, extensive damage to at least eight of Freetown's factories, set ablaze by retreating rebels, has resulted in the loss of over 5,000 jobs. Embassies, government buildings, churches, mosques, and historical landmarks were also targeted, including Freetown's Big Market, built in 1802, and the Holy Trinity Church, built in 1877.

Witnesses and victims described the presence and participation of foreign mercenaries fighting with the RUF. Victims of arm amputations, killings, and massacres said some of their assailants were from Liberia and Burkina Faso. Others observed the presence of white mercenaries, believed to be from Ukraine, several of whom were seen giving orders and directing the battle during the ECOMOG assault on the temporary rebel headquarters at State House.

While the RUF committed the vast majority of atrocities and other violations of international humanitarian law during the battle for Freetown, those defending the capital also committed serious abuses, both during and after the rebel incursion. Members of the Nigerian-led ECOMOG peacekeeping force, and to a lesser extent members of the Civil Defense Forces (CDF) and Sierra Leonean Police routinely executed RUF prisoners and their suspected collaborators or sympathizers. Human Rights Watch has documented over 180 of these executions. Most were carried out by ECOMOG forces. While the victims were mostly young men, witnesses confirm the execution of some women, and children as young as eight.

Prisoners taken by ECOMOG, some of whom had surrendered and many of whom were wounded, were frequently executed on the spot. Suspected rebel collaborators and sympathizers were often killed with little or no effort to establish their guilt or innocence. Executions usually took place at checkpoints, or during small "mopping up" operations. Officers to the level of captain were present and sometimes participated in these executions.

ECOMOG troops also violated medical neutrality during a January 11 operation in which they stormed a hospital, proceeded to drag wounded rebels from their beds, and executed them on the hospital grounds. At least twenty-eight rebels, including two children and a few who had already surrendered, were executed.

In the aftermath of the offensive, civilian witnesses also complained of looting by members of the CDF during routine search missions and some excessive use of force by ECOMOG forces when passing through checkpoints.

During the rebel incursion, children were both the victims of serious abuses committed by all parties to the conflict and, in some cases, the perpetrators of these abuses. RUF rebels raped girls as young as eight, singled out children for mutilation, and murdered children alone and with other family members. RUF child combatants, armed with pistols, rifles, and machetes, were witnessed actively participating in killings and amputations. Some of these child combatants captured by ECOMOG forces were later executed or beaten by members of the local community. Some children abducted by the rebels and taken to the bush have already been observed to be undergoing military training.

The atrocities committed during the January RUF offensive follow a now painfully familiar pattern in Sierra Leone. Relatively protected from such abuses in the past, Freetown residents can now bear witness to the level of brutality and destruction which has threatened residents of the rural areas over the past eight years. In the capital city, the scale of these abuses—both in absolute numbers and in the percentage of the population affected—and the level of sheer brutality, was simply staggering.

In Sierra Leone, a war is being waged against the civilian population, and particularly horrific and inhumane methods are being used to fight it. Human Rights Watch calls on all parties to the war, but especially the RUF rebels, who have been guilty of the worst abuses, to respect international humanitarian law as laid down in the Geneva Conventions and its protocol. In particular, parties to the conflict must distinguish at all times between civilians and combatants and desist from targeting civilians for attack. Although influencing the actions of the rebel forces in Sierra Leone is difficult, international pressure must be

maintained to convince them to cease indiscriminate killings, rape, mutilation, the abduction of civilians—especially children for use as soldiers, laborers, sexual slaves, or other purposes—and other violations of the laws of war.

In attempting to negotiate an end to the civil war, the international community and the Sierra Leonean government must insist on the need to bring the perpetrators of gross human rights abuses and war crimes to justice. RUF members suspected of having committed human rights abuses and former RUF collaborators must be given fair trials and punished according to national and international law. Allegations that members of the government's forces and Nigerian-led ECOMOG forces perpetrated abuses of international human rights and humanitarian law must be investigated and appropriate action must be taken.

The physical and psychological scars left by eight years of war in Sierra Leone are profound and far-reaching. In order to end the cycle of violence, there must be an analysis of the root causes of the conflict and a sincere effort on the part of the government and international community to address them. It is owed to the hundreds of thousands of people whose lives have already been torn apart by this war and essential for the future stability of both the country and the region.

Research for this report was conducted by Human Rights Watch during the months of April, May, and June 1999. Several hundred witnesses and victims were interviewed, within their homes and centers for the displaced, in hospitals and clinics, market places, churches, mosques, and places of work. Interviews were conducted with government and United Nations officials, journalists, human rights activists, social workers, and members of national and international nongovernmental organizations. The names of all witnesses and survivors, except where noted, have been changed in order to protect their identity and ensure their privacy.

The conduct of all combatants in the Sierra Leonean conflict is governed by international humanitarian law also known as the laws of war; the 1949 Geneva Conventions and their two Protocols. A cardinal principle of humanitarian law is that civilian persons who are in the power of a party to the conflict are entitled to be treated humanely in all circumstances and to benefit from a series of fundamental guarantees without any discrimination. Under the laws of war the following acts in particular are prohibited under any pretext whatsoever:

a) violence to the life, health, and physical or mental well-being of persons, particularly murder, torture of all kinds, whether physical or mental, corporal punishment, and mutilation;
b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution, rape, and any form of indecent assault;
c) the taking of hostages;
d) collective punishments;
e) threats to commit any of the foregoing acts.

Combatants have an obligation to distinguish at all times between the civilian population and combatants in order to spare the civilian population and property. Neither the civilian population as such nor civilian persons shall be the object of attack. Attacks shall be directed solely against military objectives, and the use of civilians as human shields is specifically banned.

Medical personnel, establishments, transports, and equipment are also covered by the protection afforded by the laws of war.

Members of the armed forces or rebel groups who are captured or placed hors de combat are entitled to respect for their lives and their moral and physical integrity. They must be protected and treated humanely without any adverse distinction. It is absolutely forbidden to kill or injure an enemy who surrenders or who is hors de combat.

All these fundamental guarantees without exception, have been grossly and systematically violated during the RUFs offensive against Freetown and ECOMOG's counterattack. The unthinkable atrocities described in this report constitute war crimes and crimes against humanity.

II. RECOMMENDATIONS

Human Rights Watch makes the following recommendations:

To the RUF:

Human Rights Watch condemns in the strongest terms the conduct of RUF forces described in this report. We call on RUF forces to:

- Immediately refrain from inflicting torture or murder of any kind, including extrajudicial executions and mutilations, by forces under its command.
- Immediately release all civilian abductees in custody; grant full and ongoing access to detention centers to the International Committee of the Red Cross (ICRC) and other humanitarian organizations; and publish lists of all prisoners and abductees, their ages, where they were captured, where they are being detained, and other relevant details.
- Immediately cease the recruitment and training of child soldiers under the age of eighteen and demobilize and release those already enlisted.
- Allow for unfettered access and safe passage for humanitarian agencies trying to reach needy populations under RUF control.
- Observe the cease-fire agreement entered into on May 18, 1999, desist from all acts in violation of international humanitarian law, and enter into negotiations for the resolution of the conflict in good faith.
- In accordance with the commitment made to U.N. special representative Okelo, set up an internal investigation to investigate violations of international humanitarian law by members of RUF and allied forces, as described in this and other reports on the conflict in Sierra Leone.
- Provide education for all RUF combatants and commanders on the rules of war and standards of international humanitarian law.
- Follow through with the commitment made on May 18, 1999 in Lomé, Togo, by Corporal Foday Sankoh, for the "immediate release of all prisoners of war and noncombatants."
- Follow through with the commitment made and signed on May 18, 1999 in Lomé, Togo by Corporal Foday Sankoh to "guarantee safe and unhindered access by humanitarian organizations to all people in need, establish safe corridors for the provision of food and medical supplies to ECOMOG soldiers behind RUF lines, and to RUF combatants behind ECOMOG lines."
- Permit full, unhampered international investigation of grave and widespread humanitarian law and human rights abuses in areas under RUF control by nongovernmental organizations and accredited journalists.

To the Government of Sierra Leone:

We call on the government of Sierra Leone to:

- Thoroughly investigate and prosecute in full compliance with international law, individuals responsible for grave breaches of humanitarian law. Where combatants have committed abuses against civilians, they should be held accountable in a court of law.
- Desist from the recruitment of child soldiers, particularly within the Civil Defense Forces, and to follow through on its commitments made to the special representative of the U.N. secretary-genera for children in armed conflict to stop the recruitment of children under eighteen and to create a joint task force to oversee the demobilization and reintegration of child combatants from all sides.
- Ensure that government soldiers and those forces allied with the government respect the human rights of civilians in areas of conflict.
- Ensure that all members of the new Sierra Leonean Army currently under formation receive formal education on the rules of war and standards of international humanitarian law.
- Promptly revise the criminal code to eliminate the death penalty and corporal punishment.
- Follow through with the commitment made and signed on May 18, 1999 in Lomé, Togo, by President Kabbah for the "immediate release of all prisoners of war and noncombatants," while ensuring that reliable reports that individuals in custody have committed war crimes or crimes against humanity are investigated, and prosecutions instituted, as described above, if there is evidence to do so.

- Follow through with the commitment made and signed on May 18, 1999 in Lomé, Togo by President Kabbah to "guarantee safe and unhindered access by humanitarian organizations to all people in need, establish safe corridors for the provision of food and medical supplies to ECOMOG soldiers behind RUF lines, and to RUF soldiers behind ECOMOG lines."
- Follow through with the commitment announced by President Kabbah on April 27, 1999 to establish a new Human Rights Commission for Sierra Leone.
- Create task forces to:
  - develop a concrete plan for meeting the needs of abused women and deal specifically with violations inflicted on women during conflict, with the aim of improving the social, medical, and legal responses to women's needs.
  - deal with the effects of war on children: child victims, witnesses, and perpetrators. A key function of this task-force would be the development of a concrete plan for meeting the long-term needs of those who were adversely affected by the war. This task force should determine how best to reintegrate children into their communities, provide education and vocational training suitable for older children, and rehabilitate children who have been victims of atrocities, have witnessed atrocities (sometimes against their own parents), or have themselves taken part in atrocities.
  - address the special physical, psychological, and social needs of the thousands of victims of limb amputation and other mutilation.
- Initiate a widespread information and education campaign to inform communities of the special needs of all civilians who have been abducted or abused.
- Allow the International Committee of the Red Cross (ICRC) unhindered and ongoing access to all detainees, including those who are currently being investigated but have not been charged with a crime.
- Permit full, unhampered international investigation of grave and widespread humanitarian law and human rights abuses in areas under government control by non-governmental organizations and accredited journalists.

To ECOMOG/ECOWAS:

Human Rights Watch urges ECOMOG and ECOWAS, as appropriate, to:

- Take steps to strengthen and make effective the Civil/Military Relations Committee formed to probe allegations of human rights abuses committed by some members of ECOMOG and the CDF.
- In particular, and in accordance with the commitment made to the U.N. secretary-general's special representative, Francis Okelo, and noted in the March 4, 1999, *Fifth Report of the Secretary General on the United Nations Observer Mission in Sierra Leone*, investigate allegations of abuses having been committed during the January offensive and take corrective action as necessary.
- Follow through with the commitment made and signed on May 18, 1999 in Lomé, Togo, for the "immediate release of all prisoners of war and noncombatants," while ensuring that reliable reports that individuals in custody have committed war crimes or crimes against humanity are investigated by the appropriate authorities, and prosecutions instituted if there is evidence to do so.
- Follow through with the commitment signed on May 18, 1999 in Lomé, Togo, to "Guarantee safe and unhindered access by humanitarian organizations to all people in need, establish safe corridors for the provision of food and medical supplies to RUF soldiers behind ECOMOG lines."
- Ensure that all ECOMOG officers and soldiers receive proper training in the rules of war and international humanitarian law.

To the International Community:

Human Rights Watch urges the international community generally, including the U.N., its member states, and agencies, to:

- Dramatically increase the level of attention and resources devoted to the resolution of the conflict in Sierra Leone and the establishment of respect for human rights and the rule of law, including by increasing the financial support given to UNOMSIL to enable an expansion of its human rights monitoring and peacekeeping activities.
- Oppose a general amnesty that would apply to those who have committed gross violations of human rights and humanitarian law and insist on the need for the cycle of impunity to be broken if peace is to be restored to Sierra Leone.
- Reinforce the flow of bilateral and multilateral aid to the government of Sierra Leone. This aid should focus on human rights and humanitarian needs, including restructuring of the army and police force, and initiatives focusing on such key areas as emergency relief, health, education, shelter, infrastructure, and the rule of law.
- In particular, provide assistance for the reconstruction of the system for the administration of justice, and for other initiatives aimed at the establishment of accountability for crimes under national and international law.

- Provide moral, financial, and technical support to civil society organizations to assist them in playing an active role in the transition toward a democratic society and in monitoring, lobbying, and campaigning for improved human rights standards.
- Insist that the government of Sierra Leone follow up on its commitments to stop the recruitment of children under the age of eighteen and to create a joint task force to oversee the demobilization and reintegration of child combatants from all sides.
- Insist with all parties upon the access for accredited journalists and nongovernmental organizations to all areas of conflict.

III. BACKGROUND

The Sierra Leonean civil war began in March 1991, when the Revolutionary United Front (RUF) entered Sierra Leone from Liberia, launching a rebellion to overthrow the one-party rule of the All Peoples Congress (APC). The RUF accused the APC, which had been in power since 1967, of rampant corruption, nepotism, and fiscal mismanagement. Despite the fact that Sierra Leone is extremely resource-rich, with large deposits of diamonds, gold, rutile, and bauxite, it is estimated to be one of the poorest countries in the world.

Under the leadership of Foday Sankoh, a corporal in the Sierra Leone Army who had been imprisoned in 1971 for his alleged involvement in an attempted coup against the APC, the RUF was originally made up of a mixture of middle class students with a populist platform, unemployed and alienated youths, and Liberian fighters from Charles Taylor's National Patriotic Front of Liberia (NPFL).[3] The ideological component to the movement, however, was never clearly actualized, and the rebellion quickly developed into a campaign of violence whose principal aim appeared to be simply to gain access to the country's diamond and mineral wealth.

From 1991 until the present, the RUF has fought with great brutality to overthrow the successive governments of both military and elected civilian regimes. Since the outbreak of the war, the country has been marked by instability. In 1992, APC President Joseph Momoh was overthrown in a military coup by Captain Valentine Strasser, whose National Provisional Ruling Council (NPRC) ruled until it was itself overthrown in 1996, by his deputy, Brigadier Julius Maada Bio.

Later in 1996, however, multi-party elections were held and won by Ahmad Tejan Kabbah, head of the Sierra Leone People's Party (SLPP), who pledged to bring about an end to the war. After coming to the negotiating table in Abidjan, the RUF and Kabbah's government signed a peace agreement in November 1996, the Abidjan Accord, which called for a cease-fire, disarmament, demobilization, and the withdrawal of all foreign forces. The cease-fire, however, was broken in January 1997 when serious fighting broke out in southern Moyamba District.

In May 1997, fourteen months after assuming power, President Kabbah was himself overthrown in a coup led by army major Johnny Paul Koroma, heading the Armed Forces Revolutionary Council (AFRC), following his escape from prison, where he had been held following an earlier attempted coup in September 1996. Koroma cited the government's failure to implement the peace agreement as the reason for the coup. Upon taking over, the AFRC suspended the constitution, banned political parties, and announced rule by military decree. It also ushered in a period of political repression characterized by arbitrary arrests and detention.

The AFRC had widespread support within the Sierra Leonean Army (SLA), which had become disillusioned by President Kabbah's decision to cut back support for the military. The SLA accused Kabbah of putting greater confidence for the country's defense in and giving more economic resources to a network of civilian militias, known as the Civil Defense Forces (CDF), the largest and most powerful of which are the Kamajors.[4] The Kabbah government had found the Kamajors very effective in fighting the RUF, and, unlike members of the army, they were not accused of collaboration with the RUF for the exploitation

[3] Ibrahim Abdullah and Patrck Muana, "The Revolutionary United Front of Sierra Leone," in Christopher Clapham (ed.), *African Guerrillas* (Oxford: James Currey, 1998), pp. 173-178.

[4] The Kamajors are traditional hunters from the Mende ethnic group in the southern and eastern regions of Sierra Leone who believe in supernatural and ancestral powers. The Mende is Sierra Leone's largest tribe comprising some 30 percent of the population.

of the country's diamond resources.[5] Formalizing an alliance between the army and the rebels based on joint opposition to President Kabbah and the People's Party, the AFRC invited the RUF to join them in the new government.

After the coup, which was widely condemned, President Kabbah and his government fled into exile in neighboring Guinea and began to mobilize international condemnation for and a response to the coup makers. In June 1997, Nigerian troops, claiming to act under a defense pact with the Sierra Leonean government, moved to reinforce colleagues from the Economic Community of West African States Monitoring Group (ECOMOG) already based at the Freetown airport to defend it from RUF rebels, where they remained based throughout the AFRC regime. In August, following the AFRC's announcement of a four-year program for elections and return to civilian rule, which represented a breakdown in negotiations, ECOWAS states put in place an almost total embargo against Sierra Leone. In October, the United Nations Security Council adopted a resolution imposing mandatory sanctions on Sierra Leone, including an embargo on arms and oil imports.[6]

After negotiations in Guinea under the auspices of ECOWAS, the Kabbah government-in-exile and the AFRC/RUF signed an agreement on October 23, 1997 providing for the return to power of President Kabbah by April 1998. However, the AFRC/RUF undermined the implementation of the accord by stockpiling weapons and attacking ECOMOG positions. In February 1998, ECOMOG forces working together with Kamajor militia launched an operation which drove the AFRC/RUF forces from Freetown. In March 1998, President Kabbah was reinstated as president and over the next several months ECOMOG forces were able to establish control over roughly two-thirds of the country including all regional capitals.

However, once expelled from the capital, the rebels tried to consolidate their own positions in other parts of the country and through a serious of offensives toward the end of 1998, managed to gain control of the diamond-rich Kono district and several other strategic towns and areas.[7] The Kabbah government, which had negligible forces of its own, relied on ECOMOG to stay in power, yet declined to enter into any negotiations to bring the civil war to an end. By the end of 1998, the rebels had gained the upper hand militarily and were in control of over half of the country, including all those areas housing the country's major economic assets. From this position, the RUF launched the January 1999 attack on Freetown.

The war in Sierra Leone has seen considerable involvement of both foreign governments and mercenary forces which have usually provided support in exchange for lucrative contracts and mining concessions. The assistance of Charles Taylor's NPFL and later Liberian government to the RUF is well documented, and has included training, personnel and considerable logistical support. The 1992-1996 military regime (Captain Strasser's National Provisional Ruling Council: NPRC) contracted the South African-based private security firm Executive Outcomes in 1995 to protect the major diamond mining areas. Executive Outcomes remained involved in Sierra Leone until President Kabbah terminated their contract in 1996 as a condition of the 1996 Abidjan Peace Accord. The involvement of Ukrainian arms and ammunition suppliers began under the NPRC and intensified under Brigadier Maada Bio's government. During the January 1999 RUF offensive, armed white men were observed fighting alongside and giving orders to RUF forces. In April 1999, the ECOMOG force commander Felix Mujakperuo publicly accused the presidents of Liberia and Burkina Faso of supplying arms to the RUF by using Ukrainian registered aircraft and crews.[8] The Sierra Leonean government has also contracted the services of several foreign soldiers and pilots, most of whom fly, man, and maintain the attack and transport helicopters currently being used by ECOMOG forces.

Since the January occupation of Freetown, there have been the first signs for several years of a possible negotiated resolution to the conflict in Sierra Leone. During March 1999, President Kabbah visited several key countries in the subregion, including Côte d'Ivoire, Ghana, Nigeria, and Togo to discuss the situation in Sierra Leone and possible ways forward. In a radio address to the nation on March 14, President Kabbah expressed his appreciation for the assistance provided by those countries and

---

[5]Since the NPRC regime, Sierra Leonean Army soldiers and officers had been accused of colluding with the rebels to exploit the country's diamond reserves. The army was accused of exchanging weapons for diamonds from the RUF, giving them military information, and withdrawing from bases so as to allow rebels to take over diamond rich areas. Such allegations led to a loss of faith in the country's military and the subsequent creation of civil defense forces, like the Kamajors.

[6]See Human Rights Watch/Africa, "Transition or Travesty? Nigeria's Endless Process of Return to Civilian Rule," *A Human Rights Watch Short Report*, vol. 9 no.6 (A), October 1997 for a discussion of the Nigerian intervention in Sierra Leone.

[7]See Human Rights Watch, "Sowing Terror: Atrocities against Civilians in Sierra Leone," *A Human Rights Watch Short Report*, vol.10, no.3 (A).

[8]ECOMOG Press Statement, issued Freetown, April 8, 1999.

reaffirmed his commitment to the "dual-track" approach developed by ECOWAS, which involves strengthening ECOMOG while preparing to talk to the RUF. At the same time, there was considerable diplomatic activity among a number of parties interested in the resolution of the conflict in Sierra Leone, including the current chairman of ECOWAS, President Gnassingbe Eyadema of Togo; the ECOMOG troop-contributing countries, namely Nigeria, Guinea, Ghana, and Mali; the governments of the U.K. and the USA (the USA being represented by the United States presidential special envoy for the promotion of democracy in Africa, the Rev. Jesse Jackson); and the U.N. secretary-general's special representative for Sierra Leone, Francis G. Okelo.

On May 18, 1999, the Sierra Leonean government and the RUF signed a cease-fire agreement, which came into effect on May 24, 1999. Under the agreement, both parties were to maintain their respective positions and refrain from hostile or aggressive acts. Other provisions included the guarantee of safe and unhindered access by humanitarian organizations to all people in need; the immediate release of prisoners of war and noncombatants; and the deployment, subject to the authorization of the Security Council, of United Nations military observers to observe compliance with the cease-fire agreement. Talks between the Sierra Leonean government and the RUF opened in Lomé on May 25, 1999, guided by a facilitation committee chaired by the foreign minister of Togo, with the participation of ECOWAS, the Organization of African Unity (OAU), and the U.N. secretary-general's special representative.

On June 2, 1999, the government and the RUF decided to ask UNOMSIL to establish a committee to effect the immediate release of prisoners of war and noncombatants in accordance with the May 18 cease-fire agreement. The committee, which is to be chaired by the UNOMSIL chief military observer, comprises representatives of the International Committee of the Red Cross (ICRC), the United Nations Children's Fund (UNICEF), other United Nations agencies, and nongovernmental organizations.

1514

IV. HUMAN RIGHTS ABUSES COMMITTED BY RUF REBELS

Systematic Targeting of Civilians

The rebel occupation of Freetown was characterized by the systematic and widespread perpetration of all classes of gross human rights abuses against the civilian population. Civilians were gunned down within their houses, rounded up and massacred on the streets, thrown from the upper floors of buildings, used as human shields, and burned alive in cars and houses. They had their limbs hacked off with machetes, eyes gouged out with knives, hands smashed with hammers, and bodies burned with boiling water. Women and girls were systematically sexually abused, and children and young people abducted by the hundreds.

The rebels made little distinction between civilian and military targets. They repeatedly stated that they believed civilians should be punished for what they perceived to be their support for the existing government. Thus, the rebels waged war against the civilian population through the perpetration of human rights abuses. While there was some targeting of particular groups, such as Nigerians, police officers, journalists, and church workers, the vast majority of atrocities were committed by rebels who chose their victims apparently at random.

The arbitrary nature of these attacks served to create an atmosphere of complete terror. Some victims were attacked for resisting rape or abduction, trying to flee, trying to protect a friend or family member, or refusing to follow instructions to dance or make music on the streets, but most described being chosen for execution or mutilation at random, often without being asked a single question.

It is difficult to ascertain the level of seniority within the RUF at which the perpetration of human rights abuses was ordered, though the widespread participation in abuses suggests that they must have been authorized at a high level within the RUF's command structures. Victims and witnesses frequently overheard commanders on the ground give orders to perpetrate atrocities, and there are very few accounts of individual combatants or commanders trying to halt the abuses. When witnesses reported that individual combatants did object and try to halt the abuses, those objecting were often met with death threats from their fellow rebels.

The atrocities were often planned and premeditated. Victims and witnesses describe well-organized operations to round up civilians who were later executed, attacked with machetes, or raped. On several occasions rebels gave advance warning that atrocities were to be committed later.

Witnesses describe the existence of distinct units known for committing particular crimes, like the "Burn House Unit," "Cut Hands Commando," and "Blood Shed Squad." Some of these squads had a trademark way of killing such as the "Kill Man No Blood" unit, whose method was to beat people to death without shedding blood, or the "Born Naked Squad," who stripped their victims before killing them. The closer ECOMOG forces got to rebel positions, the more these squads were mobilized and sent on operation.

Upon gaining control of a neighborhood or suburb, the rebels went on systematic looting raids, in which families were hit by wave after wave of rebels demanding money and valuables. Those who didn't have what the rebels demanded were often murdered. While rape and abduction were widespread throughout the offensive, the pace of the executions, amputations and burning of property picked up dramatically as the rebels were forced to withdraw. The abuses committed in the last several days of rebel occupation of any given neighborhood were of staggering proportion.

It is difficult to establish how many civilians were killed during the rebel incursion. The Senior Government Pathologist registered the burial of 7,335 corpses of people who were killed as a result of the January 6 rebel incursion. These include 4,245 which were either left in the city morgue or picked up off the street during the offensive and buried in mass graves, and 3,090 which were later exhumed and reburied after having been hastily disposed of during the fighting and rebel occupation.[9] While the number of combatants from both sides, either killed in battle or after capture or incapacitation by wounds, was thought to be high, human rights activists believe at least half of the dead were civilians. One local human rights group has already documented 2,215 civilian killings.[10]

---

[9]Human Rights Watch interview, Dr. Arthur C. Williams, Freetown, April 20, 1999.

[10]Human Rights Watch interview, Moses Sahr Lamine, Network Movement for Justice and Development, May 31, 1999.

Freetown's three main hospitals reported treating 827 wounded, although hospital staff note that for the first several weeks of the offensive, precise records were not kept.[11] In all three hospitals, the majority of war related injuries resulted from gunshot wounds, followed by lacerations by machete, knife, or axe. One study done in Freetown's biggest hospital found that some 80 percent of all wounded were the victims of multiple killings or massacres.[12]

The largest concentration of dead and wounded came from the three densely populated eastern suburbs of Kissy, Wellington, and Calaba Town. During the weeks of rebel occupation all three suburbs were cut off from the capital's main medical facilities, which are all located within the ECOMOG controlled west. Unable to cross the front lines, most wounded civilians sought medical attention from local nurses and small clinics. However, loathe to identify themselves for fear of abduction, medical personnel had frequently gone into hiding or fled the area. There was also a dearth of medicine and supplies to treat the wounded, as clinics and pharmacies were frequently targeted for looting by the rebels. It was not uncommon for wounded civilians to go for several days before receiving medical treatment or seeing a doctor.

On June 14, 1999, Human Rights Watch spoke with Omraie Golley, official spokesperson and legal representative for the RUF. He denied that his troops had committed any atrocities against the civilian population during the January offensive. He said that while they have received allegations, "I have yet to find firm evidence that points to individual soldiers or commanders responsible for committing any atrocities against the civilian population. We've heard a lot of stories, we've heard a lot of terrible things. These kinds of allegations are easy to make but difficult to prove. But, if any of our soldiers or commanders have been guilty of such atrocities they will be brought to book." Golley also stated that the RUF has not initiated any formal investigations or disciplinary proceedings against any individual soldier or commander.

When asked about the mutilation and amputation of limbs, he said, "in July 1997 firm instructions were issued about the use of machetes. They were banned as an implement of war and it was made clear to all our soldiers and commanders that any found guilty of these atrocities would be severely dealt with. The RUF has been fighting a war to protect people, not to destroy them. If any civilians were mutilated during the January offensive, they were not mutilated by the RUF. There were many other groups involved in the conflict during the time of occupation and all of them—the Civilian Defense Forces, The Kamajors, ECOMOG, and vigilante groups—should be investigated." About the use of human shields and reports of rape, he said, "we unreservedly deny the use of human shields. This is clearly against our war policy and our commanders are well aware of this. Rape is clearly against the RUF penal code and in the past men found guilty of this have been severely dealt with."

In response to the allegations of atrocities committed in the last eight years of war, Golley said that in March 1999 the RUF asked the government of Sierra Leone to provide them with detailed allegations of such atrocities and set up "an independent commission made up of three RUF military personnel and three civilians to investigate various allegations of atrocities." Golley clarified, however, that, "the fact that we've set up a commission is not an admission of guilt, because as far as we're concerned we are not guilty of having committed atrocities against the people; rather it is in response to these persistent allegations."[13]

Massacres, Individual Murders, and Fire-Related Deaths

Human Rights Watch took testimonies from scores of survivors and witnesses to individual murders, group killings, and massacres. These killings began on the first day of the offensive and continued through the day the rebels abandoned the easternmost suburbs.

James Kajue and his family

In the early morning hours of January 6, as they were attempting to flee their home in the eastern suburb of Wellington, James Kajue and his family were stopped by advancing rebels and marched to a nearby side street. After being asked for money, a rebel opened fire on them, wounding both James and his wife Victoria and killing six of their children and their only grandson. One daughter, Frida, survived. James recounted what happened:

---

[11]Freetown's three main hospitals are Connaught Hospital, Brookfields Community Hospital, and Netland Hospital.

[12]Human Rights Watch interview, Martha Carey, Médecins Sans Frontières, May 27, 1999. Study was done in Connaught Hospital on February 14, 1999.

[13]Human Rights Watch phone interview, Omraie Golley, RUF spokesperson, Lomé, Togo, June 14, 1999.

We went to bed on the night of January 5 and left the children watching videos. Around midnight I woke up and heard gunshots coming very close. I didn't hear any shelling from ECOMOG so I figured the rebels were on their way. I called a few friends who live further east and when they didn't answer I said, "Victoria, let's get out of here." So we put all the kids in the station wagon and left.

As we drove down the main highway there were thousands of people on the roads and when we'd gone a few more miles the cars were stopped. At that moment someone lit a flare illuminating the area and when I looked back I saw that mixed in with the civilians were hundreds of rebel soldiers. It was then I realized the rebels were among us.

There was a lot of gunfire so I told everyone to stay in the car and crouch down. I thought it was safer. Scores of rebels passed by without seeing us but then an eight-year-old rebel with an RPG[14] and who was small enough to see through the window noticed us and alerted the others.

One of them ordered us out of the car and said, "you people have been deceived by ECOMOG, why are you fleeing towards them, we're your brothers." Victoria tried to calm him and told him we just wanted to go to someplace safe. He then walked us up a side street a few hundred yards away and told us to sit down. He wanted money so Victoria reached into her bag and gave him some. He said it was too little and as we were about to offer him more I noticed three or four more rebels moving up the road.

As they approached I heard them shouting, "SLA on the move...you thought we'd gone but we've come back." As one of them was approaching, I heard him say "why are you wasting time with these civilians...they've been supporting Tejan Kabbah and ECOMOG. We must teach them a lesson. I think we should just fire [kill] them."

And as soon as he said this, he swung around the AK-47, cocked it and opened fire on my family. It wasn't even one minute from the time he walked up to the time he opened up on us. And then I heard one of them saying, "why did you have to do it" but the one who did it, who by that time was walking around to check if we were all dead, pulled Frida, who was alive, by the hair and said, "see, they're not all dead." And then he got to me and said, "I'll just pick up Pa's watch." I was hit on the hand which was resting on my chest so there was a lot of blood. I pretended to be dead so he just ripped off my watch and walked off with the others.

And then the roll call — I couldn't do it. Victoria had to do it. Patrick, CiCi, Mary all died instantly. Ester was dying. At that moment only Frida replied. She was wounded but not gravely. There was a lot of gunfire so I got up and said, "I'm going for shelter...can anyone who can walk just please, please follow me."

Victoria took my two year-old grandson who was crying and fatally wounded. We later dragged David who'd been hit in the spine and couldn't walk. And I could hear James calling, "I'm stuck against this wall and can't move." By now rebels were passing and we couldn't go to him. Later we thought that he must've been hit in the spine and to him it must've felt like he was pinned against a wall. He only called a few times more and then fell silent.

Little Hassan died a few hours later; he was hit three times. And David, the last time I spoke to him I said, "can you promise me, promise me you'll survive this thing" and he said, "Dad I promise you" but he couldn't. He died later that day.

He [the rebel] came from nowhere. I didn't have time. I would've stood up and offered myself in place of the kids. They didn't ask us any questions. If they were to accuse anyone it should've been me. I would have given myself. I had some money. I would've offered it to them but the one who killed us didn't come for money — he came to destroy our lives. He just opened up on my family without saying anything.[15]

Several attacks and massacres were perpetrated against civilians seeking refuge within churches, mosques, and hospitals. These included the January 18 attack on the Kissy Mental Hospital in which some sixteen men were executed and six women

[14]A hand held Rocket Propelled Grenade, usually fired while resting on the shoulder.
[15]Human Rights Watch interview with James Kajue, Freetown, May 18, 1999. Real names used.

attacked with machetes, the January 19 attack on the Brotherhood of the Cross and Star Church in Wellington in which twelve people, including at least three children, were taken out and executed, and the January 22 massacre within the Rogbalan Mosque in Kissy in which sixty-six people were gunned down.

Ibrahim

According to numerous survivors interviewed by Human Rights Watch, the massacre within the Rogbalan Mosque was an organized, premeditated operation involving two groups of rebels and lasting approximately forty-five minutes. Several survivors described how, a few days prior, rebels had given warning that a massacre was going to be committed. Ibrahim, forty-eight, described what he saw as he was hiding and how he later counted the dead:

> The mosque was packed full of both Muslims and Christians. The rebels had been coming in and out of the mosque; abducting young girls and harassing us, but things were getting so bad outside we thought it was still safer than in our houses. That day at around 10:00 a.m. I was inside the mosque when I saw at least four rebels burst into the courtyard. One of them had a gun, one had a pistol and two others, including a ten-year-old, had knives and machetes. They were all wearing black pants and black T-shirts.
>
> A sixteen-year-old boy sitting on the steps tried to warn the others that the rebels were coming so when they entered the courtyard, the first thing they did was tell the boy to open his mouth and then the one with the AK put his gun into his mouth and shot him through the head.
>
> Once inside, the one with the pistol started asking everyone for money. In the meantime, two of the other rebels, including the ten year old, moved to block the doors. Then, as the pistol man was walking around pointing his gun and robbing people, a few of the others started arguing over whether to burn us alive in the mosque or shoot us. One of the rebels then walked around the mosque sprinkling petrol on people and I heard one of them say, "you bastard civilians; you don't like us and we don't like you." Finally, one of the others raised his machete and screamed, "Our mission is to kill you and cut your hands." People then started screaming and begging and the one with the rifle just started firing.
>
> The mosque was very crowded. It was very confusing and people were running and trying to escape but the ten-year-old was standing by one of the doors and I saw him stab people as they tried to run past him. Sometimes the executioner would aim directly at one person and other times he'd just fire randomly. Then he walked back to the women's section and opened up on the people gathered there. Then he positioned himself in the passage leading out of the mosque and started picking people off as they tried to escape. It was here he killed a lot of people. His was the only way out, so as people made a run for it, he would shoot them.
>
> Some fifteen or so minutes into the thing, another group of rebels arrived to reinforce. They surrounded the place and several of them came around and hit the little Islamic school we have in the back. I think many of the children who died in the massacre were back there. Then at some point a whistle blew and the rebels rushed around searching for things to steal from the dead. And then left.
>
> Somehow a lot of people including myself managed to escape. I was hiding under a mattress in the courtyard and all I could think about was my daughter who was inside when the firing started. I prayed she was able to escape. After I was sure the rebels had gone, I crept out and started looking for her. That's how I came to know how many were killed. I went through the mosque, the women's section, the school, the courtyard, and the street looking for my daughter. I thank god I didn't find her among the dead. But I counted sixty-six bodies including seven little children.[16]

Adama

During the fighting and rebel occupation, civilians tended to concentrate in the larger or more fortified houses of their neighbors, friends, and family. Such concentrations of people often fell victim to brutal rebel attacks in which large numbers of civilians would be killed. Sometimes the men would be targeted and other times no one would be spared. The houses were frequently set on fire with the wounded civilians still inside.

---

[16]Human Rights Watch interview, Freetown, June 1, 1999.

Adama, sixteen, was hiding in a closet with her two small cousins on January 21, while rebels walked room to room killing seventeen men, women, and children including several relatives. The house was later set on fire with one blind man and at least three of the wounded still inside. She recounted:

> At around 7:30 a.m., when we were just sitting down to breakfast, two rebels came into the compound and told everyone to get inside the house. They started screaming obscenities and then one of them said, "we're going to kill all of you" so we all ran upstairs.
>
> I hid with my two little cousins but I could see everything. As they were coming up the stairs I heard them shoot two men who'd sought refuge in our house. Then they came into our apartment and my sister's husband Mani started to plead saying, "please, I beg you, if it's money you want I'll give it to you" but they said, "we don't want money, we said we've come to kill you." Then they shot him in the chest. Then they turned on Mani's brother Tejan who was holding his nine-month-old baby. They shot him and he fell with the baby in his arms. Then they fired a friend of Tejan's. They said nothing, nothing, asked them nothing. The same rebel dressed in blue jeans and a white T-shirt and with dreadlocks was doing all the killing.
>
> When they'd finished in the parlor they went to the bedroom which I could still see from where I was. My sister Fatmata was on the bed with my three year old cousin Sia. They shot my sister two times, and then shot little Sia. Then I heard my twelve-year-old cousin Sahr scream, "mama, have you left me," and then they shot him. Then they shot a ten-year-old neighbor boy on the foot, then our friend Mr. Koroma and a fifteen-year-old neighbor named Aminata.
>
> Then they went to the next room. I couldn't see what happened but I heard three gunshots and later saw the bodies of three of our neighbors. There was a blind man who lived in that apartment with his seven-year-old boy. The blind man was the only one they didn't shoot and as they left the room I heard them say, "now, you be sure and take care good care of all these people."
>
> When they were in the third room, my little eight-year-old cousin crept out from behind the wardrobe and went to her father. She was crying and she stood in front of him and bowed down. He was dead and her uncle Tejan who was still alive said, "he's left us now...quick, you go hide." But, then she went to her mom and did the same thing. I think she was saying good-bye to them. Then I called her back to me.
>
> By this time we could smell smoke coming from downstairs. I guess the other rebels had set fire to the downstairs. The one who did the killing then sprayed petrol throughout our apartment and lit it on fire. Then I heard them go outside.
>
> By now there was a lot of smoke so I grabbed my cousins, went down the stairs and tried to leave but the rebels saw us. They told me to give them my cousins but I refused so two of them pointed their guns at me and said, "so it's there you're going to die — get back into that house and burn." They then closed the door from outside and leaned on it so I couldn't escape.
>
> I waited for several more minutes until I just couldn't stand it anymore and then tried the door again and this time managed to escape. By now the fire was really blazing. We could hear the screams of people upstairs and from the outside we could see the seven-year-old son of the blind man from the window, but his father was crying and he didn't want to leave him. We convinced him to jump by saying we'd rescue his father in a few minutes. We knew it wouldn't be possible but otherwise the boy wouldn't have come. The blind man and the others were burned alive. They kept crying but there was just nothing we could do.
>
> The second rebel told the bad one at least twice to stop the killing but the bad one said he'd kill him as well if he said anything else. I just don't know why he behaved that way. In a quiet moment I feel it too much.[17]

Abdul

[17] Human Rights Watch interview, Freetown, May 15, 1999.

Abdul, twenty-eight, and his brother had sought refugee from the fighting in a large house in the business district of Freetown. He described how the rebels targeted only the men, leaving nine dead.

> We'd been up fleeing all night and were so tired so we sought refugee with about fifty people within a fenced compound which we thought would be safe. At around 7:00 a.m. a group of seven rebels dressed in full military uniform stormed in. Once of them said, "we're SLA soldiers. We've been gone for nine months but today we've come back."
>
> Then they started pointing their guns at us and screaming for us to give them money. A few minutes later the one who seemed like he was their commander said, "let's don't waste time, spray them all," at which point another rebel started shooting us one by one. The gunman was only two yards away from us. They shot my seventeen-year-old brother Isa and two of my friends. We begged them to spare us, we begged them to stop.
>
> He shot us deliberately, one after the other and only picking out the men. They said we didn't support them and after shooting us said, "now you see we're back if you people want us or not." I was so afraid to even look at them. It happened so fast; they were only there for five minutes.
>
> Our brothers have done such a bad thing to us. What did we ever do to them? We know nothing of their rebel ways. That day I just looked around me and started to cry.[18]

Agnes

Victims and witnesses describe the rebels purposefully attempting to terrorize the civilian population by forcing them to watch atrocities being committed. They would then admonish them to "behave" or meet a similar fate. Civilians acting out of line by trying to escape or protect a family member were often killed in front of their family.

Agnes, twenty-five, together with her family and neighbors, was lined up and forced to watch the brutal execution of three neighbors on January 9. She recounted:

> They [the rebels] ordered us out of our houses and then assigned a small rebel unit of six or eight to guard over each group of twenty or so civilians. It was very organized. They lined my family up with about twenty of my neighbors in a single file line on the street. They kept us standing for over one hour while they insulted us and others ransacked our houses. They got drunk on the alcohol we had left over from the Christmas holidays.
>
> Then, a few rebels called the first three civilians standing in the line; from the left. They were two men and one woman. They moved them about fifteen feet away and just opened up on them. They must have fired at least twenty shots into them. One of the rebels then turned to us and said, "you've seen the example — now if any of you dare move we'll do the same to you." And then we had to stand perfectly still for another one and one-half hours while our neighbors were lying dead on the street.[19]

Memunatu

Before commencing an attack on a compound, the rebels would frequently assemble everyone together and then select the ones they wanted to abduct. Most often those chosen for abduction were young girls, and boys of fighting age. Abductees were led away either before the attack began or after having to witness family members be killed.

Memunatu, twenty-one, was one of eight young women abducted from their compound on January 23, immediately after the execution of seven family members. She recounted:

> I looked up and saw four rebels coming into the compound. Only one had a gun and the others were armed with axes and machetes. We were over forty in the compound and those that weren't able to escape were gathered together and told to sit down right outside the verandah. A few of us started singing, "we want peace" but one of the rebels said, "you shut your mouths. You're all hypocrites."

---

[18]Human Rights Watch interview, Freetown, May 10, 1999.

[19]Human Rights Watch interview, Freetown, April 19, 1999.

They [the rebels] then picked out eight of us young girls and one seventeen-year-old neighbor boy. They ordered us to get up and stand to one side. And then the one they called "CO Blood" started the killing. He used a single barrel shotgun. He shot Alusine first, and then Hannah and Saphiatu who was nine months pregnant. Then they ran out of ammunition and set upon the rest with machetes and axes. They hit them on the neck and head. As we stood off in the corner we were begging them to stop but they kept insisting they'd leave no one alive.

And then they forced us to go. We left our families bleeding and never knew who lived and who died. I was with them [the rebels] for eight days and when I finally escaped I found out that eight of my family and friends had been killed. In fact it was seven but because Saphiatu's baby was ready to be born, we count it as eight.[20]

Hasanatu

Hasanatu, eighteen, and several female members of her family were attacked by the rebels as they were attempting to flee the eastern suburb of Wellington on January 23. She described how six family members were abducted before the remainder were lined up and shot. She said:

The night before they'd burned our house so we decided the men should hide in the swamp and the women and children should try to hide in an abandoned house. So we left the men and the twelve of us took off down the road, but just as we were leaving our compound we were confronted by two rebels who asked us where we were going.

We told him we were looking for a safer place. They ordered us to sit down and after looking us over picked out five young women and one ten-year-old boy. They were all my cousins. Then they pushed them and ordered them to go to the bush.

The rest of us begged for our lives and then two of them started arguing over whether to kill us or not. I guess they decided because a few minutes later they ordered an old woman, a neighbor of ours, to stand up and as she did, they shot her. Then they told the rest of us to stand up and proceeded to shoot every one of us including my cousins Ramatu [four] and Jenneh [ten].

When they shot me in the shoulder I pretended I was dead. From the blood it looked like they'd got me in the heart. A few minutes later I heard the other rebels returning with all my cousins who'd been abducted who burst into tears when they saw all of us lying there. Then they [the rebels] said sarcastically "are you related to any of these because if you are we've just finished them off."[21]

Burning Alive

There were frequent accounts of the particularly sadistic practice of burning people alive. Children and the elderly seemed to be particularly vulnerable. There were a few documented cases of children being thrown into burning fires and many accounts of elderly people being left behind in a burning house as their children and grandchildren were forced to flee in haste. The pleas by other family members to retrieve their children or elderly parents were most often met with threats of death.

One witness described an incident in which a thirteen-year-old boy who was "accused" of having washed the clothes and shined the boots of ECOMOG soldiers at a checkpoint was later recognized by one of the rebels and thrown into a burning fire in the business district. Another incident involved a businessman who was forced at gunpoint into his Mercedes Benz and burned alive.

Maria

Maria, a fifty-three year old retired nurse, suffered third degree burns and a fractured femur after jumping from the second story of the house in which her daughter and mother were burned alive. She recounted:

---

[20]Human Rights Watch interview, Freetown, May 3, 1999.

[21]Human Rights Watch interview, Freetown, May 3, 1999.

In the early evening a group of about twenty rebels came near the house. As usual I sent my seventeen-year-old son to hide out back, and my five-year-old adopted daughter Titi upstairs to be with my elderly mother while I dealt with them. They [the rebels] asked for water so I got several gallons and gave them all as much as they wanted.

I remember climbing the stairs and thanking God that this large group had left without doing anything to us. But just a few minutes later, another group came. The commander introduced himself as "Captain Blood" and started demanding that I hand over my daughters. I explained that I only have three sons but he accused me of lying.

As I tried to convince him, he grabbed my kerosene lamp and proceeded to douse the sofa and set it alight. I begged him not to burn my house but he continued and pushed me towards the stairs, continuing to sprinkle kerosene as we went. The other two rebels guarded the entrances so no one could escape.

Then he pushed me into my mother's room where she was lying in bed with Titi curled up, crying beside her. No sooner had he entered the room than he began pouring kerosene over the bed and said to my mother, "mommy, it's enough for you, now it's time for you to die." He then tossed a match on the bed which went up in flames and pushed me out the door and into the next room. I heard them screaming but I couldn't do anything.

He then doused the bed in that room, threw in a match and quickly left the room. As I tried to follow him he pushed me violently and I crashed onto the burning bed and cut my head on the bedboard. I got up with my leg burning and tried to leave but "Captain Blood" was leaning against the door and shouting, "it's time for you to die, you're going to die there."

I fell down on the floor with flames beginning to engulf the room and felt my chest tightening. I was bleeding from my head, my chest was filling up with smoke, my leg burning and I thought, "Titi is dead, my mother is dead. God, do you want me to die here? Is it here I'm going to meet my maker?" And, I just said no. I said no. I got up; burning my hand as I opened that door I rushed to the balcony where I saw a neighbor watching. I jumped from the second story of my house and felt my leg crack as I landed. I was dragged into the bushes where I waited with my other neighbors for the rebels to pass.[22]

Ibrahim

Ibrahim, fifty-five, described how two of his nieces were burned alive as their father begged to remove them before the rebels set their house on fire:

At around midnight, I was woken up by the sound of screaming and shouting near my cousins house. I saw four rebels standing outside his house. They screamed for him to open the door and then fired one shot after which everyone scattered, running out the back door into the bush. The rebels then started pouring kerosene on the house but in the meantime my cousin ran back and started screaming frantically, "my two children are still inside; my four-and six-year-olds are sleeping. I want to take my children!" to which the rebel replied, 'If you dare enter I will kill you." By this time the house had taken fire. My cousin insisted again but the rebel became more aggressive, like he was going to shoot him so he had to run away.

When he ran into the bush the first time his arms were full with his other children. He didn't mean to leave them. None of us ever thought the rebels would do something like that.[23]

The Use of Games to Maximize Terror

Atrocities were sometimes perpetrated within the context of games, in which the element of terror was maximized through the use of deception or teasing. Victims were sometimes given a choice as to how they wanted to be killed—"gunshot, machete, or burned alive,"—or were forced to listen to the rebels arguing over what atrocity to commit against them. Utilizing an old tactic

[22]Human Rights Watch interview, Freetown, April 16, 1999.
[23]Human Rights Watch interview, Freetown, April 15, 1999.

they'd employed in past offensives, the rebels dressed up in ECOMOG uniforms, trying to illicit a favorable reaction, and would then "catch" the civilians who would later be "punished."

After setting a house on fire, the rebels were witnessed positioning themselves near the entrances and then shooting at civilians as they tried to escape. Similarly, after killing civilians, the rebels were witnessed laying ambushes around the corpses, waiting for their relatives to retrieve them. There were numerous accounts of rebels who promised not to kill, rape or abduct an individual if the family would raise a given sum of money, but, upon receipt of the money, would commit the atrocity anyway.

Agnes

Agnes, twenty, witnessed the killing of at least twenty people on January 15 after rebels dressed as ECOMOG soldiers and, imitating a Nigerian accent, trapped a group of civilians who had come out on the street to celebrate what they thought was the arrival of ECOMOG forces. She recounted:

> I was sitting in my house when I saw a group of about ten ECOMOG, or what I thought were ECOMOG, soldiers coming down the street. They were accompanied by a few women who were singing and dancing and saying, "ECOMOG has liberated us! It's over! Come out of your houses!" And then speaking with an accent like an Oga man [Nigerian] the soldiers said, "where are the RUF rebels, where are the SLA soldiers? We've come to liberate you from those people."
>
> As they moved down the street they collected more and more civilians who said, "tanke, tanke [thank you], we're so tired of these people. We're happy you've come. You don't know how we've suffered," and so on. The women accompanying the rebels clapped their hands and got the rest of them dancing and when they'd [the rebels] collected about thirty or so people, just started to laugh. And, a few moments later said, "oh, we see, so it's ECOMOG you want. We've really caught you now."
>
> The civilians started begging for forgiveness but the rebels, who had them surrounded by now, ordered them to lie on the ground and shot them one by one in the head and chest. There were men, women, and even a few children killed. I saw the rebels change the clips on their pistols until all of them were dead. I was watching this all from my window. Even if it had been ECOMOG, I wasn't in the mood to celebrate anything.[24]

Francis

Francis, thirty-six, was inside the unfinished Bashariah Mosque with scores of other civilians when a small boy waved a white flag at a patrol of what he thought were ECOMOG soldiers. The mosque was soon after attacked by rebel gunfire and rocket propelled grenades. He explained:

> A friend of ours who'd escaped from the rebels told us that they had ECOMOG uniforms. So that day in the mosque when we saw a patrol of soldiers in ECOMOG uniforms we didn't welcome them; we kept silent. But there was a boy who hadn't been warned and before we could stop him he was waving a white cloth out the window.
>
> They [the rebels] started shooting immediately and just a few minutes later we heard the first crash of what I think was an RPG [rocket propelled grenade]. The first one killed a boy named Mohamed. Then a minute later as we were trying to get down the stairs, the second one hit right near us, this time killing two children. Another boy died later.[25]

Kaima

As Kaima, forty, was lying on the grounds of the Kissy Mental Hospital after having been hacked on the legs by the rebels, she watched as they shot at civilians trying to retrieve their dead and dying who'd been gunned down some hours earlier. She explained:

---

[24]Human Rights Watch interview, Freetown, May 28, 1999.
[25]Human Rights Watch interview, Freetown, April 19, 1999.

We saw hundreds of them [the rebels] coming down from the hill beh nd Mental [the mental hospital]. We tried to run but they caught about twenty-five of us. They separated the men from the women and then right there on the grounds, lined up the men and shot them. I was attacked by machetes later on and as I lay there wounded throughout the night I counted them; there were sixteen and they shot them all. I don't know if all of them died.

Then over the next several hours, their wives and families who had run into the bushes came back and tried to see about their people. I guess they wanted to take their bodies and maybe even save the few that might have still been alive. But when the rebels saw the women, they took up position and shot at them as they crept out to get their people. It was hard to see if any of them [the relatives] were wounded but afte the first few times none of them came back to fetch their men.[26]

Alusine

Alusine, thirty-nine, a civil servant, described the hours of terror he spent with his family as they were rounded up with other civilians, divided up to be held in rooms which they were told would each have different hours for execution. He explained:

At around 7:30 p.m., a group of seven of them [rebels] rounded us up from our houses and walked us down to a big house on Kissy Bypass Road. We were about 200 and when we arrived, the commander divided us into groups of about sixty and then explained how he planned to kill us all. He said the first group was the 9:00 room, the second group, that was ours, the 10:00 room and the last group the 11:00 room. At 9:00 p.m. sharp he was going to kill all of those in the first room, 10:00 p.m. he was going to kill us and so on. Then they led us into the rooms.

So sure enough at just 9:00 p.m. we heard them open the door of the room right next to us, the 9:00 p.m. room, and started shooting. I couldn't see but I heard people running and screaming "don't! It's the end of my life! They've killed my wife! They've taken my girl!" and like that. The shooting went on for about ten minutes.

Within our room we started crying. Muslims and Christians; we were all praying together and I started thinking of my children, my mother, how I hadn't yet helped my parents, how I hadn't really enjoyed my education.

At 10:00 p.m. sharp they came to our door but we'd locked it from the inside. They threatened to burn us alive so we decided to open the door thinking that at least some of us might be able to escape. When they opened the door the heat that hit them was so intense they said, "what kind of hell is that" and then ordered us out on the street for execution.

As we were taken outside, another commander happened to pass by and when he saw what was happening ordered there to be no more killing. The commander apologized, saying they were RUF rag-tag boys. The next morning we buried four bodies from the "9:00 o'clock room" and we heard many, many were taken away wounded.[27]

Alpha

Alpha, thirty-five, described how from his hiding place he saw a group of rebels gather up twenty-four civilians, put them in a room, set it ablaze and then position themselves so as to be able to shoot them as they ran out:

As the killing was happening upstairs, the rebels gathered twenty-four of our neighbors who'd sought refuge in our house and put them under gunpoint in the back room. When the one called "Dave" came downstairs after having killed everyone, he asked for a lantern and said, "I'm not going to waste my bullets on these people — let me set this place alight." In fact, they'd already set the upstairs and part of the downstairs on fire.

Then he sprayed kerosene on the civilians, closed the door and as he was leaning on it told them that those who paid 1,000 leones [U.S.50 cents] each to the rebel waiting at the window, would be set free. The civilians then started handing out the 1,000 leones to a few rebels waiting there. One girl came to the window and begged, saying she didn't have any money and the rebel collecting the money shot her in the face.

---

[26]Human Rights Watch interview, Freetown, April 20, 1999.
[27]Human Rights Watch interview, Freetown, May 13, 1999.

Then, as the fire was really blazing, the rebels, announced they were leaving but instead positioned themselves around the back door with their guns pointed at the only exit and waited. However, the fire was too intense and those trapped inside were no longer able to move through the hall to get to the back door. By that time the people were really screaming and choking for air at the window. After about ten minutes the rebels finally left, thinking the people would burn to death, and my friend and I rushed to find an axe and break through the bars of the window and let everyone out.[28]

Targeting of Particular Groups

Nigerians, policemen, and journalists were those most directly targeted by the rebels during the January offensive. Foreign missionaries, members of the government and civil servants, human rights activists, successful business people, Lebanese and Indian nationals, and those vocal in their opposition to the AFRC junta during its nine month rule were also targeted, but to a lesser extent. A few witnesses saw rebels with lists of such people. Others were targeted by individual combatants settling old personal and political vendettas.

While there were many prominent members of society killed by the rebels, it is difficult to say to what extent they were targeted because of their position or simply because they were caught up in the wave of violence. There does not appear to be any ethnic element involved in the choice of victims.

Nigerians

Nigerian nationals, most of whom are traders and business people in Sierra Leone, and some of whom are long time Sierra Leone residents, suffered considerably during the January offensive. The Nigerian High Commission registered the deaths of sixty-three Nigerian nationals and evacuated two victims of arm amputation. Nearly all of the victims were men. Their houses and business were burned and the Nigerian High Commission was looted and set on fire.[29]

Nigeria has shown significant support for the government of Sierra Leone both militarily and politically. Nigerian troops make up the bulk of the 14,000 strong ECOMOG force, and Nigerian general Maxwell Khobe was last year seconded to the Sierra Leone army as chief of defense staff.

Nigerians were hunted down in their hiding places and murdered in particularly brutal and sadistic ways. Their attackers frequently accused them of actively spying for and supporting ECOMOG, and of supporting President Tejan Kabbah's government. Sierra Leonean civilians who were married to, associated with, or happened to be in the same place as a Nigerian national who came under attack, were also frequently targeted.

Abdul

Abdul, forty-six, witnessed the double amputation of limbs of two Nigerian businessmen and one Cameroonian, on January 21 in Kissy. One of the Nigerians and the Cameroonian were later killed. He recounted:

A big group of rebels rounded up about fifty of us and brought us to Leadenhall Street where they separated us and made us form two lines; men on one side, women and children on the other. Then they went around inspecting each one of us. Among us were two Nigerians; Mr. Ben and Mr. Ben's brother, and one man from Cameroon.

One of the rebels quickly noticed Mr. Ben's wedding ring; he was married to a woman named Zainab who was standing in the women's line. The rebel told Mr. Ben he had a really nice ring and asked him his name but Mr. Ben didn't answer him. I think he was afraid to talk for fear they'd find out he was a Nigerian. The commander asked the rest of us if he was a deaf-mute but none of us said anything.

He then started threatening us and said, "We know there're Nigerians among you.... Tell us who they are or you all die. We don't want them in our country and we will kill them all." Some of them [the rebels] sprinkled petrol on us and threatened to set us on fire.

---

[28]Human Rights Watch interview, Freetown, May 1, 1999.

[29]Human Rights Watch interview, Alhaji M.C. Abubakar, Nigerian High Commissioner, Freetown, April 4, 1999.

Finally Ben told the commander that he was married to a Sierra Leonean and his wife Zainab stood up and said, "He is my husband but he is a businessman. I can show you the papers to prove it." The rebel responded that he didn't want to see any papers and as they pulled Mr. Ben out of the line, several of the rebels started arguing over whether to kill him, amputate his hands or set him on fire.

When they'd decided to cut off his hands Mr. Ben started pleading saying he was a businessman, and shouted, "I beg you don't cut my hand, Oh Jesus, Jesus." Then the axe man said, "If Jesus himself comes here I'll amputate his hand as well." Then they ordered him at gunpoint to put his right hand face up on a table and they hacked it off with an axe. And then his left hand. The rebel then put his hands in Ben's blood and walked over to his wife, who was sobbing, and smeared it on her face. He told her if she continued crying he'd kill her.

As this was happening Ben's brother started yelling, "God what have you done to my brother." So they pulled him out and cut off his two hands as well. Then they pulled out the third one who started screaming that he wasn't a Nigerian, but was from Cameroon, but they cut off his hands as well. Then they sprinkled more petrol on Ben's brother, I think he even had tribal markings, and set him on fire. His hands were hanging off his arms and he was on fire screaming "please don't kill me." They let him burn for five minutes before a commander let some us put the fire out with dust.

Several of the rebels were dancing around the three of them saying, "now you go tell ECOMOG about your problem." A few days later in the hospital I saw Zainab and Ben's brother. That's how I found out Mr. Ben had been killed.[30]

Hawa

Hawa, forty-three, a nurse in Good Shepherd Hospital in Wellington, described how on January 18 a Nigerian businessman who had several days earlier been admitted with a gunshot wound was dragged out of his hospital bed and killed by a group of rebels.

On January 8, a thirty-five-year-old Nigerian businessman named Joseph was brought to me by passers-by who'd found him in Wellington. He'd been shot three times by the rebels. I admitted him and put him upstairs because I thought it would be safer.

On January 18 I heard a large commotion and then a group of fifteen rebels stormed my hospital, put a gun to my head and demanded I show them "the ECOMOG lieutenant colonel you have hidden here." I told them I had no such person but in the meantime another ten of them, who'd run upstairs, found Joseph and proceeded to drag him down the stairs and out the door. As they passed me I heard him saying, "Jesus have mercy upon your servant, Jesus have mercy upon your servant."

When they had him outside another ten rebels dragged him half a block up, surrounded him, beat him and proceeded to cut off both his arms, both his legs, his ears, cut his throat and then shoot him several times. They never asked Joseph to identify himself. It was so brutal the way they killed him. They danced around his body and those who weren't doing the killing were cheering. They continued to threaten me for having "harbored a Nigerian" and a day later I had to close my hospital and flee.[31]

Gbassay

Gbassay, fourteen, described the January 19 killing of twelve people, including two Nigerians, who had sought refuge within the Brotherhood of the Cross and Star Church in Wellington. Among the dead were a well-known journalist Paul Mansaray, his wife, and their three children.

My auntie, uncle, and I went to the church that night as we'd been doing every night since the trouble began. We thought it was safer than sleeping at home. Shortly after arriving, five rebels with a lot of guns entered and said, "we

[30]Human Rights Watch interview, Freetown, May 8, 1999.
[31]Human Rights Watch interview, Freetown, May 21, 1999.

know you people are hiding ECOMOG soldiers in here." I could see a few other people outside the door and we later thought they were probably collaborators who'd told the rebels about the two Nigerians.

They started harassing us and asking for money so one of us said, "we just pray for you people, that you succeed in your mission." Many of the others were just pleading to be left alone. The rebels noticed that the Nigerians weren't talking and so eventually discovered their nationality.

They then ordered us all outside the church but in the confusion and panic twelve of us got away. From where I was I could see them being walked at gunpoint with all the rebels pointing their guns at them and shouting, "captured live, captured live."

Around this time a second group of rebels arrived and asked the others who the civilians were to which they answered, "These people are harboring Nigerians." The two groups started arguing over whether to just kill the Nigerians or to kill everyone. Then a few rebels ordered all twelve of them to lie face down on the ground and they started firing. The journalist tried to run with two of his children but they gunned them all down a few feet away.[32]

Police Officers

According to officials at the Sierra Leone Police Headquarters, eighty-five police officers, including two women, were killed during the January 6 rebel incursion.[33] Many officers were killed while on duty and within the police stations, which came under heavy attack by the rebels. Sierra Leonean police, except the Special Security Division (SSD) are traditionally unarmed, and since the February 1998 ECOMOG intervention to oust the AFRC Junta, even the SSD have not been allowed to carry weapons.[34]

Police officers interviewed believed they were targeted because they were seen by the ex-Sierra Leonean army members of the RUF as being traitors for not having fled with them when driven out of Freetown by ECOMOG forces in February 1998 and for their role in investigating and preparing the cases against the twenty-four AFRC junta members accused of treason and later executed in October 1998.

Police officers described being hunted by rebel forces and having their family members harassed and sometimes killed. Because of the past relationship under the AFRC junta, they were well known and recognized by the ex-SLA members of the rebel army.

Abu

Abu, fifty, described how he was wounded in an attempt to execute him, specifically because he was a police officer:

On Wednesday morning I found out that Mr. D. of the SSD had been killed by the rebels as they advanced through Calaba Town. His wife described how the rebels knocked on his door as they passed and started screaming "he's an SSD man" and then stabbed him to death with knives. I started getting really worried.

We fled to another house but in the meantime a commander calling himself Major S. took over my house, found out where I'd fled to and sent four other rebels to bring me to him. When I arrived the major told me he'd found police ID papers and announced that he'd made a vow to himself to kill any policeman or woman he encounters because, "the police betrayed us and joined ECOMOG." He said, "I don't mercy police officers." Then he ordered the other rebel boys to tie and beat me. Several of them gave me a severe beating in the face and abdomen and tied me with a wire. Major S. just sat there watching the whole thing and I noticed he was wearing a watch that had been given to me as a gift and that I only saved for special occasions.

---

[32]Human Rights Watch interview, Freetown, May 6, 1999.

[33]Human Rights Watch interview, Julius J. Momoh, Staff Officer of Sierra Leone Police, Freetown, May 18, 1999.

[34]SSD officers were ordered to surrender their weapons by ECOMOG during the February 1998 intervention which ousted the AFRC/RUF from the capital and subsequently reinstated democratically elected President Tejan Kabbah. Since then, SSD officers were only allowed to carry weapons when called to go to the war front on military operations.

Then he put me in the corner of my house. He threw me on the ground so I was sitting, tied on the ground about a yard from Major S. and he said, "you think we should remain in the bush don't you, but the bush is made for animals." It was between 5:45 and 5:50 p.m.

I started to beg and told him "but life is so very precious. Please, please don't kill me. I've been in the force for over thirty-four years and I'm not meant to die like this. When peace comes wouldn't you too want a government job?"

Then Major S. pointed a pistol at me and said, "I've killed 213 people and you're going to make number 214." And then he shot me in the face. I fell down and put my tied hands in front of my face but he shot me again.

I didn't know if I was in the world again until God woke me up late that night and I saw myself in a gutter. I had blood all over me and I felt my face to be huge. I dragged myself for some meters and hid until I was out of the road because there were still rebels around. When I felt it was safe I got myself to ar ECOMOG checkpoint. As they were taking me to the hospital I saw so many corpses along that road. There must have been two hundred.[35]

Journalists

According to local journalists, seven Sierra Leonean and one United States citizen reporter were killed by rebel forces during the January 6 rebel offensive. There were also three journalists abducted, one of whom has since been released. One journalist had one of his eyes gouged out with a knife and many journalists suffered significant personal property damage and loss. The building housing two newspapers, the *Concord Times* and the *Standard Times*, was looted and later burned. Many journalists who went into hiding were later told that groups of rebels had come to their residences asking for them and demanding their capture.

While the atrocities committed against a few journalists resulted from arbitrary acts of violence, there is clear evidence to suggest that journalists were indeed sought after and targeted. Members of the independent press in Sierra Leonean have traditionally been vocal opponents of past military regimes, and have often worked in a climate of repression. The nine month rule of the AFRC/RUF Junta was no exception. Many pro-democracy newspapers continued to publish and were highly critical of the Junta, thus becoming deeply unpopular with them.

When the RUF returned to Freetown in January, they had the names of and sought after many of the individual journalists and publishers who had in the past written unfavorably of them. The relatives of Phillip Neville, the managing editor of the pro-democracy *Standard Times* described how rebels came to his home in Kissy with a list of opponents, which included the names of Phillip and several other journalists. According to the relatives, the rebels showed them the list and said, "we've come to teach him a lesson. He's been writing negative things about us. We remember."[36]

Mustapha Sesay

Mustapha Sesay, twenty-nine, was captured as he was fleeing the fighting in the Eastern suburb of Calaba town. After a brief "trial" he was "accused" of being a journalist and sentenced to death. He was able to escape but in the process had his right eye gouged out. He recounted:

On January 21 I saw a huge group of what looked like 5,000 civilians moving down the hills. We thought they were fleeing the rebels so my cousin and I, who had heard they [the rebels] had started chopping hands, thought we'd better flee with them.

As we were running, I was all of a sudden fished out from this group. I felt someone seize me from behind and when I looked around I saw there were two men in rag-tag dress. I never thought they were rebels and one of them said they were taking me to ECOMOG. I asked them what I'd done and then started roughing me up and stole my watch and wallet. Then they said, "We know you're a journalist working for one of those pro-democracy newspapers. You're

[35]Human Rights Watch interview, Freetown, April 23, 1999.
[36]Human Rights Watch interview, Freetown, May 3, 1999.

the people passing information to ECOMOG about our movements." It was then I realized I'd been captured by the rebels.

Then they grabbed me and walked me several blocks to their hide-out where I saw two other rebels. They were all armed with knives and machetes. I didn't see any guns.

One of the rebels, who I assumed to be the commander, then stood up and the two who'd brought me gave him my ID card. He studied it for a minute while I stood before him and then announced. "Mustapha Sesay. Journalist. Death Sentence." Then he reached into his shirt and pulled out a machete. A few moments later as the two who'd brought me held me tightly by my shorts, and their leader was in front, I felt something hit my eye and I realized I'd been hit. They had daggers and I thought maybe that was what hit my eye.

They hit me four or five times on the head with a machete. I started fading. I was bleeding seriously and was very weak. I struggled with them for five minutes and finally fell on the ground and surrendered myself to death. But when I reached the ground I decided I had to escape. I struggled with them as they continued to strike me but eventually struggled my way out of their grip and ran for thirty meters. As I ran I could hear the commander saying, "you've allowed the bastard to escape — we'll shoot you if you don't stop running," but I didn't care. I preferred them killing me with a bullet to being hacked to death.[37]

Clergy Members

On January 12, Catholic Archbishop Joseph Henry Ganda, four Xavierian Fathers and six Sisters of Charity were abducted from their parish homes by RUF rebels. All but the Catholic archbishop were foreign nationals. For over ten days they were kept under the control of the RUF military police and moved from place to place. They were interrogated and a few of them, including Archbishop Ganda, suffered some form of physical abuse. As the rebels fled Kissy on January 20, Archbishop Ganda and three of the Xavierian fathers were able to escape. On January 22 while in the process of withdrawing from Freetown and fleeing into the surrounding hills, four Sisters of Charity were executed and one Italian father was shot. Since 1991, many members of the Catholic clergy, almost always foreign nationals, have been abducted or come under attack by RUF rebels.

While abducted, the church men and women, and thirteen Indian nationals working for the Shankerdas and Sons plastics factory who were abducted at around the same time, were being guarded by the RUF military police. Witnesses to the execution of the nuns and shooting of the priest described elements of the RUF arguing over whether the killing should take place. They felt the rebels' intention was to take them into the bush as hostages, and that the order to protect them had been overridden by a renegade solider or unit.

Beatrice

Beatrice, twenty, was abducted with her sister on January 21 and forced by the rebels to retreat to the hills with thousands of other abductees. On January 22 she witnessed the gunning down of seven foreigners, three Sisters or Charity, one Xavierian Priest, and three Indian factory workers. She described the killing, which took place in Allen Town:

There were thousands of us from Kissy, Wellington, and Calaba Town who'd been taken away with them [the rebels]. Among us were seven foreigners; mostly Indians but also an African Sister of Charity they said was from Kenya and a white Priest. You could tell who were the sisters because they wore that white robe with blue trim. It was in the morning and they had us all seated on a street in Allen Town. There were hundreds of rebels all around the area.

Many of the children were crying for their parents and the young women were crying and a few of them told us to "shut up" and that they were taking us into the bush. The rebels were drinking, laughing, and playing music. The foreigners were off to one side and we were seated about ten feet away.

[37]Human Rights Watch interview, Freetown, May 3, 1999.

There was this rebel, and he had it out for the nuns. He said his name was Colonel Foday Bah and for the last day we'd heard him threatening to kill the nuns. Another rebel named Tina Musa, she was SAJ Musa's wife,[38] kept insisting that they be left alone and they argued about it. So that morning she had to go on a mission and no sooner had she climbed the hill behind Allen town, than Foday Bay started in again on the nuns.

At around 10:00 a.m. he got out his pistol and started threatening, but seriously now. The nuns started crying and praying and we did as well, so he announced, "I am Colonel Foday Bah. I'm an SLA man. We came for peace but you people don't want it. You're the ones selling out our country." In the process he was hitting the nuns and others with a stick. Another rebel told him to leave them, but Foday threatened to kill him as well.

When it became clear he was serious, the nuns started praying. And then he walked over to the black nun, and shot her with his pistol in the head. Then he shot a white man. And, then even as the others were begging and begging he shot a yellow [Asian] nun and then another yellow [Asian] one, and then the others. When he was finished he went over, removed their slippers and gave them to a few of the abductees.

When Tina came back down the hill and saw the nuns had been killed she was furious and upset. She even cried for them.[39]

The Use of Civilians as Human Shields

According to interviews with witnesses, victims, and military personnel, the RUF's incursion plan into Freetown was built around the use of a massive human shield. In the early morning hours of January 6, thousands of rebels massed near the suburb of Calaba Town some eight miles east of Freetown and began to march westward, firing rapidly into the air. This served to frighten the civilian population of the densely populated east, provoking a mass exodus of people who fled in panic towards central Freetown. The rebels, many of whom were in civilian dress, then mixed in with the crowd. Other civilians were forced at gunpoint to join in with the crowd, which was by then massive. The majority of the rebel fighters, however, remained safely behind.

Civilians described being totally confused as to what was happening and surprised to find the rebels mixed in among them. As the mass of humanity approached the first ECOMOG position, and the civilian-dressed rebels pulled out their guns, witnesses described the horror they felt as they realized they were being used as a human shield.

This surprise proved both frustrating for the ECOMOG soldiers manning their positions and deadly for the civilians being used as a human shield. ECOMOG commanders and soldiers interviewed expressed their frustration at not being able to "effectively engage the enemy" and respond militarily because of the heavy civilian presence. According to witnesses, many people within the human shield, particularly those near the front, died in the crossfire once rebel soldiers, who'd mixed in with the human shield, and ECOMOG soldiers manning their positions began an exchange of fire. The tactic however, proved largely effective for the rebels. As the ECOMOG soldiers were forced to withdraw, both because they were overpowered and because they could not respond effectively, thousands of RUF rebels marched into Freetown and took up positions in and around the city center.

The use of civilians to advance towards military targets was not limited to the rebel entry into Freetown. It was also used in defense against ECOMOG air power. As the rebels advanced through downtown Freetown on January 7, civilians were forced out of their homes and forbidden to take cover as an ECOMOG jet flew over and later bombed the area. According to witnesses at the scene, some thirty civilians were killed in this attack.

Towards the end of the offensive, the rebels used thousands of abductees as human shields as they made a failed assault on the hills and peaks above Freetown and as they made their withdrawal from the capital. Again, escaped abductees describe scores of civilians, mostly young women, being killed by the ECOMOG mortar and artillery bombardment that ensued.

---

[38] "SAJ" Solomon Musa, was an ex-SLA officer and under NPRC government was vice-chairman and secretary of state. In 1997 he was appointed secretary of state with the AFRC/RUF Junta. He was killed in December 1998, allegedly by an accidental explosion.

[39] Human Rights Watch interview, Freetown, May 2, 1999.

Corporal S.

Corporal S., an ECOMOG soldier who was stationed at a checkpoint near the entrance to the city, described seeing a mass of civilians moving towards them and the confusion that followed as fighting broke out with rebels they were not able to see:

> I was stationed at [X] position with another twenty-five soldiers and about twenty Kamajors. We were on the alert because we'd been told the rebels were on their way coming from Allen Town. We lined up, weapons ready, on the street at about 1:15 a.m.. We heard a lot of noise; people shouting, civilians, children, the sound of people walking and saw what I estimated to be more than 2,000 civilians carrying things on their heads and backs. Suddenly we saw an armed man in the crowd and said, "who goes there." He refused to say anything and someone fired a shot and then the whole thing started. There was so much confusion, everyone was running helter skelter, boxes were flying, people were screaming and running everywhere, and people were falling and trying to run for safety. In the end I think many civilians were killed.
>
> The rebels later withdrew but regrouped and came back at us ten or fifteen minutes later. And the civilians kept coming. They were so many and we just didn't know who was among them. It was too difficult. It wasn't possible to hold that position.[40]

Inna

Inna, fifteen, was one of several hundred civilians rounded up from their homes on January 7, and forced by the rebels to walk through the street as an ECOMOG jet flew overhead. The group was later bombed and heavy civilian casualties ensued. She recounted:

> They ordered me and my friend Ami at gunpoint to join a group of people they'd gathered from our street. A few blocks later we were met by a group of about 150 civilians who were being forced from their houses. They threatened anyone who refused to come with them.
>
> We continued walking for another thirty minutes and they [the rebels] kept picking up people along the way. It was when we got to Regent Road that we first heard the Alpha pass over.[41] Between 1:50 and 2:00 p.m. it flew over us four times. Each time it passed the rebels would run and find safety wherever they could crying, "Jet cover, jet cover!" and running into phone booths, towards the sidewalks, into the cathedral. A few of them fired at the plane. We knew it was a bomber but we just didn't think it would do anything to us because we were civilians. But, anyway the rebels had their guns on us the whole time; there were at least five of them around me. By this time there were about two or three hundred of us, mostly women and children.
>
> And then the jet flew over again, there were a few explosions and I was knocked completely off my feet. I think three bombs dropped but I'm not sure. Most of the rebels were running away and there was dust everywhere. People were crying and screaming and there was blood everywhere. I was desperate to find Ami but I couldn't. The rebels started screaming, "you see what ECOMOG is doing; you see how they target civilians." I saw one child who'd been cut in two and so many people, maybe ten, had their limbs hanging off. I counted ten bodies but I'm sure there were more. I looked and looked for Ami and finally recognized her by her curly hair. Her belly had been split open and I think at that moment she was dying. I finally got away and rushed straight to her mom to tell her what'd happened.[42]

Victor

Victor, forty-five, was hiding in an upper floor of a downtown building as he witnessed the same bombing. He described seeing the rebels pointing their guns at civilians to stop them from taking cover. He said:

> The rebels were mixing in with the civilians in the front of the crowd but there was a much heavier concentration of them at the back. I was hiding, listening to my radio on the third floor of my building and at 1:30 p.m. I heard a state

[40]Human Rights Watch interview, Freetown, April 17, 1999.

[41]Alpha jet, used by Nigerian Air Force members of ECOMOG Nigerian contingent.

[42]Human Rights Watch interview, Freetown, April 29, 1999.

announcement on 98.1 radio warning all civilians to go inside their houses because the ECOMOG jets would be searching for rebels.

So at around 1:45 p.m. I heard the jets start to pass over. By this time the crowd was making its way down Wilberforce Street. Each time the jet passed by, the rebels moved to the side of the street to search for cover. But when the civilians tried to run as well, I saw the rebels pointing their guns towards the civilians to keep them in the middle of the street.

And then it fell. I hit the floor, glass was breaking, people were screaming. And when the dust cleared about three minutes later I was able to see the carnage. They brought carts to take away the dead and wounded, and I counted about thirty bodies in the street. People were even cut in two.[43]

Saramba

Saramba, twenty, was one of hundreds of abductees who were used as a human shield in late January during one of the rebels' final attempts to attack ECOMOG positions. She described how civilians were killed as they came under heavy ECOMOG mortar and artillery bombardment near Bathurst Hill.

I was taken with my fifteen-year-old sister on January 20. My people cried but there was nothing they could do. They [the rebels] made us carry boxes and things they'd looted. As they were withdrawing through Calaba Town they were pulling lots of people from their houses.

On the morning of January 25, the commanders ordered the other rebels to take us up the hills behind Calaba town and start moving towards Bathurst Hill. There were hundreds of us. We later heard them talk of how they were going to attack Wilberforce Barracks. But, as we were climbing the hill, at around 2:00 p.m., the bombardment started. It was terrifying. There was a whistling sound and then huge explosions. It went on for three hours and I saw about thirty people, civilians like me, dead or badly hurt. The pieces of the bombs cut you. I saw one beautiful fair-skinned girl who'd been cut up so badly and died right there.

The rebels seemed to know when they were coming and knew how to take cover. They just weren't getting hit as much as we were. But of course there were a lot more of us.[44]

Christiana

Another abductee, Christiana, twenty-one, described being part of an abducted group during a rebel assault on Leicester Peak. She described seeing about one hundred corpses of people who were killed in the bombardment:

At around 10:00 p.m. on either January 28 or 29, they [the rebels] told all the abductees to start moving. There were thousands of us, mostly young women. As we walked it became clear they were headed for Leicester Peak and from there Wilberforce and it was obvious what they were using us for.

They made some of us carry water and ammunition on our heads and we walked for hours and hours. They kept getting lost and didn't seem to know where they were going.

When we arrived at Leicester Peak on around January 29, the ECOMOG gunship started shelling. I was so frightened. The bombs were coming from everywhere. They shelled us by air and from Wilberforce Barracks. It went on for hours and there was a terrible confusion. I ran and tried to take cover and people keep falling around me. People were dropping their boxes and diving for cover. There were so many dead; more than one hundred. I kept stepping on them as I was running and it seemed like most of them were the abductees. The rebels were in a panic and there was very little return fire. I ran and ran and because the rebels were fleeing, I was able to escape. That's how I was finally able to make it back to my family.[45]

---

[43]Human Rights Watch interview, Freetown, April 29, 1999.
[44]Human Rights Watch interview, Freetown, May 2, 1999.
[45]Human Rights Watch interview, Freetown, May 3, 1999.

The Use of Drugs by the RUF and Forced Drugging of Civilians

Most victims and witnesses describe widespread usage by the rebels of drugs, marijuana, and alcohol and believe most of the atrocities were committed while under the influence of these substances. Witnesses describe rebels self-administering drugs by cutting small incisions around their temples, cheeks, and other places or their faces in which a brown or white powder was inserted and then covered with "plasters" or adhesive tape. The rebels spoke of this drug as being "cocaine." Others observed rebels cutting the undersides of their arms with a razor blade and injecting themselves, and of taking small blue pills.

Abductees who managed to escape reported having been forcibly injected with drugs, or being given food and drink laced with drugs. One father whose sixteen-year-old girl was abducted by the rebels saw her a few days later being led away with "those plasters" on her face and describing her behavior as "drugged and out of it." One abductee asked a nine-year-old rebel about the drugs they were using and was told, "it's a medicine they give us which makes us to have no respect for anybody; whatever we think to do, we just do it." Another rebel added, "it gives us power and makes us fear nobody," and yet another said, "It makes us feel so tall and you people [civilians] look so small."

Lynette

Lynette, sixteen, was abducted on January 21 and held by the rebels for several days during which time she was given drugs in her food, and witnessed other abductees being lined up and injected with drugs. She recounted:

> From the first day they drugged us. They showed me some powder and said it was cocaine and was called brown-brown. I saw them put it in the food and after eating I felt dizzy. I felt crazy.
>
> One day I saw a group of rebels bring out about twenty boys — all abductees — between fifteen and twenty years old. They had them lined up under gunpoint and one by one called them forward to be injected in their arms with a needle. The boys begged them not to use needles but the rebels said it would give them power.
>
> About twenty minutes later the boys started screaming like they were crazy and some of them even passed out. Two of the rebels instructed the boys to scream, "I want kill, I want kill" and gave a few of them kerosene to take with them on one of their "burn house" raids.[46]

Joseph

Joseph described how he was abducted and brought to State House where he and several other civilians were held at gunpoint and injected with a brown substance:

> They had me in a room in State House where they put a gun to my head and forced me to take that thing. They said, "You take this so you won't feel afraid." It was a liquid and after some minutes I felt like I was flying and my head ached. It took me two weeks to get over that thing; my head felt heavy and confused."[47]

Abdul

Abdul, twenty, another abductee held at State House, described large groups of rebels being called forward to receive pills and the distribution of drugs by rebel commanders and, on a few occasions, white mercenaries. He said:

> There were hundreds of rebels in State House because it was their base. They were always drinking, smoking jamba [marijuana], sneezing a white powder, and some of them took these bright blue tablets.
>
> I was held there for three days and at least once a day one of the commanders would call people together saying, "it's time for your medicine" and give out those pills. I even saw two of the Ukrainians [white mercenaries] walking around distributing what I thought was probably cocaine from a small sugar box.[48]

---

[46]Human Rights Watch interview, Freetown, May 10, 1999.
[47]Human Rights Watch interview, Freetown, May 12, 1999.
[48]Human Rights Watch interview, Freetown, April 12, 1999.

Mutilation and Amputation

The practice of mutilation and, in particular, amputation of hands, arms, legs and other parts of the body was also widespread during the January RUF offensive. The rebels used axes, machetes, and knives to kill and maim hundreds of people, mostly men but also women and children.

During the month of January, Freetown's three main hospitals—Connaught, Brookfield, and Netland Hospital—treated ninety-seven victims of amputations resulting from attacks with axes and machetes. The majority of amputations were of the hands and arms, including twenty-six double amputations. One hospital treated over forty cases of "attempted amputations," serious lacerations to the arms and legs, where medical staff were able to save the extremity or extremities.[49] In these cases medical personnel note that the damage to the nerves, tendons, muscles, and bones frequently leads to some degree of decreased functioning.[50] Wounds from lacerations to the head, neck, and other areas were also numerous.

What will never be known is the number of victims who died before being able to receive medical attention. Many people reported seeing corpses on the streets of Freetown with both hands dangling or missing. Public health workers and mortuary attendants responsible for the collection of corpses and burial within mass graves, also observed many bodies with missing limbs and lacerations.[51] The main hospitals, which were located in western Freetown and under ECOMOG control, were inaccessible to the majority of victims in the east where the vast majority of amputations took place. Unable to cross front lines, victims frequently reported going two to three days before receiving medical attention.

Lansana

Lansana, twenty-four, was one of three brothers each to have one of their hands hacked off as they were attempting to flee towards an ECOMOG position on January 18. He described how one brother died near the site of the amputation:

> The closer ECOMOG moved to our area, the more they [the rebels] started committing atrocities. At 9:00 a.m. me and my brothers Amara, seventeen, and Brima, twenty, decided to flee. We packed up a few things and then took off. About a quarter mile from our house, we rounded a bend and ran straight into a group of about fifty rebels. They argued about whether or not to kill us and then one of them said "let's send them to ECOMOG," which is their way of saying our arms should be cut.
>
> They told us to lie down in the road, face down—they had their guns to our heads. The first to be cut was Brima; they cut his left hand with an axe. Then my left hand was hacked off and then Amara's right hand. They didn't ask us any questions or accuse of us anything. There was a lot of gunfire all around. The battle for the place was really on. We were all bleeding so much. Brima tried to get up a few times, but he stumbled and fell. The last time he only made it a few yards and then collapsed. He couldn't move, he fell down right there. I think he lost too much blood or just couldn't take the shock. It was so tense; the bullets were flying and me and Amara had no other choice. We had to leave our brother right there on the street.
>
> After we got out of the hospital we went back to the place where it happened. The people there told us Brima had been buried later that day in a common grave, right near where he fell.[52]

Alpha

Alpha, a victim of a machete wound to the head, described seeing two victims of limb amputations die on January 22 during the battle for the eastern suburb of Calaba Town:

> As I ran towards the ECOMOG position, blood was gushing from my head. The rebels had whacked me three times with a machete. The ECOMOGs had their guns on me but when they saw I was bleeding, I heard them say, "this man

[49]Human Rights Watch interview, Medécins Sans Frontières, Freetown, May 6, 1999. The cases of unsuccessful amputations were treated by MSF medical staff at Connaught Hospital.

[50]Human Rights Watch interviews, MSF, Freetown, May 6, 1999.

[51]Human Rights Watch interview, Morgue Attendants Connaught Hospital, Freetown, May 5, 1999.

[52]Human Rights Watch interview, Freetown, May 12, 1999.

isn't a rebel; he's one of your brothers. Come and help him." They brought me to the back of a house and lay me down next to three other badly wounded civilians; a woman with a gunshot and two men with their hands cut off.

One man forced me to drink water and then I passed out. When I woke up some hours later I saw that all three of the civilians had died. I wanted to leave that place and go home. I didn't want to die there.[53]

Civilians were often mutilated in pairs or groups of up to eight, during small rebel operations in which victims were rounded up, made to form a line and their limbs amputated one after the other. Other amputations were done as punishment for having resisted the abduction of a family member or for fleeing from a rebel patrol. In other cases the rebels choose their victims randomly, frequently without asking a single question.

Ramatu

Ramatu, fifteen, and five other neighbors rounded up by the rebels, had their hands or arms amputated near the Kissy Mental Home where dozens of amputations were witnessed. She described how they hacked off her left arm:

Ten rebels broke into our house and started demanding money. Then they ordered us outside and grouped us together with about thirty other people from the area. They held us at gunpoint in a circle, and started pointing, "you, you, you," and telling us to follow them. They didn't ask us any questions. I don't know why they chose me, or the others. We were three men and three women. A few of them were young like me.

They then marched us at gunpoint to the hill near Kissy Mental. They didn't say why they were taking us but we knew. When we arrived they ordered us to lay face down and started cutting us. They dragged us, they had us get down on our knees and put our arms on a concrete slab. They had others standing over us and holding us from behind. One rebel did all the cutting. A few had both hands cut off; others just one. And then they walked away. I couldn't even bury my arm. And now I don't think I'll ever find someone to marry me.[54]

Osman

Osman, forty-two, and a neighbor had both of their hands amputated in Kissy on January 25 when they were caught hiding in the banana trees behind their house. He recounted:

At around midnight, they [the rebels] started firing at our house and ordered us to come outside. I fled into the bush with my wife and four children. We found our neighbor and his family there and remained hiding throughout the night. Early the next morning we saw another group of rebels passing by but the neighbor's baby started to cry and gave away our position. We started running but they were too fast.

They ordered me and the other man forward. They cursed and insulted us and without asking any questions pushed my friend to the ground and cut off both his hands with an axe. When they called me forward I begged them and offered them all my money. But, they did it anyway.

The rebel who cut my hands had a white T-shirt with "Captain 2 Hands" written in what looked like blood. My four-year-old son was screaming, "Don't cut my papa's hand."[55]

The rebels would often single out one or two family members for amputation before massacring an entire compound, or amputate limbs of the survivors. Sometimes the men would be killed and the women attacked with machetes. The, by then mutilated, survivors were then instructed to take a verbal message to ECOMOG or members of the government.

Mani

Mani, forty-eight, watched as a commander ordered the execution of seven civilians and then singled him out for amputation on January 21. He said:

---

[53]Human Rights Watch interview, Freetown, May 6, 1999.
[54]Human Rights Watch interview, Freetown, April 19, 1999.
[55]Human Rights Watch interview, Freetown, April 11, 1999.

A group of thirteen rebels came to my house, poured kerosene on the furniture and then set it ablaze. I stumbled out of my house and started running up the street but was immediately caught by a group of ten rebels. The ordered me to join a group of seven other people from my neighborhood.

The commander, who introduced himself as a Liberian, then ordered everyone but me to stand to one side and said, "I'm going to kill you all, so say good-bye to the world." He kept them there begging for three minutes and then at 7:03 p.m.—I looked at my watch—ordered another rebel to open fire on them.

Then, the same Liberian said, "I'm ordered and paid by Sam Bockerie not to spare anyone and that is why I have killed. You saw it with your own eyes. But now I am ordering your hand to be cut." He ordered me to lay face down in the road and called forward a rebel with an axe who then hacked off my hand. It was hanging off limp and bleeding and when I saw it I started to cry. The rebels just walked away.[56]

Amadu

After massacring his neighbors in Kissy on January 20, Amadu, forty, described how the rebels hacked off his arms:

I was hiding in my house with my wife and family, when at around 9:30 p.m. we started hearing shouts and screams. Several minutes later we heard our neighbors begging, "don't kill me, I beg," and then I heard gunfire. I peeked out but one of them [rebels] saw me and screamed for me to come out. I ran back into my house but after a few minutes they doused it with kerosene and set it on fire. When the heat was too much we fled out the back but they caught me and marched me to my neighbor's compound.

It was then I saw over what had happened to my neighbors; I saw at least twenty of them lying on the ground and I screamed, "you've killed my people there." One of them called for the man with the axe to come and hack off my arms and they did it right there in that compound. When they were done they said, "you go to Pa Kabbah and ask him for a new set of arms."[57]

Kaima

Kaima, forty, was captured with a group of civilians seeking refuge in the Kissy Mental Home. The rebels separated them—gunning down the men and attacking the women with machetes. She received severe lacerations on both legs and, unable to walk, spent over three days without any medical attention. Due to the severity of the injury and degree of infection, both legs had to be amputated above the knee. She recounted:

They ordered us out of the building at gunpoint. There was a lot of confusion and we took off running. They caught about twenty-five of us and put the men on one side of the grounds and the women on the other. As they fired the men [shot them] I again took off running with my infant son on my back. But, I fell in a ditch and as I struggled to get up they had me surrounded. There were five of them and they started hacking at my legs. I guess they attacked my legs because I tried to run.

As they were striking me with machetes, my baby was lying on the ground next to me. One of my attackers then raised his machete to strike my baby but I blocked the blow with my right hand and screamed, "it's enough now—you have cut my legs and now you want to kill my baby—it is enough." They then set upon the five other women with machetes; cutting the hand off one, the fingers off another and striking the head of yet another.[58]

The majority of amputations were done shortly before the rebels were forced to retreat from neighborhoods under their control. Victims and witnesses describe the rebels often mobilizing special "cut hand" squads which were then sent on operation. The leaders of some of these infamous squads introduced themselves to their victims as "Captain 2 Hands," "Betty Cut Hands," "OC Cut Hands," and "Adama Cut Hands." After being captured, the victims were sometimes made to wait until the "cut hands" unit arrived. Several of the commanders and members of these units were adolescents or women.

---

[56]Human Rights Watch interview, Freetown, April 19, 1999.
[57]Human Rights Watch interview, Freetown, April 11, 1999.
[58]Human Rights Watch interview, Freetown, April 20, 1999.

Tejan

Tejan, a forty-three year old driver, described the brutal way in which a fifteen-year-old combatant from one of these units named "Commander Cut Hands" hacked off his two hands in Kissy on January 20:

> After they set fire to my house they caught me trying to escape out the back door. They then brought me to the compound next door where I saw they'd captured two of my neighbors. They started arguing over whether to kill me or cut my hands. Then the one who seemed to be in charge gave the order to amputate both my hands and called forward a fifteen-year-old boy they called "Commander Cut Hands."
>
> I refused to lie down. They beat me and it took several of them to hold me. They tripped me and when I fell to the ground three of them had to sit on my legs and back and another few had to hold my arms. Then they took out that axe. I was crying and after they'd hacked off both of my hands I screamed, "just kill me, kill me."
>
> They also cut off the hands of my two neighbors. I feared they might attack me because I was a driver for the SLPP [Sierra Leone People's Party], the President's party, but they never found that out. They knew nothing about me.[59]

Allieu

The particularly macabre practice of filling up bags with amputated hands and fingers was witnessed by several people interviewed by Human Rights Watch. Another witness hiding within a house in Calaba Town on January 24 witnessed a commander calling himself "Dr. Blood" summon five rebels and order them to begin a "cut hands" operation. He then said, "I want a bag of hands from Kissy, one from Wellington, and one from Calaba Town." [60]

Allieu, fifty, a civil servant with the customs department, described seeing a bloody rice bag full of hands during the brutal amputation of both of his arms in Kissy on January 21:

> They surrounded my family and one of them said, "Since Pa Kabbah won't give us peace, we have come to cut your hands." I begged them not to harm my wife and children so they fired their guns in the air and told them to run away. They then marched me up the hill to the grounds of St. Patrick's Catholic Church where I saw over one hundred rebels. They ordered me to put my left arm on a tree truck and then they swung the axe from behind and hacked it off. They kept talking about President Kabbah and as they ordered me to put my other hand. I screamed, "but I don't know anything about politics" and one of them answered, "but you voted for Kabbah." Then he hacked off my remaining hand.
>
> Blood was spurting out of my arms. I was weak and kept falling as I tried to get up. They started laughing at me and I shouted, "just kill me, kill me, look at how you've left me." They spit on me and started pounding me and then several of them took a hammer, held me down and started knocking out my teeth. I left four of them [teeth] in the dirt. They danced around me and said, "we've really got you now, here you will die."
>
> As I lay there bleeding in the church courtyard I saw them amputate the hands of two other men. And, then a rebel walked by with a white rice bag, with blood dripping out the bottom, and said - pointing to the hands lying on the ground—"put those things in here."[61]

Children and in some cases even toddlers were not immune from attack. In one case, children were even singled out. The youngest known amputation victim from January 1999 was a boy aged just one year and eight months. One small clinic in Kissy during January 1999 treated twenty-one children from three to fifteen years old for laceration wounds, mutilation, and amputation. Five of these children were from three to five years old.[62]

---

[59]Human Rights Watch interview, Freetown, April 11, 1999.

[60]Human Rights Watch interview, Freetown, April 23, 1999.

[61]Human Rights Watch interview, Freetown, April 19, 1999.

[62]Human Rights Watch interview, Nurse Ibrahim Conteh, Kissy Summertime Clinic, May 6, 1999. The clinic also treated seven children between six to ten years old, and nine children between eleven to fifteen years old for injuries related to lacerations with axes, knives, and machetes.

Lucia

Lucia, ten, described how on January 13 she and two of her friends were chosen out of a large group, taken away, and had both of their arms amputated:

> At around 4:00 in the afternoon I was sitting under the big mango tree in front of my house with all of my family and neighbors when we saw a group of four rebels coming down the road. We got up and ran inside. When they arrived they ordered us all outside. They had a container of petrol and asked for matches. We thought they were going to burn our house but instead they started pointing at several of us; me, my cousin Miata who is twelve, and my friend Finda who is fifteen.
>
> They marched us up the hill where we were joined by another rebel and two more adult men. And, then they started hacking off our arms. When it was my turn they pushed me to the ground and told me to put my right hand on a big stone. One rebel held me down, one put his foot on my arm while the one they called "Blood" hacked it off with a big axe. Then they did the same thing with my left hand. They hit each hand one time each.
>
> We couldn't run; they had their guns on us the whole time. It was so fast; the whole thing only took about ten minutes. They then walked us back down the hill and back to our compound. When my mother saw me, with my hands dangling from my arms and blood spurting everywhere she screamed and burst out crying. When they were cutting me, I heard one of them say, "now you will know the rebels; now you will know the bitterness of the war."[63]

Rape and Sexual Assault

Throughout the January offensive RUF forces perpetrated systematic, organized, and widespread sexual violence against girls and women including individual and gang-rape, sexual assault with objects such as sticks and firewood, and sexual slavery. These sexual crimes were most often characterized by extraordinary brutality and frequently preceded or followed by violent acts against other family members.

Human Rights Watch took testimonies from over fifty girls and women who were sexually abused by the rebels during the January incursion. And, while it is impossible to determine the precise number of victims, doctors and counselors report having treated several hundred girls and women for the physical and psychological effects of sexual abuse perpetrated by the rebels during this time. One Sierra Leonean human rights group registered 255 cases of rape, but believes this number to be a serious underestimation given cultural factors which lead to underreporting.[64] A doctor working within a camp for those displaced by the January fighting said he treated at least twenty-five women for vaginal bleeding resulting from rape, most of whom were girls between the ages of twelve and fifteen, and scores of other rape victims.[65]

While some of the victims interviewed were raped within their homes, most report having been rounded together up with other girls at gunpoint and taken to houses and buildings which, during the occupation, served as rebel bases and command centers. The girls and women were rounded up from their homes, as they were fleeing, and from centers of refuge such as mosques, churches, and camps for displaced people. Once with the rebels in these bases, nearly all victims described witnessing the sexual abuse of other girls and young women also being held there. Following the abuse, some victims were allowed to go home, but ordered to report back to the rebel base the following day or be murdered.

Once captive the victims were frequently "shared" and "divided" among the combatants who would rape them on a daily basis for anywhere from one day to several weeks. Of the victims interviewed by Human Rights Watch, over half reported being raped by more than one combatant. The victims often reported being kept locked up in a room with many other girls and taken out only to cook, do laundry, and fetch water. The rebels frequently told the victims they would be taken to the bush and made into a "rebel wife" and indeed young girls and women made up the majority of the hundreds of civilians witnessed to have been later abducted as the rebels retreated out of Freetown.

---

[63]Human Rights Watch interview, Freetown, May 6, 1999.

[64]Human Rights Watch interview, Moses Sahr Lamine, Network Movement for Justice and Development, Freetown, May 31, 1999.

[65]Human Rights Watch interview, Dr. Kagbo Lebour, Freetown, May 3, 1999.

It is difficult to know what percentage of girls and women abducted by the rebels are sexually abused while being held behind rebel lines. However, several girls who've managed to escape say the percentage is very high. Those who remain within the rebel ranks most often become attached to one rebel who then refers to her as his "rebel wife." Many become pregnant, have children and remain with the rebels for years. Several girls and women abducted during January described pairing up and attaching themselves to one rebel so as to avoid gang-rape, be given a degree of protection, and be subjected to less hardship.[66]

The organized way in which victims frequently described being rounded up and taken, and the number of rebels participating in these abductions, suggests an element of premeditation and planning on the part of the RUF command. Victims frequently described being taken by rebel patrols of from two to seven combatants who clearly stated their intent to sexually abuse them. That some of these patrols were being led by rebels referring to themselves as "commanders," that victims often described being sexually abused by or in the presence of men referred to as "commanders," and that some victims were told they had been selected specifically to be given to a "commander," suggests some of the sexual abuse was indeed perpetrated under the direction of and with the consent of members of the RUF hierarchy. Human Rights Watch was able to document only one instance of a rebel commander stopping a rape, which occurred within a hospital when a combatant attempted to rape a female nurse.[67]

Marie

Marie, sixteen, was fleeing the fighting in central Freetown with three other girls on January 7 when she ran into a patrol of five heavily armed rebels. She and her companions were then abducted and taken to a "rebel house" where they were gang-raped for three days. She said:

> The rebels put us in a room and told us to wait. A few minutes later they took out my friend and then four of them came back in the room. They were all big men, at least twenty-five or thirty. They told me to undress. I refused and told them I was a virgin, that it was not right in the eyes of God to rape a virgin and that it would effect me for the rest of my life. One of them slapped me hard on the face while the others hit me with their guns. One said, "shut up. We don't care if you're a virgin. We've already done so many, why should you be an exception." Then another one said, "if she refuses let's just bring her out naked and put her under a firing squad." I started crying and crying; I was so frightened.
>
> Then while a few of them started ripping my clothes off, another one went behind me and bit me leaving a huge wound on my back. I was then pushed down to the ground. I was still crying so the one who'd slapped me took a rag and tied my mouth. I could hardly breath. Then the first one forced open my legs and raped me. The four of them spent two hours with me and each raped me at least twice. I was so ashamed. I was bleeding so much and when they finally undid my mouth I begged them to leave me but they told me to "shut up" and that they would use me until they were satisfied. I spent three days in that house.[68]

Saramba

Rebels rounded up seven girls from their street in the evening of January 13 and brought them to a command center in Kissy. All of the girls reported being raped. One of them, Saramba, thirteen, described what happened :

> We were hiding under the bed when they came but they eventually found us. They ordered me, my sister Sarah and friend Sia to follow them to a truck. A few minutes later we picked up four more girls being held by another group of rebels. They took us to a big house a few miles away.
>
> When we arrived we saw over one hundred rebels gathered there and as we were led into the house they started cheering and I heard a few of them say "well done, you've brought us more women. When we were in the bush it was only ECOMOG enjoying you. Now it is our turn."[69]

Beatrice

---

[66]Human Rights Watch interviews, Freetown, May 4, May 8, and May 22, 1999.
[67]Human Rights Watch interview, Freetown, May 21, 1999.
[68]Human Rights Watch interview, Freetown, May 18, 1999.
[69]Human Rights Watch interview, Freetown, May 15, 1999.

Beatrice, twenty-five, went out briefly on January 21 to look for a few cups of rice from a little store half a block from her house in Wellington. On the way back she and another woman were confronted by a group of ten rebels who sexually assaulted them with burning firewood. She recounted:

> They asked us for money but we said we didn't have any so they ordered us to take off our clothes, putting a gun to our throats to make sure we did. We begged them to leave us but they ordered us to lie down on the dirt ground, face up, and open our legs. At least four of them had their guns to our throats and stomachs to make sure we obeyed. The rest of them surrounded us and then a big rebel went to the kitchen of a near-by house and took a piece of burning firewood from the fire. He then squatted down and with his two hands forced it in and out of my vagina one or two times. Then he returned to the fire and got another piece and then a th rd. I felt as if I was being stabbed inside and nearly fainted from the pain. Then they did the same thing to the woman laying next to me.
>
> While doing this to both of us I heard them say, "This is the way we're going to fuck you. You hypocrites; as soon as you see ECOMOG you start pointing fingers at us." And then they left and I dragged myself home, blood flowing from my vagina.[70]

Sophie

Sophie, twenty-four, was in her house in Kissy when on January 21, a group of three rebels burst in demanding money and killed her husband. She was then abducted and gang-raped. She said:

> They kept asking for money and my husband kept begging them for forgiveness for not having any. We are poor and the other groups of rebels had already taken all we had. They started waving their guns and then the one named "Abdul" killed him. Right in front of my children. I burst into tears and tried to run to my husband but they pulled me back and put a gun to me saying that if I didn't go with them they'd kill me as well. He was bleeding, my children were crying and then they forced me at gunpoint to walk out that door and follow them.
>
> We walked all the way to the Sierra Leone Brewery in Wellington which seemed like an HQ for them. By this time we were three women and ten rebels. When we arrived they put us in a dirty room and then used the three of us at the same time for the entire night. They were so rough; they slapped me and tore my clothes. Four of them used me—it was twelve times altogether—it went on the entire night. And that Abdul, the same rebel who killed my man and stole everything from my family, raped me all night long.[71]

Sahr

Sahr, twenty, was rounded up on January 8 with some ninety other civilians from Central Freetown and taken at gunpoint by a group of eighteen rebels to State House which was at that time functioning as the RUF command center for the operation to take Freetown. He described seeing scores of young women raped:

> As we approached State House I saw hundreds of other civilians, most of them women, being kept under guard on the lawn and as we entered I saw even more inside. There were rebels armed with machine guns and RPGs everywhere. They then divided us into smaller groups and put us into different rooms and offices. There were twenty people in my cell, fifteen of which were young women.
>
> Every night most of the women in my cell were brought out by armed rebels at around 10:00 p.m. and brought back again at around 3:00 a.m. When they returned they were crying and many of them were bleeding down below. They told me they'd been raped, some of them by two or three men. I had a good view from my window and every night could see at least fifteen girls being raped on the grounds, under trees and on the walkways of State House.[72]

---

[70]Human Rights Watch interview, Freetown, May 21, 1999. Human Rights Watch also interviewed clinic workers who had treated both women for serious injuries, including removing splinters from their vaginas.

[71]Human Rights Watch interview, Freetown, May 1, 1999.

[72]Human Rights Watch interview, Freetown, April 12, 1999.

Particularly vulnerable were young women between fourteen and eighteen who were sought after and targeted for being virgins. The rebels often entered houses and compounds asking specifically for "virgin girls" and would reject all women who had children, were over a certain age, or who they believed to have already had sex. There are documented cases of girls as young as eight being sexually abused.

Samretta

Samretta, fifteen, was inside a mosque with hundreds of other people seeking refuge when, on January 20, two rebels entered and abducted four young girls, including Samretta and her eighteen year old sister, who has yet to be released. She explained:

> It was at night and dark in the mosque. My mother tried to hide me under her skirt but they walked around with a flashlight shining their lights on everyone. They said, "we've come for your young girls; for your virgins. Even if they tie their heads like grandmothers we'll find them." They said that if our parents didn't give us up they would kill everyone.
>
> They shone their light on my mother and asked her what she was hiding. That's how they found me and my sister Fatmata. They took four of us that night. They held me for two days in a house in Calaba town where one of them raped me four times. He said my mother had taken good care of me. I escaped two days later when an ECOMOG jet flew over, but my sister was taken with them to the bush.[73]

Fatmata

Fatmata, thirty-eight, witnessed young girls being given an examination to determine if they were virgins or not. She recounted:

> There was a lot of gunfire and I was trying to escape with my family when we were stopped by a rebel checkpoint. Inside the compound of the house next to where we were being searched, I saw five young girls between thirteen and sixteen, lying completely naked on the ground with one or two rebels holding each one by the arms, another two holding the legs apart and a female commander named Rose putting her fingers inside the vagina of each one to determine if she was a virgin or not.
>
> The girls were crying and struggling and I saw a few of the rebels slap them and rough them up. After finishing with each girl, Commander Rose would announce to the others whether she was or was not a virgin. She was very crude and after checking one small girl said, "this one is a sweet popo [papaya]; she'll do well for the commander." After the girls had been checked, they put the virgins to one side and the nonvirgins to the other. As the rebels let us pass through I heard them saying to each other "we don't want this lot, let them go, they're too old."[74]

Zainab

After being abducted with six other girls in Wellington on January 13, Zainab, twenty, described how those the rebels deemed to be virgins and nonvirgins were separated. The women designated virgins were then "given" to the younger fighters. She explained:

> When we arrived they lined us up and the commander, "Ibrahim," asked each of us if we were or were not a virgin. There were four nonvirgins and three virgins, including myself. He then told a group of five older rebels to take the nonvirgins and told the three younger ones to take us into a bedroom next to the parlor.
>
> A few minutes later Ibrahim entered that room and ordered us at gunpoint to take off our shirts and then began to fondle and pinch our breasts and examine our feet. I don't know what he expected to tell from our feet. The other two rebels just stood and watched. After ten minutes he announced that we were indeed virgins and then proceeded to

[73]Human Rights Watch interview, Freetown, April 12, 1999.
[74]Human Rights Watch interview, Freetown, May 24, 1999.

assign each of us to a rebel. I resisted and Ibrahim slapped me, put a gun to my throat and said, "if you don't allow that man to satisfy himself I'll kill you."[75]

Hawa

Girls as young as eight were raped. Hawa, twenty-two, described seeing a twelve-year-old bleed to death after being gang-raped by six men:

> I was abducted from my home with several other neighbor women on January 8 and made to carry looted goods all the way to Waterloo. I spent over a month with the rebels and during that time was raped countless times. In our rebel camp there were scores of other abductees from Freetown including a young girl named Mariatu. She was just beginning to get breasts and I estimated her to be no more than twelve.
>
> One afternoon in later January as we were both being raped in the bush, I saw six men use her; one after the other. She was screaming and crying in pain and I could see she was bleeding. After the second or third man she went silent and I thought she had passed out. After they'd finished with both of us I brought her water and said, "Mariatu, you must drink" but she wouldn't wake up. I think she was dying. There was too much blood. After a few hours they came, picked up her little body and carried it into the bush. I never saw her again.[76]

Rapes committed in the home were often in the presence of family members and neighbors who were forced at gunpoint to watch. Family members frequently reported attempting to pay for their daughters not to be raped or having to choose between having their daughters taken or the entire family executed.

Osman

Osman, thirty-eight, and several other fathers were forced at gunpoint to watch the rape of their daughters on January 8. He recounted:

> At round 4:00 p.m. five juntas [RUF rebels] stormed into my house where my family and neighbors were gathered. They picked out my fifteen-year-old Aminata and four other young women and then locked us [the parents] into another room. They told us they wanted all our money or they would kill our daughters. As we were collecting what little money we had, I heard the girls start to scream. I peeked through the crack in the door and could see them slapping my daughter and pushing her onto the bed.
>
> A few minutes later one of them opened the door and asked, "Who are the fathers of these girls?". As we walked out of the room I could see a rebel named "Blood" raping my daughter and "Sneak" using her friend Marie. They lined us up in front of the bed and said, "Don't you want to see what we're doing with your daughters?" There was a rebel with a gun pointed at us the entire time and two more by the door. Aminata was crying so "Blood" covered her mouth with her shirt. When those two finished, two more took their place. We begged them but the "Blood" said, "Shut up or we'll burn this house and kill every one of you." I was shaking. I was scared. I was angry but what could I do? After twenty minutes "Blood" ordered the girls to get dressed and then abducted them all plus my eight-year-old daughter.[77]

The rapes were usually accompanied by other physical abuse and death threats to the victim and often her family. Numerous witnesses and victims described seeing girls who had resisted rape being executed. Medical staff from one hospital reported treating two women who received gunshots to their vaginas. Both women, an eighteen-year-old and a twenty-five-year-old woman who was five months pregnant, died of their injuries.[78]

Sahr

---

[75]Human Rights Watch interview, Freetown, May 15, 1999.
[76]Human Rights Watch interview, Freetown, April 27, 1999.
[77]Human Rights Watch interview, Freetown, May 3, 1999.
[78]Human Rights Watch interview, Freetown, Connaught Hospital Nurse, May 20, 1999.

Sahr, twenty, the man who was abducted and kept in a cell with fifteen young women in State House, described how two of his friends were executed after resisting sexual assault:

> On January 9, around midnight a group of rebels came to our cell and ordered two girls from my neighborhood, Hana, fifteen, and Majah, twenty, to come out. They had been raped the right before; Hana by one rebel and Majah by four.
>
> They started screaming but were eventually dragged out by three rebels. Some minutes later I heard them both yelling and arguing with the rebels and refusing to lie down. The rebels were screaming obscenities and I heard the sound of struggle and slapping. A few minutes later I heard several shots. Hana and Maja didn't return that night and I cried for those girls because I knew the rebels had shot them. When I was able to escape two days later I saw the corpses of both girls lying on the State House lawn.[79]

Joy

On January 7, Joy, seventeen, witnessed five girls who attempted to escape a rebel base in which they had all been raped, being killed. She said:

> I was captured in the morning with five other girls about my age and taken to a house full of rebels in Kissy. They took me into a room, pointed a pistol at my head, and told me it I didn't submit to them I would be shot. They were all high on drugs and drinking beer. Five of them used me that day.
>
> At around 6:00 p.m. the one who'd captured me took me out on the verandah and there I found the five others who were crying and I could see at least two of them were bleeding. They said it had happened to them as well but we couldn't really talk because there was a rebel with a gun next to us. Some minutes later our guard left to get something and the girls got up and ran but the rebels saw them and opened up on them. There was gunfire all around and I crouched in the corner crying. I was so afraid they would kill me as well. I ran to the rebel who had captured me, told him I'd not run away and begged him to protect me. They fell just a few meters from the house. I saw their bodies. I don't know why they ran that day.[80]

The health repercussions of the sexual abuse are many. Most victims under twenty reported considerable bleeding during and after the rape, something gynecologists treating them attribute in part to complications produced by the practice of female genital cutting which is widespread in Sierra Leone.[81] One gynecologist reported treating every victim aged between eight to twelve for some degree of vaginal tearing.[82] According to medical personnel and testimonies taken by Human Rights Watch, at least fourteen girls and young women, including one thirteen-year-old, became pregnant from the sexual assault. Health practitioners treating the victims also report a high percentage of them diagnosed with sexually transmitted diseases and infections. Yet another medical implication involves the spread of HIV-AIDS. One twenty-two-year-old woman who was abducted in early January and gang-raped and sodomized repeatedly over a period of two months, was during her captivity already suffering from full blown AIDS, and has since died of AIDS-related illness.[83]

Victims of sexual abuse frequently reported female rebels having taken part in rounding up operations and often singling out girls and women for their commanders. Once in captivity, girls frequently reported appealing to female rebels for help. However their pleas were ignored and often met with threats of violence. One sixteen-year-old victim described how a female

---

[79]Human Rights Watch interview, Freetown, April 12, 1999.

[80]Human Rights Watch interview, Freetown, April 21, 1999.

[81]Human Rights Watch interview, Dr. Olayinka Koso-Thomas, Freetown, May 24, 1999. Some 80 percent of females in Sierra Leone undergo female genital cutting. In Sierra Leone, the type of female genital cutting performed is excision; removal of the clitoris and labia minora, and when the wound heals there is a tightening of the vaginal tissue and resulting scar tissue which frequently leads to painful intercourse and possible bleeding.

[82]Human Rights Watch interview, Dr. Olayinka Koso-Thomas, Freetown, May 25, 1999.

[83]Human Rights Watch interview, Freetown, April 27, 1999. Human Rights Watch interview, Social Worker, Freetown, June 2, 1999.

commander entered the room in which she was being raped and said, "why are you hollering. These are my boys and you will not refuse them."[84]

Human Rights Watch took testimony from one sixteen-year-old girl who described sexual abuse by a female rebel, who forced her and another sixteen-year-old girl to undress, and then tied them up and proceeded to insert her fingers into their vaginas.[85]

The motive of the attackers, according to what they told the victims, was both to be rewarded for having endured hardship in the bush and to punish their victims for supporting the current government or having sexually accommodated ECOMOG soldiers. The abuses are consistent with a long-standing pattern of RUF use of rape as one of many weapons to intimidate, terrorize, and ultimately control the civilian population.

The rebels sought not only to control and degrade their victims but also to undermine and degrade the authority of the family and community. The victims described feeling terror, humiliation, and shame, and their parents, husbands, and community elders described feeling powerless at their inability to protect them.

Josephine

Josephine, sixteen, described the terror she felt when she was brought in to witness the rape in progress of the friend with whom she had been abducted and brought to a command post:

> They kept me in a room but I could hear Susan crying and crying. Five minutes later one of them ordered me to go into the room where I saw she was being held down by one rebel and raped by another. This rebel then told me, "look at this—this is what we're going to do to you—once we're finished with that one it will be your turn." I could only weep.[86]

Fabian

Fabian, twenty-one, and eight other women were brought into a room on January 21 and forced to strip naked in front of eleven rebels after a picture of President Tejan Kabbah was found in the parlor. She described how they were terrorized and humiliated for over two hours:

> As soon as the commander summoned us to the room he said, "so you are Kabbah's children; the ones calling in the jets to bomb us." He then ordered us to strip naked and stand in a line in front of him with our legs spread two feet apart. I begged him to leave me as I had my three-month-old infant in my arms but he tore the baby from my arms and threw him against a wall. The other rebels formed a circle around us and got out their pistols and machetes. He then ordered another rebel to sprinkle kerosene on us and threatened to burn us. That rebel then gathered up our clothes and set them on fire in the corner of the room. The one with the machete circled around us, threatening to cut off our hands.
>
> The commander then took out a flashlight and inspected our private parts—slowly, one after the other—making crude comments about how ugly, dirty, and disgusting we were. They fondled and pinched our breasts and ordered us to turn around and bend down, laughing and insulting us the whole time. And the whole time my baby was crying in the corner.
>
> Every time I think about that day I cry bitterly. I cry for how my baby was treated. I cry when I think of how they treated my sisters. I cry for my husband who was later abducted. And I keep asking myself, what did we ever do to them?[87]

Kadi

---

[84]Human Rights Watch interview, Freetown, May 23, 1999.
[85]Human Rights Watch interview, Freetown, May 18, 1999.
[86]Human Rights Watch interview, Freetown, May 18, 1999.
[87]Human Rights Watch interview, Freetown, May 20, 1999.

Kadi, forty-two, described the horror she felt at having to listen to her sixteen-year-old daughter Binti being raped on January 11.

> Three of them came to our house at midnight and ordered us to line up outside. They demanded money and one of them put a knife to Binti's throat. Just then the rebels' attention was diverted by a civilian they saw running around the corner and I ordered my family to scatter. There was shooting and confusion and in the end all but Binti were able to escape.
>
> I ran with my one-year-old grandson on my back and hid in an abandoned house. Some minutes later I started hearing the screams and sobs of my Binti. It went on for over an hour and I knew what was happening. She was only 200 yards away but I couldn't do anything. Towards the end I even got up to go to her but I forced myself back to my hiding place until the early morning hours when I found her weeping in an abandoned shop.[88]

Jenneh

Jenneh, fourteen, was beaten, raped, and left near unconscious in the street. Several months after the incident, her right eye was still swollen and teeth marks on her back were visible. She recounted:

> When my mother saw him coming towards our house she yelled at me to get inside and hide. From under the bed I could hear him threatening to kill us both so I came outside. As he dragged me away my mother ran after us, pleading with him to release me but he turned around, pointed his gun at her and said he'd open up if she took one more step.
>
> He tore the clothes from my body. He bit me. He punched me in the face. He knocked my kneecaps with his gun and forced himself upon me. I knew nothing about this thing. I'm only fourteen. After the first time he forced me, sobbing, to say "thank you," and by the fourth time I could barely move.
>
> When he was finished he picked me up, putting his fingers inside my vagina and threw me in a gutter. Then he walked off. I was almost unconscious and couldn't remember everything, but that much I remember; he threw me in a gutter. The next morning my little sister found me there. She cried when she saw me and ran to get my mother.[89]

These crimes, and other forms of sexual violence, are explicitly condemned under international humanitarian law. The Geneva Conventions of August 12, 1949 and the Protocols Additional to the Geneva Conventions prohibit rape in both international and internal conflicts.[90] Likewise, rape, when committed on a mass scale, constitutes a crime against humanity. The Convention of the Child further protects children from "all forms of sexual exploitation and sexual abuse."[91]

Abduction

As the rebels withdrew from Freetown they took with them thousands of civilians; mostly young people, and particularly young women. Abduction has become the principal method the rebels use to augment their ranks, to provide a pool of rebel fighters a work force, and "wives" or sexual partners for male combatants.

While it is difficult to ascertain the number of civilians abducted in January, both residents who witnessed the rebel exodus from the capital, and abductees who've since managed to escape, confirm the number to be over one thousand and the greatest percentage to be young women. The Ministry of Social Welfare, Gender, and Children's Affairs has registered 573 adults who have either been abducted or gone missing since the January 6 incursion.[92] Of the 3,700 children UNICEF registered as missing as of June, 1997, 40 percent, or approximately 1,500 have been classed as victims of abductions. Of those abducted, 680 or 46

---

[88]Human Rights Watch interview, Freetown, April 14, 1999.

[89]Human Rights Watch interview, Freetown, April 21, 1999.

[90]Rape in internal armed conflict is prohibited under Article 3, subparagraphs (a) and (c), common to the four Geneva Conventions of 1949 and by Article 2(e) of Protocol II. For international armed conflict, this is established in the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949 (Fourth Geneva Convention), Arts. 27 and 147, 75 U.N.T.S. 287.

[91]Convention on the Rights of the Child, Article 34.

[92]Human Rights Watch interview, Mrs. Jackson-Smith, Freetown, May 31, 1999.

percent were from fifteen to seventeen years old, and 260, or 18 percent, were children under eleven.[93] The figures for both the adults and children show the majority of abductees to be female.

As in past offensives, the process of abduction was usually violent and traumatic. Those attempting to resist the abduction of a family member were often beaten, maimed, or killed. They were also often forced to make painful choices between allowing a loved one to be taken or having one or several family members killed. Families who had more than one child abducted were not uncommon, and there are several cases of entire family units being taken. Rebels frequently went to houses and compounds and selected all the young men or women of a certain age. Reports of several residents from a single compound being abducted were not uncommon.

The rebels began abducting people shortly after the offensive began, using them to carry looted goods back to their bases further east. However, the numbers increased dramatically towards the end of the RUF's occupation of Freetown. Residents of Calaba Town, near the easternmost end of Freetown, described rebels going from house to house, hurriedly pulling several people from each house as they fled into the hills. As has already been discussed, abductees were also used as porters and human shields in some of the final battles of the offensive.

Young men and boys abducted during January were witnessed by escaped abductees to be undergoing military training just weeks after their capture. Most were made to carry heavy loads and subjected to forced labor and sometimes physical abuse. One escaped abductee described seeing abductees being trained in February, 1999 by Caucasian soldiers.[94]

Eldred

Eldred, forty, another abductee who was captured on January 22 and spent two months with the rebels, described seeing abductees taken during the January offensive being divided up by age and trained by rebel soldiers. He recounted:

> They [the rebels] gathered the abductees together and had them march up and down in the bush; left, right, left, right and so on and then divided them up into groups. They had the small boys from six to ten years old, then those from twelve to fifteen and finally those from fifteen to eighteen. For the older boys, the training was compulsory for all of them. I saw them doing physical exercises, teaching them how to dismantle and clean all kinds of guns, explaining them how many cartridges are in a clip, and all that.
>
> But they didn't trust the new recruits to hold onto the guns for long. They really watched them at first; afraid they would turn the weapons on them and escape. They [the rebels] said if the peace talks failed, they'd come back to Freetown with a vengeance. And that this time they'd go to the west where all the rich people live. They said it'd be called "Operation Westside."[95]

Lansana

Lansana, forty-two, described how on January 20 the rebels abducted two of his three daughters as they swept through their neighborhood. The eleven-year-old has since been released but was raped during her captivity. He recounted:

> They usually came at night, when it was easier to hide our three daughters, Jennah, sixteen, Mansa, fourteen, and Sally, eleven, but that day they came in the afternoon. First they fired their guns into our house and then they crashed in and forced us to line up outside. The girls were huddled around my wife.
>
> ECOMOG had started bombarding the hills and they seemed frantic; in a hurry. They went to my wife and told her to give up the girls. One man put a gun to her throat and a few more started pulling the girls. Mansa was able to run but they pulled Jennah and Sally from my wife who was crying and pleading to leave them. The girls were screaming and the rebels just said, "you move, move, move."

---

[93]Human Rights Watch interview, Roisin De Burca UNICEF, Freetown. June 7, 1999.
[94]Human Rights Watch interview, Freetown, April 27, 1999.
[95]Human Rights Watch interview, Freetown, May 6, 1999.

As they walked away, dragging the girls, my wife followed them up the street, but they told her they'd kill her and one said, "If I look around one more time and see you following me, you're all dead." She broke down when she came back to the house.

And at 8:00 p.m. another group came back. This time I was holding Mansa and I screamed at them "you can beat me, you can kill me but I'm not giving this girl to you." A few of them started hitting me and forced her from me. But, Mansa was really determined; as they took her out the door she somehow squirmed out of their grip and ran to the banana patch.[96]

Josiah

Josiah, forty-one, was shot at as he begged for his sixteen year-old daughter not to be abducted on January 21. He recounted:

Seven of them came asking for money but we didn't have anything left; there was nothing left to loot. We were all in the parlor and they had their guns on us, when one of them looked at my first-born Aminata and said, "if you don't have any money then, we'll take your daughter." I started shouting and said, "no, no, don't take my daughter, I beg you. If I had money I'd give you. I'd give you anything." Then the same rebel turned towards me, raised his gun and shot at me.

He missed and then Aminata, who was crying by this time said, "pa, let me go with them, so that they don't kill you, let me go with them." As they pulled her away I cried bitterly, I cried and the one who shot me said, "why are you crying, You can always get another child." They walked out and that was the last time I saw my daughter.[97]

Miata

Miata, fourteen, was abducted on January 9 but escaped several weeks later as the rebels withdrew to the hills. She was sexually abused by the rebel who abducted her. She described how she was taken after her grandfather couldn't raise the sum of money the rebels demanded:

A rebel came to the house and said he was going to burn it. Then he started searching for hidden Kamajor fighters and lifted all the cushions on the sofa. He struck a match and tried to set the parlor on fire and then went from room to room using abusive language against my grandpa and my mother and President Tejan Kabbah's mother and then he entered the room where me and my cousins were hiding.

So he looked for the smallest one, that was me, and told my grandpa that if he didn't give him 30,000 leones (U.S.$15) he was taking me to the bush. My mom and grandpa started pleading because they didn't have that money. So he took me away. But before he did he went to the back and took two chickens and told me to hold them. He said if he saw my people following us he would damage them.. And then he pulled out a big sword and I started crying. He said if I cried he would kill me with it.[98]

Augustine

Augustine, thirty-nine, was abducted on January 23 with his wife and seven-year-old son. He spent several weeks with the rebels before managing to escape during an ECOMOG bombardment. His wife and child are still missing. He said:

We were hiding in an abandoned house but the rebels caught us...The column was massive and went on for miles; there were thousand of rebels and captives fleeing into the hills. When they saw us they pulled us into the mass and one of them gave me a heavy pipe, one of those used to fire a mortar bomb, and told me if I dropped it he would shoot me.

They ordered my wife and son to walk with the women's group, and I was put in the "G4 group," responsible for taking arms, ammunition, and such. That thing was really heavy. There were many other captives; young men and

[96]Human Rights Watch interview, Freetown, June 1, 1999.
[97]Human Rights Watch interview, Freetown, May 8, 1999.
[98]Human Rights Watch interview, Freetown, May 27, 1999.

even children in my group as well. Along the way I saw four dead people who the rebels said were killed for dropping their loads. They don't go along any trails; they go straight through the bush. We reached Waterloo two days later and for another day the people were still coming; women, pregnant women, children being carried by abductees.

It was when we came under heavy bombardment a few weeks later that I was able to escape and make it back to Freetown. I try not to think about Sahr; he is my only son. As long as we were in the bush we slept together and he'd tell me he missed his sisters and wanted to go home. But when I had the opportunity to escape, I just had to and now I haven't heard or seen him for over two months.[99]

Treatment of Prisoners

There are several accounts of RUF forces executing captured ECOMOG soldiers and members of the Civil Defense Forces, mainly Kamajors; some after they had clearly attempted to surrender. Some of the prisoners were killed on the spot, and some were executed after having been humiliated and tortured. A few were taken as prisoners and remain under rebel control.

Mariatu

Mariatu, forty-six, described the January 6 execution of three ECOMOG prisoners captured hiding within a storeroom in the "Clay Factory" displaced camp. She recounted:

There was a contingent of ECOMOG soldiers living next to our camp within the Safecon Factory. They were all Nigerians and had their girlfriends in the camp so we got to know them quite well.

On the morning of the attack they tried, but the rebels were too many and when they knew they were being overpowered, they stripped off their uniforms and went into hiding. Many of them fled down to the waterside, hoping to get a boat, some of them ran up the hills and some stripped off their uniforms and went into hiding.

At around 2:00 am or so, about a hundred rebels stormed the camp, and asked us where they [ECOMOG soldiers] were hiding. They hit and slapped us, and took a few of us around as hostages as they searched every corner of the camp. A few hours later they finally found three of them hiding among the bags in the storeroom. They all had tribal markings so it was obvious. They were Sgt. Hassan Orgg, RSM Haruna, and Staff Sergeant Amedu.

When the rebels caught them the Nigerians put up their hands and said. "We want to surrender, take us, we want to surrender!" but the commander said, "Oh fuck off, when our brothers came to you people to surrender you killed them, so now that's what we're going to do to you."

They opened fire on Sgt. Orgg and the Staff Sergeant Amedu right there near the store. But RSM Haruna, who they knew was operating the AA machine gun, they really treated him badly; they tied his hands, beat him horribly, put a pistol in his mouth and shot him through the head. Then they dragged his body out to the middle of the highway and ran over his head with a hi-lux.

The rebels had by this time found the ECOMOG uniforms in the store and put them on. Then a girlfriend of one of the ECOMOG soldiers started pointing out where the others, including her own boyfriend, were hiding and then pointed out the houses of all the girlfriends of the other Nigerians. I guess she was working as a rebel spy because after her ECOMOG boyfriend was killed down by the water, she went into town with the rebels.[100]

Aaron

Aaron, forty-eight, witnessed the killing of one ECOMOG soldier, and the brutalization and torture of another on January 6 in central Freetown. He recounted:

On January 9, I saw an ECOMOG prisoner, bloody, stripped naked and with a rope around his waist and his private parts, being led up Pademba Road by a group of rebels. They were pushing him and ordering civilians to touch his

---

[99]Human Rights Watch interview, Freetown, May 7, 1999.
[100]Human Rights Watch interview, Freetown, May 11, 1999.

privates. When they reached a rebel checkpoint, they brought out another ECOMOG soldier who was also naked and looked like he'd been horribly beaten up. Then they lay both of them on the ground and some of the rebels started kicking and beating them. Then, a few of them took a machete and started cutting off the head of the second soldier. It took them about ten minutes and when they were finished, they started dancing around and brought it around to show the other soldier. I felt sick.

By this time there was a lot of gunfire and it seemed like the rebels were going really mad. They pushed the other prisoner down and grabbed a long stick and started shoving it up his backside: sodomizing him. They kept doing it for about thirty minutes. The soldier was screaming and crying and eventually just passed out. And then they shot him and just left him in the gutter. He was very bloody and everyone thought he was dead. But, several hours later he regained consciousness and called people to come and help him.[101]

Violations of Medical Neutrality

There are many accounts of RUF forces storming and occupying both public and private hospitals in which they threatened hospital staff, looted and destroyed hospital property, and in a few cases mutilated and executed patients.

Sierra Leone's biggest public hospital, Connaught Hospital, suffered most from these violations. Doctors, nurses, and patients describe how the hospital was stormed by RUF fighters on January 6, and turned into a rebel base. They described how the hospital filled up with hundreds of rebel fighters who then used the premises for cooking, washing, and cleaning their weapons. The hospital was looted and both ambulances destroyed. Patients were removed from their hospital beds and were then replaced with wounded rebels. Patients' possessions were looted and as wounded civilians entered the hospital they were robbed by rebel fighters.

While most medical personnel ran away, the few doctors and nurses who remained on duty were threatened with death if rebel commanders died, and forced to work long hours under unsanitary conditions. When they tried to rest they were sought after and brought back to work under gunpoint. When wounded civilians entered the hospital, doctors were ordered at gunpoint not to treat them. Most of these patients died.

Nurses describe how on January 6, in the Curney Barnes Memorial Hospital, rebels violently shook the leg of a patient whose fractured leg had just been operated on, whilst accusing him of being an ECOMOG soldier. Five nursing staff were kept at gunpoint while they looted shoes, radios, jewelry, and money from the patients, stole medicines and instruments from the hospital and set the outpatient ward on fire. The hospital closed down the next day.[102]

In Good Shepherd Hospital in Kissy, after removing and executing one Nigerian patient from the hospital on January 18, rebels forced all ambulatory patients, staff members, and other civilians to a nearby wall and then shot some fifteen of them. At least one nurse and a few relatives of the patients were wounded and several others died. Later the same day a fourteen-year-old rebel walked around the wards threatening patients with a hand-grenade. The hospital closed down the following day after rebels threatened to burn it and kill all staff.[103]

In the Summertime Clinic in Kissy, nurses described patients belongings and medicines being looted by the rebels on several occasions. One nurse said, "over the course of a week, we lost seven patients, simply for lack of medicine. They needed antibiotics but the rebels had stolen what we needed to help keep our patients alive."[104]

In the Kissy Mental Home, rebel forces killed five patients and attacked several others, including one man whose legs they attempted to amputate with a machete. They also looted and burned part of the hospital.[105]

Paul

---

[101]Human Rights Watch interview, Freetown, April 17, 1999.
[102]Human Rights Watch interview, nurse, Curney Barnes Hospital, Freetown, May 10, 1999.
[103]Human Rights Watch interview, nurse, Good Shephard Hospital, Freetown, May 21, 1999.
[104]Human Rights Watch interview, nurse, Summertime Clinic, Freetown, May 6, 1999.
[105]Human Rights Watch interview, nurse, Kissy Mental Hospital, May 6, 1999.

Paul, a doctor at Connaught Hospital, described how the rebels threatened to kill him if their wounded commanders died of their injuries or if he treated the civilian wounded:

> On January 6 we received the first wounded rebel at around 5:30 a.m.; several rebels brought him in. They told me at gunpoint he was a very important commander and, "if he dies, you too will die because this man is far more important than you are."
>
> By 6:30 I'd received three more rebels with gunshot wounds. By this time there was heavy gunfire all around. Again they threatened me saying they'd kill me if any of them died; that they didn't care how I did it.
>
> Over the next few days the hospital was turned into a command center. The rebels were bringing in bags of rice and cooking, drinking beer, and smoking pot, doing their laundry, coming and going. I saw them telling patients to vacate their beds on wards three, five, and seven, replacing them with their own wounded. They looted from the patients and even stole from the wounded civilians and their families as they entered the hospital.
>
> In the morning hours I also received about ten wounded civilians; all gunshot wounds to the chest and abdomen. The rebels threatened me, again at gunpoint, not to give medicine to or treat any civilians. And I lost them one after the other—they all died.
>
> By 16:00 I was exhausted. I'd been working non-stop; the conditions were terrible and unsanitary, there was blood everywhere, I had no gloves, it was filthy.
>
> By 20:00 we received the heaviest causalities; three wood carts loaded with over sixty wounded, all of them civilians. Of these I can tell you only fifteen survived. Most of the wounded were head and abdomen injuries but the operating theater wasn't working, no nurse, no medicines. All we could do was stop the bleeding. By the next day there were over 200 corpses in the morgue.[106]

V. HUMAN RIGHTS ABUSES COMMITTED BY ECOMOG, SIERRA LEONEAN DEFENSE FORCES, AND POLICE

Summary Executions

Human Rights Watch has taken the testimonies of witnesses to over 180 summary executions of rebel prisoners and their suspected collaborators, mostly by ECOMOG forces but also by members of the Civil Defense Forces (CDF), and the Special Security Division (SSD) of the Sierra Leonean Police (who when on combat operations are under ECOMOG command). While the victims were overwhelmingly young men, witnesses confirm the execution of some women, and children as young as eight.

It is difficult to ascertain the level at which the ECOMOG, CDF and SLA high command were aware of or sanctioned these killings. As they were often carried out in highly public places and in front of very large groups of people, it is highly unlikely that knowledge of the executions did not reach the highest levels of command. According to witnesses and survivors, the executions were done with the consent and sometimes participation of ECOMOG officers to the level of captain.

ECOMOG soldiers deployed in Sierra Leone have operated under extremely difficult conditions, and many have been traumatized by what they have seen of rebel atrocities. As one ECOMOG soldier participating in an operation in which executions took place said, "we have a proper code of conduct. We know about the Geneva Conventions and have taken prisoners in the past, but this time was different. The things these people do. This time my unit took very few prisoners."[107] Another soldier added, "In many ways we felt we were doing it for the people. Sometimes we wonder if these rebels are human. After everything they've done, it was best to eliminate them."[108]

---

[106]Human Rights Watch interview, doctor, Connaught Hospital, Freetown, May 3, 1999.
[107]Human Rights Watch interview, Freetown, April 19, 1999.
[108]Human Rights Watch interview, Freetown, April 30, 1999.

Most Nigerian soldiers, the largest component of ECOMOG, have been deployed in Sierra Leone for at least one year without respite, or visits home Some soldiers, particularly those that were deployed in Sierra Leone after previously serving in the ECOMOG forces in Liberia, have not been back to Nigeria for over two years. What with the difficulty in communicating through phone or mail, many soldiers complain of losing touch with their families. The soldiers are supposed to be paid a special U.S.$150 per month allowance in addition to their wages while they are on active duty in ECOMOG, but until recently there have often been delays of up to three months in receiving this money. Commanders cite these difficulties as contributing to problems with low morale among their troops.

These difficulties do not excuse abuses by ECOMOG, and serve rather to reinforce the need for ECOMOG's senior command to improve discipline and morale among their soldiers. Moreover, under international law, abuses by one side in a conflict, however appalling, can never excuse retaliatory abuses by opposing forces.

Prisoners, some of whom had surrendered and many of whom were wounded, were frequently executed on the spot. Suspected rebel collaborators or sympathizers were often killed with little or no effort to establish their guilt or innocence. Some of the victims were rounded up during small "mopping up operations," and many were executed at ECOMOG checkpoints after being found with weapons, determined to have improper identification, or denounced by the local population.

Scores of executions by ECOMOG and to a lesser extent CDF and SSD forces took place on the Aberdeen Bridge in western Freetown, which during the rebel incursion was under the command of an ECOMOG captain who during this time earned the name of "Captain Evil Spirit" among the local population.[109] Human Rights Watch took testimonies from witnesses who saw at least ninety-eight executions on this bridge from January 7 through January 29. According to these witnesses, small groups of young men were brought to the entrance to the bridge in trucks and cars, and arrived usually stripped down to their underwear and often with their hands tied. They were then marched onto the bridge where they were executed and thrown into the bay. While ECOMOG soldiers, and sometimes "Captain Evil Spirit," did most of the killing, CDF-Kamajors also took part. Members of the SSD were often present and have been seen throwing the bodies into the water.

One witness, who saw scores of executions on the bridge, was told by a soldier that most of the victims had been captured during military operations and at checkpoints in other parts of the capital, and were then handed over by ECOMOG soldiers, CDF-Kamajors, or civil defense unit members to the captain for execution. Another witness said many of those executed formed part of an informal organization of the sons of former SLA soldiers, many of whom lived within either the Murray Town Barracks or Wilberforce Barracks.[110] Witnesses said most of the executions on the bridge were done by the same ten soldiers who fell directly under "Captain Evil Spirit's" command.

Several witnesses described the ECOMOG execution of over fifty rebels in and around Connaught Hospital on January 11, in violation of the laws of war protecting those no longer capable of fighting. Wounded rebels were dragged from their beds and executed within the hospital grounds, or shot directly in their beds or as they tried to flee on crutches and in wheelchairs. Others were executed in the morgue where they were caught trying to hide among the corpses.

Another incident involved the January 19 killing of seven civilians who had sought refuge within the Jami Ul-Masjid mosque. Witnesses also saw executions taking place on the wharves around Susan's Bay, in the National Stadium, and near Ferry Junction. Witnesses saw several people, particularly women, executed after trying to smuggle pistols and cartridges in their hair or hidden underneath children strapped to their backs. There were also reports of freshly severed heads being displayed near a CDF-Kamajor base in the Brookfields neighborhood.

The high degree of rebel infiltration into the capital in the months prior to the January 6 incursion heightened the sense of suspicion among the local population. When ECOMOG regained control of the city, anyone unknown to a given neighborhood became suspect. As Freetown residents went out in search of food, to check on relatives, to bury friends, and the like, they were

---

[109]The name of this ECOMOG captain was provided to Human Rights Watch but has been withheld.

[110]Many of the SLA soldiers had taken part in the 1997 AFRC/RUF coup, and fled to the bush when ECOMOG expelled them from the capital. Their families, many of whom continued to live within the military barracks in the capital, were often accused of collaboration with ECOMOG.

obliged to pass through numerous ECOMOG checkpoints. It was at these checkpoints that young men who were unknown to the local residents were often denounced as rebel collaborators and subsequently executed.

Some victims and witnesses describe going through a brief "trial," either on the street or at a checkpoint during which an alibi was checked out and someone able to verify the suspect's identity was sent for. The "judgment" was then pronounced by an ECOMOG officer, and the execution then carried out by ECOMOG soldiers, or members of the CDF or SSD. Others were given no time to explain themselves and simply executed on the spot. The local population exploited the tense situation to settle personal vendettas against individuals and families by denouncing debtors, love rivals, or those with whom they'd had an argument.

The executions often took place within the context of joint operations usually involving ECOMOG and CDF-Kamajor forces. After ECOMOG identified suspected rebels or collaborators, they were frequently handed over to and executed by the CDF-Kamajors. Also, members of local, unarmed, civil defense units (CDUs) who during the offensive and its aftermath helped to man checkpoints around the city, frequently played a part in identifying rebels and their collaborators.

Dwight

Dwight, twenty-five, lived underneath the Aberdeen Bridge and described witnessing scores of executions, mostly of young men, by ECOMOG soldiers. He recounted:

> From where I lived you could see everything. The first time I ever saw a public execution was on January 7, between 5:00 and 6:00 p.m. I saw Captain Evil Spirit and his boys [soldiers] marching seven young men in their underwear down to the bridge and then as they got closer I recognized several of them to be people from the neighborhood. I saw my friend Ismael and several more. Some of them were the sons of former SLA soldiers and had been living in Murray Town Barracks. Evil did the firing and then the SSD men threw the bodies over the bridge.
>
> On January 8, around 10:00 am, I saw them killing fifteen prisoners. Captain Evil was there and killed some of them this time as well. On January 9 I saw them kill two people and on January 10 I saw them kill a man who had a bullet in his foot. I heard later he was accused of being a rebel and had been brought to Captain Evil by one of the CDU people manning checkpoints in town.[111] On January 11, we buried sixteen corpses which we fished out of the water underneath the bridge.
>
> On January 14 at around 3:00 p.m. the ECOMOG soldiers brought a big group of prisoners; they were eighteen in number. I saw them [the prisoners] get down from a truck and walk them down to the bridge where the same ten soldiers executed them and threw them over. We were later told they were rebels who'd been captured in the east [of Freetown].
>
> Every day they [the soldiers] killed people—two, three, four a day. We feared that man, Evil. He never gave anybody a chance to explain... some people even called him "Captain No Explain." There was a man from our neighborhood who was caught by him. I was told the other ECOMOGs tried to convince Evil that he was a boy from the neighborhood but he wouldn't listen and killed him anyway. The boy was an only child and his mother went crazy. A few times we saw her go to Evil's house and ask to see him. She started screaming, "You, I want you to kill me too... you've killed my only son. You show me where you've buried my boy."[112]

Hassan

Hassan, twenty-nine, who also lived underneath Aberdeen Bridge, witnessed both ECOMOG soldiers and CDF-Kamajor militias killing suspected rebels. He recounted:

---

[111]The civil defense units are unarmed units made up of local civilians. The CDUs were set up following the ECOMOG intervention of February 1998 which ousted the AFRC/RUF junta and restored elected President Tejan Kabbah to power.

[112]Human Rights Watch interview, Freetown, June 7, 1999.

The first time I saw the executions was on January 7 at around 3:00 p.m. I saw eight people being brought down from the guardroom [a checkpoint near the bridge] with their hands tied behind them. They were marched down by two ECOMOGs, Captain Evil Spirit, and another one. But it was Evil who did the firing.

Over the next several weeks I saw them kill at least forty people. And there were a lot more done at night that I couldn't see. It was always the same thing; you'd hear people screaming and begging "no don't kill me, I beg," and then in less than five minutes you'd hear shots and then the splash as they threw them into the bay. And then we'd see their bodies floating in the water the next morning. I buried at least nineteen bodies between January 8 to 22.

I also saw about eight Kamajors execute people on three different days. The first time they killed two people, the second time five people, and the third time ten people. A few ECOMOGs were with them but it was the Kamajors who were in charge of the executions.[113]

Tamba

Tamba, forty-five, described witnessing the execution of at least fifty rebels, some wounded, when ECOMOG soldiers stormed Connaught Hospital on January 11. The rebels, who had been occupying the hospital since they entered the city on January 6, were largely caught by surprise. Tamba described how the rebels tried frantically to escape, how hospital personnel were made to identify their rebel patients, and how all those they identified were later executed:

There was a lot of gunfire, and as the rumors about ECOMOG started flying the rebels in the hospital started panicking. Both the wounded ones and the others who'd been hiding in the hospital striped off their fatigues and tried to get away.

A group of about twenty started demanding gauze and tape and then wrapped their arms and feet to try to make it look like they were wounded. Then they slipped out the back entrance to the hospital. After walking a block up Liverpool Street they ran straight into a group of advancing ECOMOG troops who opened up on them; right on the spot. At about the same time I saw a rebel "wife" searching frantically for a wheelchair to move her wounded rebel boyfriend; they got it as well, not far from the first group.

Then, as this was going on, another group of about fifteen—they were hiding near the stairwell under ward ten—started putting white cotton into their noses, and then slipped through the back door and went into the morgue to hide among the corpses. A few minutes later, I think it was around 11:30 a.m., the ECOMOG soldiers rushed into the hospital from several directions. They had their guns out and were pointing and asking all of us to identify ourselves. Someone alerted them about the group that had gone into the morgue and three of them rushed in and started shooting and screaming, "so you're dead— well now you're going to be dead twice."

By this time the ECOMOGs had identified who the hospital staff were and told them they had information there were rebels hiding among the patients and they told them [the hospital workers] to identify which were rebels and which were real patients. So three ECOMOGs, and a few CDUs [civil defense unit members], went from ward to ward, telling the hospital workers to identify the rebels.

Most of the patients weren't killed in their beds; they had the CDUs pull the patients from their beds and drag them to the entrance to the outpatient ward. That's where they killed them. They dragged out one rebel from ward one, four from ward three, four from ward five, and four from the OPD [outpatient department]. And then they shot all thirteen of them.

All of the ECOMOG soldiers took part in the killing. They even killed a small rebel who looked to be about eight and another one who was about thirteen. A few of them tried to surrender. I heard one rebel scream, "I beg you, don't shoot me wait, I'll talk," but they killed them anyway. They even killed some behind the wards and in front of the entrance to the hospital.

[113]Human Rights Watch interview, Freetown, May 21, 1999.

Anyway, there were a lot of dead rebels that day. I watched as they kept bringing all the bodies into the morgue. I must have counted at least sixty. Even some of the patients were telling the ECOMOGs where the rebels were hiding.[114]

Moses

Moses, thirty-two, saw a husband and wife pulled out of a line at a checkpoint and executed, after a civilian accused them of being rebels. He recounted:

> On January 25, I was waiting in line at a checkpoint near the Congo Cross Bridge with about 200 other people. I was about forty yards back when all of a sudden this woman coming from the other direction starts pointing her finger at another woman, who I later recognized as a friend of mine named Ami, and started screaming, "She's a rebel, I know her, I saw her armed, she's a rebel."
>
> The ECOMOG soldiers then pulled Ami out of the line, who by this time was denying the accusation. But the accuser continued screaming very convincingly that she'd seen Ami armed in Kissy earlier in the month. And then at about this time Ami's husband walked from the back of the line and tried to defend his wife saying it was all a misunderstanding. But the ECOMOG soldiers just pushed both of them to one side and started slapping them. They asked them a few questions, but that woman was accusing them the whole time.
>
> Then about ten minutes after the accusation was made, the ECOMOG officer, he had three stripes [a sergeant rank], gave the command that Ami and her husband should be executed. When they heard this, they started crying and begging, but the soldiers pulled them away from the line, pulled their clothes off, took them to the side of the bridge and shot them. The one who'd ordered it didn't kill them. He just watched. And then he ordered them buried right there.
>
> We heard later from Ami's father who was also in the line, that the accuser had been an old girlfriend of one of Ami's past boyfriends and that they'd never liked each other. Ami's father complained to the ECOMOG people, but by then it was too late.[115]

Bintu

Bintu, twenty-nine, was nearly executed on January 22 after being unable to verify her identity. She recounted:

> I was walking home with my four children when I was stopped and searched at the checkpoint near the Aberdeen Bridge. They asked me where I was coming from and I told them the truth, that I'd been living with a friend of my husband's named Isaac. So, they sent a soldier to check out my story and he came back a few minutes later with Isaac who denied that he knew me. I think he was so traumatized by everything and was just afraid.
>
> The soldiers at the checkpoint then took me to see "Captain Evil Spirit." The soldiers handed him my ID, explained the case and asked Isaac if he knew me, to which he replied, "no" and then Evil said, "well, take this lady for execution." The "trial" lasted three minutes and that was it.
>
> I started screaming, my children started screaming, I begged for my life saying there was no one to take care of my children, I told them it was a mistake, that it wasn't fair and then one of the ECOMOG soldiers hit me on the head with his gun and I started bleeding. And then they started leading me down to the bridge.
>
> A few minutes later one of the ECOMOGs suddenly ran down after us shouting, "leave her, one of her children confirmed the story, don't shoot her." Then the other soldier walked me back up and as I was gathering up my things, another soldier tied up Isaac and shoved him in the back of a pickup. As I was fleeing we heard shots and they saw his body floating in the bay the next day.

---

[114]Human Rights Watch interview, Freetown, May 6, 1999.
[115]Human Rights Watch interview, Freetown, May 21, 1999.

Whenever I see Isaac's family I don't know what to say. It wasn't my fault. I don't know why he denied he knew me. I think about it every day and feel broken inside.[116]

Abu

Abu, eleven, witnessed his mother being executed by an armed SSD policeman after a neighbor with whom they had a business dispute accused her of being a rebel. He recounted:

A few days before it happened my mom had a terrible argument with a guy named Francis over some goods that had gone missing. He accused my mom and our friend Foday of having taken the goods.

At noon on the day it happened, an SSD man and an ECOMOG soldier came and arrested Foday and my mom, and accusing all of us, even me, of being a rebel. Francis was there the whole time, accusing us as well. The SSD man started threatening us and saying "today your life is over, even you small boy; small boys like you even kill our officers."

The community chief tried to help us but an hour later the SSD man and an ECOMOG man took Foday away to the wharf and I saw from a distance I saw the SSD man shot him. The chief finally convinced them to release my mom but as we were walking back I saw Francis and the SSD man talking secretly and then the SSD man said he wanted my mom to walk towards the wharf. My mom got scared and started to run away from them and the SSD man just shot her. Three times he shot her.

That man came back here a few weeks ago and I started yelling at him and said "you, you're the one who killed my mother." He slapped me and told me to "shut up." He's training to be in the new Sierra Leonean army now, so we haven't seen him.[117]

Helen

Helen, nineteen, witnessed the killing of her friend by a CDF-Kamajor on January 24. She said:

Early in the morning six of us, including my friend Fatmata, went in search of firewood. The situation was still very tense. About thirty minutes later we were stopped by a checkpoint manned by two Sierra Leonean soldiers and two Kamajors.

They started accusing us of being rebels and ordered us at gunpoint to lie face down on the ground. They started insulting us and gave us a real beating. They hardly asked us any questions and just had it in their mind that we were rebels.

Then the Sierra Leonean soldier told Ali, the one man in our group, that they were going to kill him, and fired a shot near his legs. We started begging and telling them we were innocent and then Fati just jumped up and ran to hide in a house about twenty yards away.

One of the Kamajors followed her to the house and ordered her to come out. He threatened to kill her and I guess the lady inside convinced Fati to come out. But as soon as she did the Kamajor just opened up on her. As I was lying on the ground I watched as he just fired and fired and fired. He shot her more than ten times.[118]

Daniel

Daniel, forty-one, witnessed the killing of seven civilians inside the Jami Ul-Masjid mosque, after an ECOMOG officer ordered their execution. He explained :

---

[116]Human Rights Watch interview, Freetown, May 21, 1999.
[117]Human Rights Watch interview, Freetown, May 14, 1999.
[118]Human Rights Watch interview, Freetown, April 19, 1999.

On Monday January 18, ECOMOG came to liberate the area. They told the eighty or so civilians inside to leave which all but about ten of us did. It was still very tense. The advancing troops had left eight ECOMOG soldiers in the mosque and they deployed up the tower and around the grounds.

At 6:15 a.m. the next morning, one of the soldiers deployed downstairs went upstairs and as he did there was the sound of a shot. Everyone ran to see what happened and found him lying slumped on the stairs. The stairs were very narrow and blocked with peoples' bags, and the other soldiers surmised that his gun had accidentally gone off as he was climbing up. The other soldiers pulled him down and got on the radio to inform their superiors what'd happened.

Shortly before 9:00 a.m., a lieutenant and captain entered; I could tell by the marks on their uniform. They asked for an explanation and both the soldiers and a few of the civilians told them and showed them the cartridge which they'd found under the stairs. The officers went to inspect the site to see if anyone could've shot him but since the place is in a stairwell surrounded by thick walls, the lieutenant concluded "it must've been the gun that went off," and everybody agreed. Then they left.

And then, not eight minutes later, another officer accompanied by at least eighty soldiers came in and deployed everywhere. By this time all the civilians, there were nine of them, were sitting near where Muslims wash their feet. So the officer in charge—I couldn't see what rank he was because he was wearing green overalls, but he was about forty, had a walkie-talkie and was obviously the man in charge—asked angrily who the soldiers deployed there were.

Several of the new soldiers started accusing the civilians of having killed the soldier and the soldiers who were deployed there started saying, "no, it was an accident." Then the big man ordered that the original lot be disarmed and said, "why are you protecting these people and hiding their act," and as they were being disarmed turned to the civilians and said "we're going to kill all of these people." He then ordered the first one to stand and told a soldier to shoot him. They he told everyone else to lie down which they did. I could hear them praying to Mohammed, to Jesus. They didn't ask for an explanation and blocked the entrance so no one could run and then they shot every one of them. It wasn't five minutes from the time that officer came into the mosque until he ordered them to die. He stormed out taking the disarmed soldiers with him. It was so unfair. I don't know what was wrong with that man.

A few minutes later a few ECOMOG soldiers from the first group came back. They were really upset. I heard them say, "why did he do this—we didn't come to Sierra Leone to kill innocent people."[119]

ECOMOG military officers interviewed by Human Rights Watch said they took between 200 and 300 RUF rebels as prisoners of war during the January 1999 offensive, and that throughout the offensive they strictly followed the procedures established in the Geneva Conventions and acted in accordance with international humanitarian law on the taking of prisoners and other military conduct of war.[120]

According to Lt. Col. Chris Olukolade, the chief military information officer of ECOMOG, no soldiers or officers have been formally investigated or court martialed as a result of their conduct during the January offensive. He said, "within ECOMOG there is an internal mechanism set up for the investigation of violations of international humanitarian law, and although we've heard of individual complaints, none have been sufficient enough to activate this mechanism."[121]

Colonel Buhari Musa, the commander of the Freetown garrison under whose jurisdiction most of Freetown, including the Aberdeen Bridge, falls, said there have been a few lower level investigations of executions following complaints by members of the public, but that the allegations were proven to be baseless and subsequently dropped. He said, "I heard about the allegations of executions and I took it up. There have been a few investigations into accusations of summary executions having been committed by soldiers under my command, which have been conducted at the brigade level, but we didn't find anything

[119]Human Rights Watch interview, Freetown, May 20, 1999.
[120]Human Rights Watch interview, Colonel Buhari Musa, commander Freetown garrison, Freetown, June 11, 1999.
[121]Human Rights Watch phone interview, Lt. Colonel Chris Olukolade, Freetown, June 11, 1999.

substantial. There have been no formal inquiries or disciplinary actions taken against any soldier or officers under my command as a result of the what took place during the January rebel offensive."[122]

Following a United Nations report in February 1999 which expressed concern about summary executions, the ECOMOG high command indicated to the U.N. secretary-general's special representative in Sierra Leone, Francis Okelo, "their intention to investigate these allegations and to take corrective action as necessary."[123] In April, the ECOMOG force commander Felix Mujakperuo established a Civil/Military Relations Committee to investigate allegations of human rights violations against individual members of ECOMOG and CDF and recommend appropriate action to the high authorities.[124] However, the start date for complaints to be investigated is April 1, thus none of the executions committed in January and February will be eligible for investigation under this committee.

Looting and Brutality

Witnesses, particularly from the eastern suburbs of Kissy, Wellington, and Calaba Town observed CDF-Kamajor fighters looting property from the homes of civilians who had fled to get away from the fighting. Thousands of civilians had fled from the eastern areas to take shelter in the homes of relatives and in camps of displaced people, leaving entire neighborhoods largely unoccupied. Witnesses described the CDF-Kamajors going into these areas ostensibly to search and secure them, but then leaving with bundles of clothes, electrical items, radios, and other items. Once civilians reoccupied their homes, the looting decreased significantly.

ECOMOG, CDF-Kamajors, and SSD police in charge of manning the many checkpoints in Freetown were accused of using extreme brutality against the civilian population. Witnesses described people being slapped, pushed, humiliated, and forced to do painful physical exercises as "punishment" for such insignificant "offenses" such as not waiting one's turn in line, not answering questions in sufficient detail, or riding a bike through a checkpoint.

There were reports of mistreatment by ECOMOG soldiers of members of some international nongovernmental organizations, particularly the International Committee of the Red Cross (ICRC), who were accused of being rebel collaborators. Members of ECOMOG confiscated property, including vehicles and radios, and several ICRC expatriate staff were deported after being detained and interrogated.

Detention

Social workers for local humanitarian organizations have documented the mistreatment of suspected child rebels while in the custody of both ECOMOG and CDF-Kamajors. One international NGO received reports of "several" children being beaten while in ECOMOG's Wilberforce Barracks during the months of January and February. A local NGO documented the physical abuse of over thirty street children suspected of being rebel collaborators, both during capture by ECOMOG and Sierra Leonean Police and while in detention in Wilberforce Barracks.

Local social workers also expressed concern about the periodic detention of children and adults by the Kamajor Civil Defense Forces. The Kamajors don't have an official barracks or military headquarters, and have adopted a local hotel as their base, the Bookfields Hotel in central Freetown. It is within this hotel that several witnesses reported to Human Rights Watch seeing detainees held by the Kamajors. As the detentions are not officially acknowledged, they are not subject to governmental regulations and monitoring. They are also illegal.

Execution of a Journalist

There is a highly reliable report of the killing by ECOMOG forces of a journalist named Abdul Jumah Jalloh, who at the time worked for an independent newspaper, the *African Champion*. According to an investigation carried out by the Sierra Leonean Union of Journalists, Mr. Jalloh was publicly accused of being an RUF rebel by a member of a civil defense unit, who then alerted a patrol of ECOMOG soldiers. Mr. Jalloh identified himself as a journalist and produced his press identification card,

---

[122]Human Rights Watch interview, Colonel Buhari Musa, commander Freetown garrison, Freetown, June 11, 1999.

[123]*Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone* (New York: United Nations, March 4, 1999), U.N. document S/1999/237, p.7.

[124]The membership in the committee includes representatives of the National Commission for Democracy and Human Rights, the Bar Association , the police, the media, civil society and the governments. UNOMSIL participates in an observer capacity.

but was later taken to a checkpoint near State House and subsequently executed. His death, which occurred in the last week of January, was denounced by his editor, Mohamed Koroma, who was with him at the time of his detention, and who has since left the country. Human Rights Watch has been unable to find a direct witness to this killing.

Failure to Minimize Civilian Casualties

Joseph

Civilians making up part of a human shield often described feeling surprised when ECOMOG either opened fire on them or bombed them from the air. Joseph, a thirty-five-year-old man, who on January 7 was forced by the RUF rebels to walk down Wilberforce Street as part of a human shield, described his confusion when they were later bombed by an ECOMOG jet:

> I was one of several hundred civilians; we'd all been ordered out of our houses at gunpoint and forced to join in a march. They made us put white bands around our heads and told us to shout "we want peace, we want peace" as we walked down the street. The rebels really wanted to infiltrate the west of the city and I later thought their plan had been to use the big "peace march" to break into the west.
>
> When the jets passed over of course we saw them, of course we heard them, but we just never, never thought they would drop those bombs. There were so many of us and even though they were flying fast, they passed at least three times and it must've been obvious we were civilians. When the rebels ran for cover I thought it was because they didn't want ECOMOG to see them. I just didn't think it was because they were going to bomb us.[125]

Brig.-Gen. Maxwell Khobe, a Nigerian seconded to be the Sierra Leonean chief of defense staff, stated to journalists on February 2, 1999 that rebels had managed to enter Freetown in January only because they had used civilians as human shields. He said, "from hindsight, I believe it would have been better to kill all those that have come, even if they were civilians, in order save the majority. That was not done, and that was what was responsible for the entire thing that took place in Freetown." He said that in the future ECOMOG commanders have issued new "shoot the shields" orders and that, "if they try it again, we'll kill everything from the opposite direction."[126]

Colonel Buhari Musa, commander of the Freetown garrison described the difficulty his soldiers faced when fighting an "unorthodox force" who often don't wear uniforms or have any special markings to distinguish them from the civilian population. He said "it's difficult for us to say what are the criteria for identification; both males and females, young and old are combatants. It is difficult and unfortunate. But sometimes you just have to fight and in such situations you will see that some lives are lost. It is unfortunate for whoever is the victim. But we tell our soldiers that everybody, even they have a right to their lives."[127]

International humanitarian law forbids the use of human shields, but also requires that combatants minimize civilian casualties at all times, even if the civilian population is being used as a shield. Attacks on legitimate military targets are limited by the principle of proportionality as set out in Protocol I to the Geneva Conventions, article 51. The attacker must choose a means of attack that avoids or minimizes damage to civilians, and in particular should refrain from launching an attack if the expected civilian causalities would outweigh the importance of the military target to the attackers.

VI. CHILDREN AS VICTIMS AND PERPETRATORS OF GROSS HUMAN RIGHTS ABUSES

During the January rebel incursion children were the victims of serious abuses committed by all parties to the conflict. They were not spared from any class of abuse and were, in some cases, purposefully targeted because of their age.

---

[125]Human Rights Watch interview, Freetown, May 28, 1999.

[126]Nigerian newspaper report posted to "Sierra Leone Web," February 3,1999. Available at <www.sierraleone.org>.

[127]Human Rights Watch interview, Freetown, June 11, 1999.

Some of the atrocities committed by the RUF rebels were unthinkable. Infants and children were thrown into burning houses, the hands of toddlers as young as two were severed with machetes, girls as young as eight were sexually abused, and hundreds of children of all ages were traumatically separated from their communities and forced to walk into the hills with strangers whom they had seen kill their family members.

In some cases children, many of them originally abuductees, participated in the perpetration of these abuses. Child combatants armed with pistols, rifles, and machetes actively participated in killings and massacres, severed the arms of other children, and beat and humiliated men old enough to be their grandfathers. Often under the influence of drugs, they were known and feared for their impetuosity, lack of control, and brutality.

In some cases, ECOMOG and government forces summarily executed rebel child combatants and suspected collaborators they had captured; other children suffered physical abuse while in detention. Some child soldiers were beaten to death after being caught by members of local communities.

As children abducted by the rebels in January have been released or managed to escape, they have described the process of psychological and physical formation used to turn victim into perpetrator. They described a life of physical hardship, forced labor, substance abuse, and military training. In Freetown, parents speak of their frustration and guilt at their inability to protect their children.

For those hundreds of children who witnessed family members murdered in front of them, were forced to watch as a mother or sister was raped, or had to leave a wounded relative behind in a burning house, the events of January 1999 have no doubt produced deep psychological scars they will live with for the rest of their lives.

Two civilians, Adama and Zainab, expressed the ambivalence civilians have about the role of child combatants. On the one hand they are feared and misunderstood, and on the other, pitied as victims themselves.

Adama

Adama, a forty-two year old secretary, described the horror and fear adults felt at seeing children carry out terrible atrocities:

> We feared them. They were cruel and hard hearted; even more than the adults. They don't know what is sympathy; what is good and bad. If you beg an older one you may convince him to spare you, but the younger ones, they don't know what is sympathy, what is mercy. Those who have been rebels for so long have never learned it.
>
> Once, a rebel, a small boy in full combats, he couldn't have been more than twelve, called everyone out of the house across the street. The papa of the family, Pa Kamara, said, "please my son, leave my family," but the boy said, "listen, we can do anything we want in Freetown. We don't have mothers, we don't have fathers. We can do anything we wanna do." And that is how Pa Kamara died; the rebel boy shot him, in front of his wife, his children, his grandchildren. They are wicked, those boy soldiers. They spare no human life.[128]

Zainab

Zainab, a twenty-four old market vendor, on the other hand, found that she could pity a child exhausted by combat:

> Late one evening, a ten-year-old with a pistol came, alone, into our house. He told my husband his commander was hungry and wanted one of our chickens. While my husband was catching the hen, that boy sat down to wait. He was thin and exhausted. I brought him a biscuit and water. He said he was tired and weak and as he left with the chicken turned to me and said, "thank you, mam."
>
> Later my neighbors criticized me for giving him that biscuit. I said I didn't care if he was a rebel or not. He's still somebody's child. Maybe he was abducted. God knows what they've done to him. I wanted to hide that boy and take him with us as we fled and just knew he would've come with us if he'd had the chance. I could see he wasn't happy.[129]

---

[128]Human Rights Watch interview, Freetown, May 20, 1999.

[129]Human Rights Watch interview, Freetown, April 14, 1999.

VII. INTERNATIONAL RESPONSE

Since the beginning of the conflict in 1991, the plight of civilians in Sierra Leone has had to compete with the other refugee-related emergencies on the African continent and elsewhere for the attention of the international community. Insofar as Sierra Leone has attracted international interest, attention has focused on the humanitarian needs of the displaced—or on the protection of mining concerns in Sierra Leone's diamond fields. As one human rights worker observed in 1998, "half the battle [has been] keeping Sierra Leone on the world's radar screen."[130] The January 1999 RUF occupation of Freetown brought more condemnation from the international community, but little more action. Only Sierra Leone's West African neighbors, in particular Nigeria, have put substantial resources into an attempt to keep the peace and restore respect for human rights and the rule of law.[131] It is to be hoped that the visit of U.N. High Commissioner for Human Rights Mary Robinson to Sierra Leone in June 1999 will contribute to a reversal of this neglect.

ECOWAS, ECOMOG, and the Organization of African Unity (OAU)

In accordance with bilateral security accords, Nigerian and Guinean forces from ECOMOG have been stationed in Sierra Leone since 1995 to help the NPRC and, later, the Kabbah government fight the RUF rebels. After the May 25, 1997 military coup of the AFRC, and its establishment of a coalition government with RUF rebels, hundreds of additional Nigerian soldiers assigned to ECOMOG in Liberia moved to Sierra Leone to defend the Freetown airport from attack. The Nigerian troops attempted to take Freetown itself, but were forced to withdraw. On June 26, 1997, ministers of foreign affairs from ECOWAS countries, supported by the OAU, demanded the reinstatement of the elected government of President Tejan Kabbah and formed a ministerial committee to monitor the situation in Sierra Leone. When negotiations with the new rulers in Sierra Leone collapsed, ECOWAS imposed an almost total embargo on Sierra Leone, enforced by the Nigerian navy, which was later reinforced by an October 1997 U.N. Security Council global arms and oil embargo and restrictions on international travel by families of the rebel leaders.[132]

With the failure of diplomatic efforts for the restoration of peace and the reinstatement of the Kabbah government, ECOMOG's mandate was changed from sanction enforcement to actual military intervention to oust the rebel government. In February 1998, ECOMOG drove the AFRC/RUF forces away from the capital city of Freetown and reinstated President Kabbah, though it could not reestablish government control over the whole country; thus allowing the RUF resurgence and attack on Freetown in January 1999. ECOMOG now maintains security in and around Freetown, and has been able to expand its control to some other areas, although the rebels maintain their grip on much of the country.

Presently the ECOMOG contingent in Sierra Leone is led by Nigerian Major-General Felix Mujakperuo (who assumed command in March 1999) and is composed of approximately 14,000 troops, predominantly Nigerian, with Ghanian, Malian, and Guinean support. The cost of maintaining the troops is being borne mostly by Nigeria (which is allegedly spending approximately U.S.$1 million daily) and the other states that have contributed troops.[133]

In addition to its peacekeeping role, ECOMOG's mandate also includes the implementation of a program for the disarmament, demobilization, and reintegration of combatants (the DDR program), and training the new Sierra Leone army. Although ECOMOG has stated that the new army will be ethnically and regionally balanced,[134] there is also a need to underscore the importance for UNOMSIL to provide assistance and closely monitor the disarmament, demobilization, and training processes to assure that the new army is founded upon principles of respect for international humanitarian law.

---

[130]Human Rights Watch interview, relief organization representative, Freetown, June 24, 1998.

[131]Nigerian support, through ECOMOG, for President Tejan Kabbah was perhaps motivated partly by domestic politics and by the desire of former military ruler Gen. Sani Abacha to gain credit on the international stage in the face of condemnation of his own dictatorial regime. Nevertheless, and although the ECOMOG intervention has been neither as effective nor as respectful for human rights on its own account as Sierra Leoneans would wish, it is undoubtedly true that the situation for many Sierra Leoneans has been significantly ameliorated by the presence of the ECOMOG forces.

[132]See Human Rights Watch/Africa, "Transition or Travesty," pp.38-41, for a discussion of the Nigerian role in the ECOMOG intervention in Sierra Leone.

[133]InterPress Service, May 31, 1999.

[134]Press conference led by Brig. Gen. Maxwell Khobe, Wilberforce military base, June 25, 1998, Freetown, Sierra Leone.

On the humanitarian front, ECOWAS and the OAU have been consistent in their condemnation of the atrocities of the rebels. For example, in December 1998, the ECOWAS Ministerial Committee on Sierra Leone issued a communiqué deploring the torture, mutilations, amputations, and mass killings of innocent civilians. In March 1999, Salim Ahmed Salim, the secretary-general of the OAU, delivered a report to a session of the Council of Ministers, in which he condemned the January offensive on Freetown by the rebels. The OAU also reaffirmed its absolute support for the efforts of ECOWAS and ECOMOG.

ECOWAS has played an important role in facilitating peace negotiations between the RUF leaders and representatives of the government of President Kabbah, which are taking place in Togo, whose president is the current chair of ECOWAS.

The United Nations

The United Nations' initial reaction to the 1997 military coup by the Armed Forces Ruling Council was to condemn it and to place sanctions against the government formed by the rebels. The United Nations Security Council commended ECOWAS on its efforts to restore the ousted government of President Tejan Kabbah and urged member states to assist ECOMOG with financial and logistical support. It also condemned the atrocities perpetrated by the rebels, in particular against women and children.[135] The Security Council also made the determination that the crisis in Sierra Leone constituted a threat to international peace and security in the region under Chapter VII of the U.N. Charter, and that it would remain actively seized of the matter.

In July 1998, the U.N. Security Council unanimously approved a resolution to establish the United Nations Observer Mission to Sierra Leone (UNOMSIL), increasing the United Nations' military observer presence already in the country from approximately ten to seventy officers, along with civilian support and medical staff. UNOMSIL's mandate includes responsibility for monitoring and helping ECOMOG with the implementation of a program for the disarmament, demobilization, and reintegration of combatants (the DDR program); reporting on the security situation; monitoring respect for international humanitarian law, including at disarmament and demobilization sites; and advising the government of Sierra Leone and local police officials on police practice, training, re-equipment, and recruitment, in particular on the need to respect internationally accepted standards of policing in democratic societies.[136]

As RUF forces approached Freetown in late December 1998, the U.N. and other international agencies and foreign governments began withdrawing their staff from the country. On January 6, as the rebels entered the city, UNOMSIL completed its evacuation.[137] The relocation to Conakry, the capital of neighboring Guinea, was followed by a substantial reduction in the number of staff, in particular military and civilian police. On March 3, the decision was made to allow the return of a limited number of staff to Freetown.[138]

On June 4, 1999, the U.N. secretary-general released his sixth report on UNOMSIL. The report noted a resurgence in rebel atrocities against civilians in recent months; the secretary-general's fifth report, issued in March, described similar atrocities committed during the rebel invasion and occupation of Freetown in January. Both reports also noted serious allegations that members of ECOMOG and the CDF had carried out summary executions of suspected rebels. The secretary-general described the worsening of an already desperate humanitarian situation across much of the country, noting that 2.6 million Sierra Leoneans, nearly half the population, were out of reach of humanitarian agencies, and that even where there was access, humanitarian efforts were still unable to reach all those in need.

The secretary-general also noted that ECOMOG had confirmed the involvement of the governments of Liberia and Burkina Faso in the shipment and delivery of arms to the forces of the RUF. Accordingly, the secretary-general had proposed the deployment of ECOMOG troops and U.N. personnel along the Sierra Leone border. Welcoming the proposal in principle, the

---

[135]United Nations Security Council Resolution 1132, October 8, 1997, U.N. document S/RES/1132 (1997).

[136]United Nations Security Council Resolution 1181, July 13, 1998, U.N. document S/RES/1181 (1998) (sponsored by the U.K.).

[137]*Special Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone* (New York: United Nations, January 7, 1999), U.N. document S/1999/20, section II.

[138]*Fifth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone* (New York: United Nations, March 4, 1999), U.N. document S/1999/237, paragraph 6.

executive secretary of ECOWAS had responded that U.N. logistical support would be necessary, including helicopters, communications, and ground transportation.

As of June 4, 1999, UNOMSIL consisted of twenty-four military observers, including two medical personnel, as well as twenty-nine international and twenty-four national staff members. The secretary-general's sixth report stated that it was planned to deploy additional observers up to the maximum of seventy set by U.N. Security Council resolution 1181 of July 13, 1998, to increase the civilian staff by two political officers, and to restore the human rights section to its previous staffing level of five persons. The secretary-general drew the attention of the Security Council to the fact that, depending on the progress of the peace talks, it might well be necessary to deploy "a sizeable number of infantry and other observers, along with the necessary equipment and military logistical support," if the U.N. were to deploy effectively to assist in the implementation of an eventual peace agreement.[139] The secretary-general also "envisage[d] a significant expansion of the civilian personnel, including those engaged in political, human rights and logistical support functions."[140] On June 11, 1999, the Security Council extended the mission of UNOMSIL for a further six months, until December 13, 1999.[141]

The Sierra Leone Contact Group

In July 1998, a Sierra Leone Contact Group was established, following a special conference on Sierra Leone held at U.N. headquarters in New York. The first meeting of the Contact Group, chaired by the United Kingdom, took place on November 5, 1998, with objectives "to build up support for Sierra Leone's efforts to restore peace, democracy and human rights; to encourage further assistance to ECOMOG and contributions to the United Nations Trust Fund for Sierra Leone; to try to match specific ECOMOG requirements to donor offers; and to encourage the Government of Sierra Leone to develop political dialogue and national reconciliation beyond the programme for the disarmament, demobilization and reintegration of former combatants and to encourage participation in it."[142] The meeting expressed strong support for a "dual track" approach endorsed by the ECOWAS summit held in October, "by which efforts to strengthen ECOMOG would be accompanied by the opening of dialogue to achieve lasting peace and national reconciliation."[143]

On April 4, 1999, the Contact Group held its second meeting, attended by representatives of twenty-two countries, the U.N., ECOWAS, ECOMOG, the European Commission, the Commonwealth, the World Bank and IMF, and the International Committee of the Red Cross (ICRC), and once again reaffirmed support for the "dual track" approach and for the 1996 Abidjan Accord as a framework for a negotiated settlement. The group condemned atrocities committed by the rebels, called on all sides to investigate abuses, and expressed concern at support coming to the RUF through Liberia and Burkina Faso.[144]

The United Kingdom, European Union, and United States

The United Kingdom has provided more assistance to the ECOMOG and Sierra Leonean government forces than any other government from outside the region, and has also been the largest national donor to Sierra Leone of reconstruction aid and humanitarian assistance, committing more than £30 million in total to Sierra Leone since the restoration of President Kabbah in March 1998.[145] The assistance the U.K. has provided has included training and equipment for a new Sierra Leonean army.

The U.K.'s record on Sierra Leone has been tarnished by the government's handling of contacts between the government of President Kabbah and a U.K.-based private security company, Sandline International, during 1997 and 1998, which included

---

[139]*Sixth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone* (New York: United Nations, June 4, 1999), U.N. document S/1999/645, paragraph 55.

[140]Ibid., paragraph 57.

[141]United Nations Security Council Resolution 1245, June 11, 1999, U.N. document [S/RES/1245(1999)].

[142]*Third Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone* (New York: United Nations, December 16, 1998), U.N. document S/1998/1176, paragraph 8.

[143]Ibid., paragraph 9.

[144]Foreign and Commonwealth Office, *Sierra Leone Contact Group Meeting: Chairman's Concluding Statement* (London, April 19, 1999).

[145]Foreign and Commonwealth Office, *Statement on Sierra Leone* (Private Notice Question Answered by the Foreign Secretary, Mr. Robin Cook, House of Commons, London January 1, 1999), and Foreign and Commonwealth Office, *Cook Welcomes Nigerian Support for Peace in Sierra Leone* (Edited transcript of Press Conference by the Foreign Secretary, Robin Cook, Nigerian Head of State General Abubakar and President Kabbah of Sierra Leone, Abuja, Nigeria, March 9, 1999).

the supply of a shipment of arms to Sierra Leone in late February 1998 in breach of the U.N. arms embargo (which applied to government as well as rebel forces). In February 1999, the House of Commons Select Committee on Foreign Affairs issued a report, itself based on an investigation ordered by Foreign Secretary Robin Cook and carried out by Sir Thomas Legg Q.C. Both the Legg report and the Foreign Affairs Committee were highly critical of both the Foreign and Commonwealth Office and the foreign secretary, though they concluded that the violation of the embargo was due to incompetence and mismanagement rather than intent.

According to the U.S., its policy towards the crisis in Sierra Leone is designed to achieve four goals: increase international support for ECOMOG; help ECOWAS leaders coordinate a negotiated settlement; curtail external support for the rebel forces; and provide humanitarian relief. To that end, the U.S. provided U.S.$3.9 million in equipment and logistical support to ECOMOG, and contributed over U.S.$55 million in humanitarian assistance in 1998. In 1999 it committed U.S.$5 million for logistical support and medical supplies and planned to seek approval for a further U.S.$5.8 million from Congress.[146] In May 1999, the U.S. government promised to double its commitments to assist ECOMOG and the Sierra Leonean Government.[147] The U.S. has also condemned external support for the rebels from Liberia. However, in a letter dated February 4, 1999 sent by seven members of the U.S. Congress to President Clinton, the members expressed dismay by the limited U.S. support for the efforts of ECOMOG.[148]

Through the European Community Humanitarian Office (ECHO), the E.U. has been an important donor of non-food humanitarian aid to Sierra Leone, having contributed over 20 million ECUs (over U.S.$22 million) by 1998, mostly to support the activities of international humanitarian nongovernmental organizations (NGOs). In November 1998, the E.U. made a grant of 860,000 ECU to the OAU partly to support any post-conflict reconstruction that it undertakes in Sierra Leone. In April 1999, the E.U. approved Euro 5 million to cover emergency aid for displaced persons in Sierra Leone (and Guinea). The E.U. states that it has given Sierra Leone more than 111 million ECUs (U.S. $140 million) in emergency aid and for reconstruction of infrastructure and rehabilitation of victims of the war.[149]

The Commonwealth

The Commonwealth Ministerial Action Group (CMAG), formed in November 1995 at the Commonwealth Heads of Government Meeting held in Auckland, New Zealand, has consistently followed the situation in Sierra Leone, condemning the 1997 military coup and suspending the right of the junta to participate in Commonwealth debates until the restoration of President Kabbah. CMAG has also denounced atrocities committed against civilians by the rebels. Since the restoration of President Kabbah, the Commonwealth has assisted with the reorganization and training of the Sierra Leone police force, together with UNOMSIL civilian police advisers.

---

[146]U.S. Assistant Secretary for African Affairs Susan E. Rice speech to the Committee on International Relations of the U.S. House of Representatives, March 23, 1999.

[147]The U.S. under secretary of state for political affairs, Ambassador Thomas Pickering, made this pledge to the Nigerian President on May 5, 1999.

[148]The letter was signed by Alcee L. Hastings, Cynthia Mckinney, Eva M Clayton, Amo Houghton, Vernon Ehlers, Albert Wynn, and Tom Lantos.

[149]DG VIII Press Releases. Confirmed by Ms. Hals (DGVIII) on May 19, 1999.

VIII. ACKNOWLEDGEMENTS

This report was written and researched by Corinne Dufka, Sierra Leone researcher. Chinedu Ezetah of Davis Polk Wardwell contributed to the writing of the international legal aspects of the report. The report was edited by Bronwen Manby, legal counsel to the Africa Division; Peter Takirambudde, executive director of the Africa Division; Mike McClintock, deputy program director; Wilder Taylor, general counsel; and LaShawn Jefferson and Regan Ralph of the Women's Rights Division. Production assistance was provided by Zachary Freeman, associate for the Africa division. Patrick Minges, publications director; and Fitzroy Hepkins, mail manager.

Research for this report was conducted by Human Rights Watch during the months of April, May, and June 1999. Several hundred witnesses and victims were interviewed, within their homes and centers for the displaced, in hospitals and clinics, market places, churches, mosques, and places of work. Interviews were conducted with government and United Nations officials, journalists, human rights activists, social workers, and members of national and international nongovernmental organizations. The names of all witnesses and survivors, except where noted, have been changed in order to protect their identity and ensure their privacy.

We would also like to thank several people and organizations in Sierra Leone for their assistance given to Human Rights Watch: Helen Bash Taki from the Council of Churches of Sierra Leone (CCSL), Francis Kai-Kai from the Pioneers for Development and Sanitation (PIDESU), Beatrice Parkinson from the Forum for African Women Educationalists (FAWE), Isaac Lapia from Amnesty International, Muctarr Jalloh from Murray Town Camp, The National Commission for Democracy and Human Rights (NCDHR), Network Movement for Justice and Development, Médecins Sans Frontières, UNOMSIL, particularly the members of the Human Rights Section, UNICEF, Handicap International, the staff at Connaught Hospital, the members of the Sierra Leone Human Rights Committee, and lastly, and especially to so many people who were willing to relive their pain to tell their story.

Human Rights Watch
Africa Division

Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to bring offenders to justice, to prevent discrimination, to uphold political freedom and to protect people from inhumane conduct in wartime.

We investigate and expose human rights violations and hold abusers accountable.

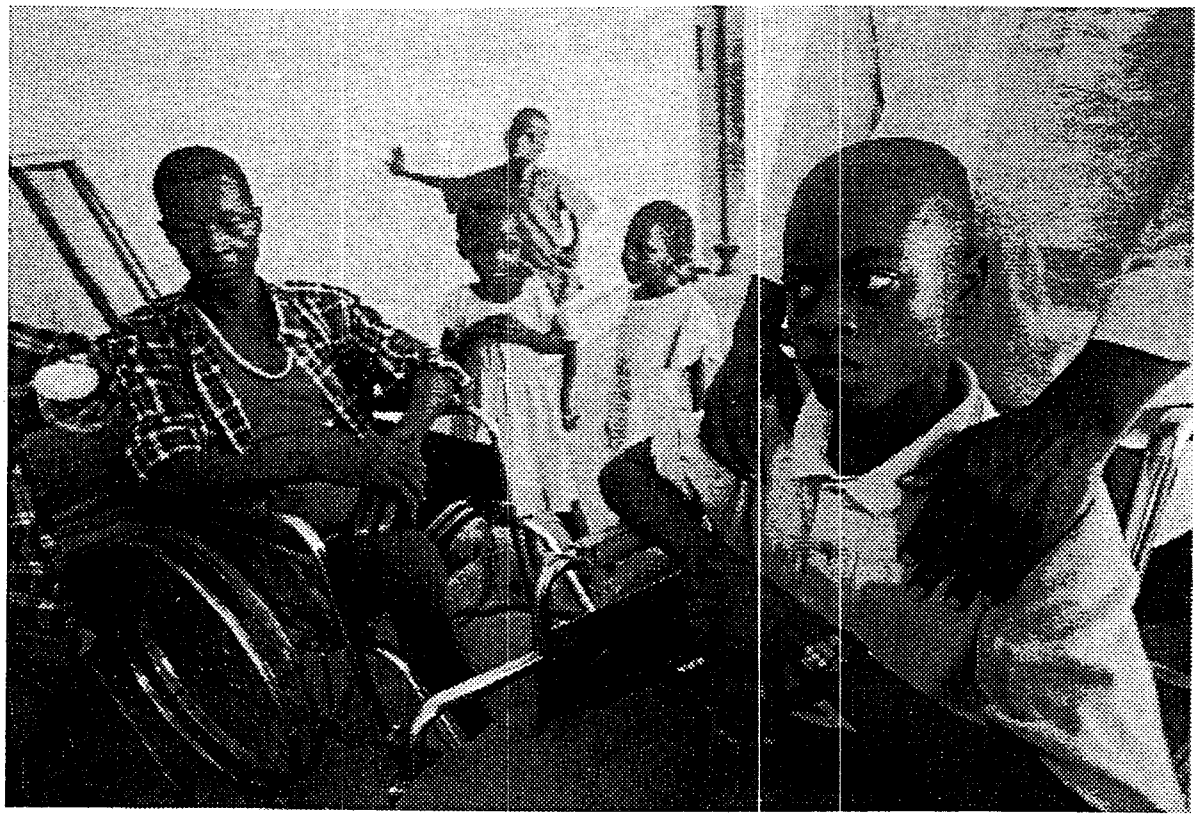
We challenge governments and those holding power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

The staff includes Kenneth Roth, executive director; Michele Alexander, development director; Reed Brody, advocacy director; Carroll Bogert, communications director; Cynthia Brown, program director; Barbara Guglielmo, finance and administration director; Jeri Laber, special advisor; Lotte Leicht, Brussels office director; Patrick Minges, publications director; Susan Osnos, associate director; Jemera Rone, counsel; Wilder Tayler, general counsel; and Joanna Weschler, United Nations representative. Jonathan Fanton is the chair of the board. Robert L. Bernstein is the founding chair.

Its Africa division was established in 1988 to monitor and promote the observance of internationally recognized human rights in sub-Saharan Africa. Peter Takirambudde is the executive director; Janet Fleischman is the Washington director; Suliman Ali Baldo is the senior researcher; Alex Vines is the research associate; Bronwen Manby and Binaifer Nowrojee are counsels; Zachary Freeman is the administrative associate; Alison DesForges is a consultant; and Peter Bouckaert is the Orville Schell Fellow. William Carmichael is the chair of the advisory committee.

Web Site Address: http://www.hrw.org
Listserv address: To subscribe to the list, send an e-mail message to majordomo@igc.apc.org with "subscribe hrw-news" in the body of the message (leave the subject line blank).



The fourteen-year-old boy on the right was shot four times by Revolutionary United Front rebels and is now paralyzed from the waist down. The rebels gathered up everyone in his house and opened fire on them. Three of his family members were killed and several others wounded. He is now living in a camp for the displaced. The rnan on the left lost his leg to a gunshot wound.

©Copyright June 1999 Corinne Dufka/Human Rights Watch

2002 HUMAN RIGHTS WATCH PUBLICATIONS

1565

(A) SUB-SAHARAN AFRICA
Short Reports

Perfect-Bound Books

(B) AMERICAS
Short Reports
(B1401) Colombia: Colombia Human rights Certification III-Briefing Paper, 02/02, 34pp., $5.00

Perfect-Bound Books
(2696) Guatemala: From the Household to the Factory- Sex Discrimination in the Guatemala Labor Office, 01/02, 152pp., $15.00

(C) ASIA
Short Reports

Perfect Bound Reports
(270X) China: Dangerous Meditation: China's Campaign against Falungong, 01/02, 128pp., $10.00

(D) EUROPE AND CENTRAL ASIA
Short Reports
(D1401) Spain: The Other Face of the Canary Islands: Rights Violations Against Migrants and Asylum Seekers, 02/02, 37pp., $5.00

Perfect-Bound Books

(E) THE MIDDLE EAST AND NORTH AFRICA
Short Reports
(E1401) Egypt: The State of Egypt VS. Free Expression: The Ibn Khaldun Trial, 01/02, 21pp., $3.00

Perfect-Bound Books

(G) GENERAL
Short Reports
(G1401) U.S.: Dangerous Dealings-Changes to U. S. Military Assistance After September 11, 02/02, 15pp., $3.00

Perfect-Bound Books
(2548) Human Rights Watch World Report 2002, 01/02, 687pp., $30.00

1566

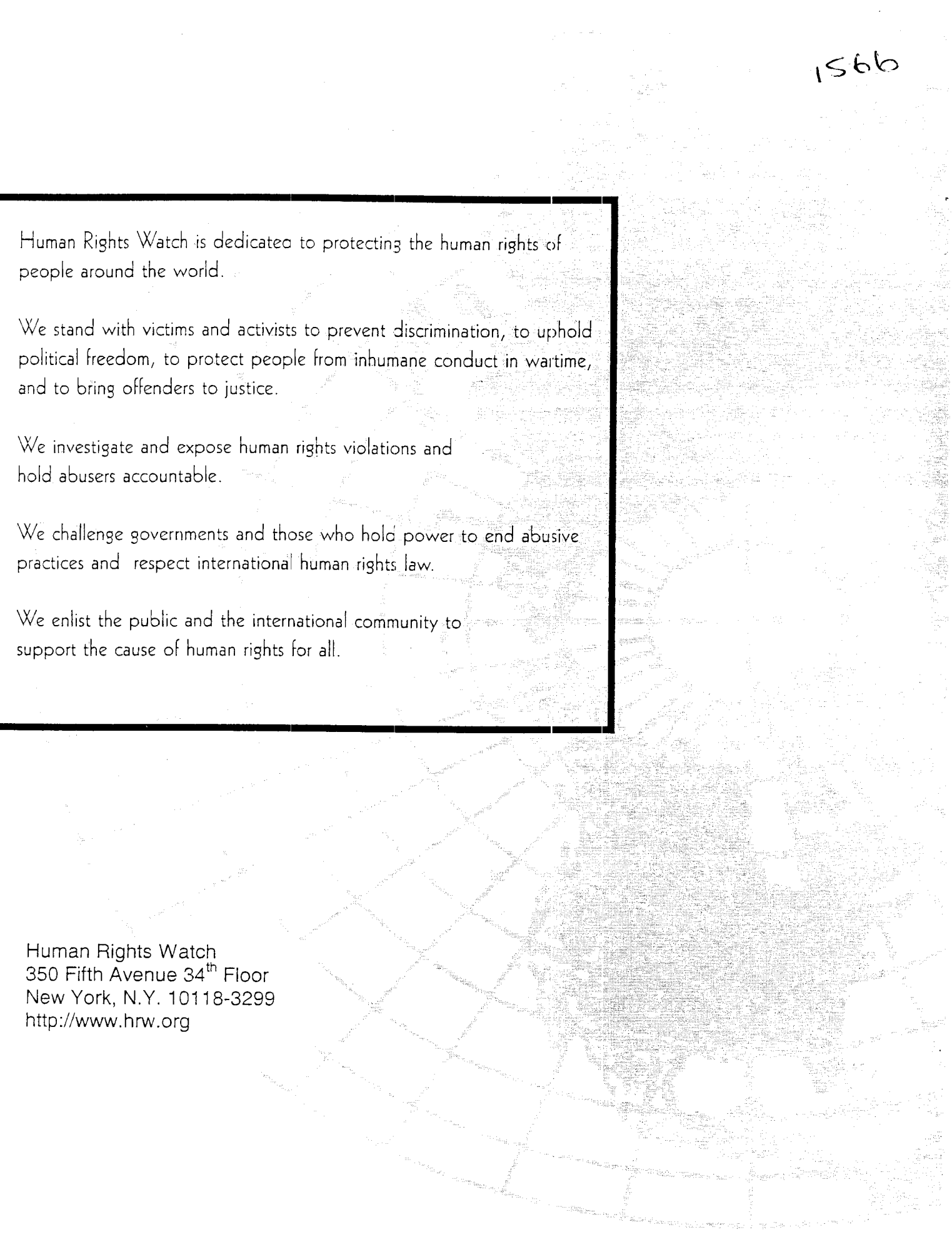
Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice.

We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those who hold power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.



Human Rights Watch
350 Fifth Avenue 34th Floor
New York, N.Y. 10118-3299
http://www.hrw.org

SIERRA LEONE

1567

50 Fifth Ave 34th Floor
New York, N.Y. 10118-3299
http://www.hrw.org

Vol. 10, No. 3 (A) – July 1998

SOWING TERROR

1630 Connecticut Ave, N.W., Suite 500
Washington, DC 20009
TEL (202) 612-4321
FAX (202) 612-4333
E-mail: hrwdc@hrw.org

33 Islington High Street
London N1 9LH UK
TEL (44171) 713-1995
FAX (44171) 713-1800
E-mail: hrwatchuk@gn.apc.org

15 Rue Van Campenhout
1000 Brussels, Belgium
TEL (322) 732-2009
FAX (322) 732-0471
E-mail: hrwatcheu@skynet.be

1568

July 1998 Vol. 10, No. 3 (A)

SIERRA LEONE

SOWING TERROR

Atrocities against Civilians in Sierra Leone

GLOSSARY OF ACRONYMS 3

I. SUMMARY 4

II. RECOMMENDATIONS 7
To all Parties Involved in the Present Conflict in Sierra Leone 7
To the Sierra Leonean Government 7
To the Liberian Government 8
To the Guinean Government 8
To the United Nations 9
United Nations Security Council 9
United Nations High Commissioner for Refugees 9
To ECOWAS and ECOMOG 10
To the United States, United Kingdom, European Union, and other Members of the International Community 10

III. HUMAN RIGHTS ABUSES COMMITTED AGAINST CIVILIANS 11
Human Rights Abuses Committed by Members of the AFRC/RUF 11
A War of Terror against Civilians 11
International Law Governing the Crisis 13
Killings, Mutilations, Sexual Abuse, and Enslavement by the AFRC/RUF 14
Atrocities Against Children 16
Gender-based Violence 17
Abductions 19
Forced Labor 20
Sexual Slavery 21

Forced Recruitment 21
Other Violations of International Humanitarian Law 23
Abuses Committed by Members of Civilian Defense Forces (CDFs) 23
Killings and Mutilation 24
Recruitment of Child Soldiers 25

IV. SIERRA LEONEAN REFUGEES 26
In the Republic of Guinea 26
Assistance 26
Refugee Protection 28
Location of the Camps 28
Access to Asylum, Screening and Registration 28
Detention and Exclusion 29
Freedom of Movement 30
Security 30
In Liberia 31
Separation of Ex-combatants from Civilian Refugees 31
Assistance and Protection in Vahun 32
Kolahun Camp 33

V. THE INTERNATIONAL RESPONSE 33
The United Nations 34
The Organization of African Unity, ECOWAS, and ECOMOG 36
The United Kingdom, European Union and United States 38

ACKNOWLEDGMENTS 39

GLOSSARY OF ACRONYMS

AFRC	Armed Forces Revolutionary Council
CDFs	Civilian Defense Forces
DDR	Disarmament, Demobilization and Reintegration Program
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
LRRRC	Liberian Repatriation, Resettlement and Rehabilitation Committee
RUF	Revolutionary United Front
UNHCR	United Nations High Commissioner for Refugees
UNOMSIL	United Nations Observer Mission to Sierra Leone

I. SUMMARY

Since losing political power in February 1998, members of the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) have been engaging in a war of terror against civilians in Sierra Leone. With no recognizable political platform, the AFRC/RUF rebel alliance is committing widespread and egregious atrocities against unarmed civilians in an attempt to regain power. As the violence in Sierra Leone continues, grave abuses continue to take place. Human Rights Watch interviewed civilian men, women, and children who had been intentionally mutilated or shot as recently as June 12, 1998 in eastern Sierra Leone.

Many thousands of Sierra Leonean civilians have been raped; deliberately mutilated, often by amputation; or killed outright in a campaign by the AFRC/RUF between February and June 1998 alone. Men, women and children, probably numbering in the thousands, have been abducted by the AFRC/RUF for use as combatants, forced laborers, or sexual slaves. Women have been actively targeted through sexual violence, including rape and sexual slavery. Children have been targets of killings and violence and are forcibly recruited as soldiers. In addition to various forms of physical abuse, innumerable Sierra Leoneans suffer from psychological trauma due to intentionally cruel methods of inflicting harm against these individuals and their communities.

These atrocities committed against civilians are the latest cycle of violence in the armed conflict that has devastated Sierra Leone for seven years. The fighting has caused the displacement of more than a million Sierra Leoneans. Most have become internally displaced, while hundreds of thousands have fled the country as refugees, predominantly to neighboring Guinea and Liberia.

The AFRC—led by a group of military officers—took power forcibly on May 25, 1997. During the nine months it was in power, the AFRC joined forces with the armed rebel group, the RUF, to form a regime characterized by serious human rights violations and a complete breakdown of the rule of law. In February 1998, a Nigerian-led peacekeeping force, the Economic Community of West African States Monitoring Group (ECOMOG), forced the AFRC/RUF out of power and reinstated former President Ahmad Tejan Kabbah, who had been elected president in March 1996 in the first multi-party elections for almost three decades in Sierra Leone. Since the reinstatement of Kabbah, the AFRC has joined forces with the RUF to wage a war against ECOMOG and the Kabbah government.

Since independence in 1961, Sierra Leone has endured a series of military regimes and rebellions in struggles over economic and political power. However, the latest round of violence is unique in the scale and grotesque nature of the attacks on civilians. Much of rural Sierra Leone is inaccessible due to the ongoing war, and information is available for the most part only through health facilities where victims seek care in Sierra Leone and through the testimonies of witnesses and survivors in neighboring Guinea and Liberia. Of the hundreds of testimonies collected by Human Rights Watch, many described situations in which the interviewee was the sole survivor among many victims. The cases reported in this document represent only a small fraction of the actual number of victims. The true number may never be known.

Human Rights Watch compiled information regarding the experiences of more than 500 survivors of atrocities committed in Sierra Leone between February and June of 1998. The vast majority of these abuses were perpetrated by members of the AFRC/RUF. Of this number, over 425 survivors of gunshot wounds, amputations and other mutilations, or rape were registered in Connaught, Magburaka, and Makeni hospitals in Sierra Leone. Approximately eighty-two survivors of the same types of abuse were identified in Guinea at Conakry, Faranah, Kissidougou, and Gueckedou hospitals during roughly the same period. In the Liberian refugee camps, Human Rights Watch interviewed victims of the conflict and former AFRC/RUF combatants living alongside one another.

Forces fighting on behalf of President Kabbah have also committed human rights abuses and violations of international humanitarian law. Civilian Defense Forces (CDFs), civilian militias who support the Kabbah

government, have committed numerous abuses including indiscriminate killings and torture. These killings are on a smaller scale than those carried out by the AFRC/RUF and are of a different nature: the CDFs were created in order to assure local security, and they generally limit their abuses to those they claim are AFRC/RUF combatants and to a lesser extent, those perceived as their supporters. The largest and most powerful of the CDFs, the Kamajors, have been responsible for the majority of abuses committed by those fighting on behalf of the Kabbah government since February 1998. In addition to killings and torture, Kamajors have also been responsible for obstructing humanitarian assistance and demanding money or other payment at roadblocks. There are many child soldiers among the Kamajors, and despite promises by the government to demobilize all combatants under the age of eighteen, recent reports indicate that the CDFs continue to recruit children.

According to international humanitarian groups, the shelling by ECOMOG during its assault on Freetown in early February 1998 took a high toll on civilians. ECOMOG forces have also obstructed humanitarian assistance by commandeering vehicles from aid agencies. Information from ECOMOG regarding the security situation in Sierra Leone has often been unduly positive, leading to the repatriation of refugees to unsafe areas. ECOMOG has been widely praised for ousting the AFRC/RUF and conducting itself with greater discipline than was the case in Liberia. However, international observers in Sierra Leone have expressed concerns that some members of ECOMOG may seek to prolong its mission in order to exploit the conflict for economic incentives, as was the case involving some ECOMOG contingents in Liberia.

The atrocities that drive civilians into flight are only the first chapter of hardship for many Sierra Leoneans affected by the crisis. Approximately one-quarter million Sierra Leoneans have fled to refugee camps in neighboring Guinea and Liberia to escape the abuses and fighting. The location of the camps in border areas presents problems of security for and access to the camps, which in turn have impaired assistance and protection for refugees. Security conditions in many of the camps are precarious, and humanitarian assistance has been hampered by difficult access to the camps, a lack of resources at the disposition of the United Nations High Commissioner for Refugees (UNHCR) and aid agencies, and in some instances, poor coordination of relief efforts.

Protecting refugees in this context remains a challenge for UNHCR and other humanitarian agencies. In the Guinean camps, many unaccompanied women, children, and other war victims suffer from inadequate protection. Delays in the distribution of identity cards for refugees have led to restricted movement for refugees, as well as extortion and arbitrary arrest by Guinean authorities. Despite repeated requests from UNHCR and the International Committee of the Red Cross (ICRC), the Guinean authorities have denied access to detained asylum seekers they are holding as suspected combatants.

In the Liberian camps, the presence of former combatants among the refugee population has hampered humanitarian assistance and protection. The proximity of the camps to the fighting in Sierra Leone and the permeable nature of the Sierra Leonean-Liberian border present a clear security risk for refugees and for the delivery of aid to the Vahun camp, located eight to twelve kilometers from the border. Former combatants in the camps stated that the AFRC/RUF are taking advantage of the porous border situation to resupply and to recruit combatants. Assistance and protection has been further compromised by difficult access to the camps, the onset of the rainy season and poor road conditions, a lack of resources for UNHCR and aid groups, and an insufficiently rapid and well-coordinated effort to relocate refugees and separate combatants. The generally weak assistance and protection provided to the Vahun camp has increased tension and the risk of insecurity in the camp and its environs. By June 1998, most refugees in Vahun had received only one fourteen-day ration since their arrival in February and March.

Sierra Leone has been largely ignored by much of the international community, with the exception of those attempting to exploit its rich diamond and mineral deposits. This mix of exploitation and indifference, combined with a history of weak respect for the rule of law and democratic institutions, has repeatedly permitted military leaders to hold power and divert revenue from the mines for their own benefit. In attempts during recent years to gain

political and economic control, both government and rebel groups have sought to tip the balance of power by employing private security firms or mercenaries, often in exchange for lucrative contracts and mining concessions.

A major challenge to the new Kabbah government will be to promote respect for the rule of law and the establishment of institutions of justice in the midst of the present public outcry for revenge and threats against those who defend the human rights of the accused. While demanding accountability for crimes committed by all sides, the Kabbah government must assure due process for the accused, especially the fifty-nine civilians currently being prosecuted for collaboration with the AFRC/RUF. These trials constitute the first major test of the justice system under Kabbah. The government has made repeated gestures in favor of human rights, such as its pledge to provide amnesty for child soldiers and to demobilize all child soldiers; it must now follow through on these commitments. In conjunction with ECOMOG, the government must also assure that the CDFs respect international humanitarian law, are demobilized as soon as possible or integrated into the new army, and are held accountable for their abuses.

In order to end the cycles of violence in Sierra Leone, perpetrators of human rights violations must be held accountable for their actions. AFRC/RUF members suspected of having committed human rights abuses and former AFRC/RUF collaborators must be given fair trials and punished according to national and international law.

Although influencing the actions of the AFRC/RUF has proven to be difficult, international pressure must be maintained to convince them to immediately cease indiscriminate killings, rape, and mutilation of civilians, the abduction of civilians, especially children, for use as soldiers, laborers, sexual slaves or other purposes, and other violations of the laws of war.

The United States, United Kingdom, and European Union have condemned violations by the AFRC/RUF, undertaken high-level assessment missions, and provided humanitarian aid. Despite the blatant disregard of the AFRC/RUF for international humanitarian and human rights law, the U.S., U.K. and E.U. should continue to denounce the atrocities and seek means to stop them. This should include cutting the supply lines of the AFRC/RUF and stating unequivocally that no group or individual associated with these abuses will receive any international support. The international community should call upon the government of Liberian President Charles Taylor to immediately allow ECOMOG in Liberia to monitor the border area with Sierra Leone. This operation should be reinforced by simultaneous monitoring on the Sierra Leonean side of the border by ECOMOG and the United Nations Observer Mission to Sierra Leone (UNOMSIL). President Taylor should also be called upon to prevent the use of Liberian territory for any support to the AFRC/RUF.

The Economic Community of West African States (ECOWAS) should assure that human rights concerns are integrated into ECOMOG's mandate, as well as into its own initiatives to promote peace and stability in Sierra Leone. ECOMOG should desist from obstructing humanitarian aid and take measures to minimize the impact of their military initiatives on civilian populations and structures. ECOMOG should work closely with UNOMSIL, UNHCR, and humanitarian agencies to assure that accurate and neutral information regarding security is provided to the public, especially to refugees, displaced populations, and aid workers.

The international community also has a crucial role to play in order to promote human rights, the rule of law, and stability in Sierra Leone. United Nations agencies are well placed to implement programs and policies to meet these ends in Sierra Leone. UNOMSIL should closely monitor ECOMOG's respect for international humanitarian law and assure that ECOMOG's mandate to train the new Sierra Leonean army results in an ethnically and geographically balanced force, and includes adequate training in the laws of war. UNOMSIL should reinforce and integrate human rights into its existing mandate, primarily through further support for its human rights office. This office should be given the resources necessary at U.N. headquarters as well as in the field to monitor and report publicly on the human rights situation throughout the country. Additionally, the office must have the capacity to provide technical assistance and training to the Sierra Leonean government and local human rights nongovernmental organizations (NGOs). Finally, UNOMSIL must carefully monitor the Disarmament, Demobilization, and

Reintegration (DDR) program for combatants, developed by the World Bank and the Sierra Leonean government. UNOMSIL should provide oversight to ensure that ECOMOG, responsible for the implementation of the DDR program, treats captured or surrendered combatants, especially the large number of child soldiers, in a humane fashion, and works closely with other agencies to facilitate the reintegration of children and other former combatants into civilian communities.

As resources permit, UNHCR should assure that refugees be moved in a timely and humane fashion from insecure camps near the border areas in both Liberia and Guinea. UNHCR should increase its protection of the most vulnerable refugees, in particular the significant number of unaccompanied minors, unaccompanied women, and victims of atrocities. In Guinea, UNHCR should insist upon access to asylum seekers in detention, the screening and registration process at border areas, and, in a manner compatible with security concerns, access to the refugee camps. In Liberia, former AFRC/RUF combatants should be separated from civilian refugees and registered into programs for their reintegration into civil society or prosecuted where appropriate.

In order to put an end to the cycles of violence and atrocities against civilians, the international community will have to focus and sustain its attention on the root causes of conflict in Sierra Leone. With the democratically elected Kabbah government reinstalled, the international community should seize the occasion to make the respect for human rights an integral part of its presence and programs in Sierra Leone. International interventions should support the government's efforts to establish institutions of justice and the rule of law, as well as promote a vibrant civil society with full respect for human rights. If human rights issues are not tackled head-on, the international community and Sierra Leonean people will continue to bear the high cost of further conflict and providing relief for victims.

II. RECOMMENDATIONS

To All Parties Involved in the Present Conflict in Sierra Leone:

- Despite the apparent intransigence of the AFRC/RUF and its leaders' willful disregard for international humanitarian and human rights law, Human Rights Watch continues to call on all parties to the conflict in Sierra Leone to immediately cease from committing human rights abuses, including killings, rape, and mutilation of civilians. Combatants should respect the laws of war, particularly those norms related to the protection of noncombatants and civilian infrastructure.

- All parties should desist from the recruitment, forced or otherwise, of child soldiers. The AFRC/RUF in particular should cease abductions of civilians for use as soldiers, laborers, or other reasons. The AFRC/RUF should halt gender-based violence and the abduction of women and girls as sexual slaves.

To the Sierra Leonean Government:

- Perpetrators of atrocities against civilians should be held accountable for their actions. This should be achieved through arrest, prosecution, and, where appropriate, punishment according to international humanitarian and human rights law.

- In order to establish principles of accountability and the rule of law, respect for due process should be enforced by an independent judiciary. This will be extremely important in the ongoing trials of fifty-nine civilians accused of collaborating with the AFRC/RUF regime, as well as for upcoming court martial trials and the future treatment of war criminals. International observers should immediately be brought in to monitor the ongoing trials. In order to strengthen the neutrality and independence of the judiciary, the government should consider incorporating international judges into its judicial system, in particular for cases regarding war crimes.

- The government should immediately ensure that the disarmament, demobilization, and reintegration program underway incorporates human rights concerns. Particular attention should be paid to (1) the humane treatment of captured and surrendered combatants; (2) psychological and social preparation for the reintegration of combatants into communities; and (3) training in human rights and humanitarian law for those combatants wishing to enlist in the new Sierra Leonean army. Demobilized combatants suspected of having committed war crimes or human rights abuses should be screened by the government in compliance with international standards, and investigated and prosecuted where appropriate.

- The government should follow through on its commitments made to the Special Representative of the Secretary-General for Children in Armed Conflict, including to stop the recruitment of children under the age of eighteen and to create a Joint Task Force to oversee the demobilization and reintegration of child combatants from all sides.

To the Liberian Government:

- The government of Liberia should respect the international arms embargo against the AFRC/RUF and assure that Liberia is not used as a point of supply or transit for combatants, arms, ammunition, food or other supplies to support the AFRC/RUF. To this end, President Charles Taylor should facilitate border monitoring by ECOMOG. The government should investigate, arrest, and hold accountable anyone on Liberian territory engaged in arms trafficking or other support to the AFRC/RUF.

- The Liberian government, through the Liberian Repatriation, Resettlement, and Rehabilitation Committee (LRRRC) and its security forces, should cooperate with UNHCR in the development and implementation of a program to screen and separate combatants from civilian refugees. This program should be in accordance with international refugee law and UNHCR's guidelines on the application of the exclusion clauses to the 1951 Refugee Convention and to the 1967 Protocol.

- Individuals suspected of having committed a war crime, crime against humanity, or any other crime which would exclude them from protection under international refugee law, should be investigated, and where warranted, prosecuted for the violations they are accused of in accordance with international standards of due process.

To the Guinean Government:

- The Guinean government should facilitate the maximum possible access for humanitarian organizations to refugee camps in the Guéckedou area.

- The Guinean government should maintain its generous asylum policy for refugees from Sierra Leone and Liberia, while taking actions to ensure local Guinean border authorities immediately cease to demand money or seize property from Sierra Leoneans who seek to enter Guinea.

- The Guinean government should give UNHCR full and unimpeded access to border entry points and allow UNHCR to monitor access to asylum procedures; conduct prima facie refugee status determination screening; and participate in pre-screening to identify refugees who may be suspected of war crimes, crimes against humanity, or other such crimes which would exclude them from international refugee protection. The latter should be done with a view to investigate and prosecute where appropriate in accordance with international standards.

- Individuals suspected of having committed war crimes, crimes against humanity, or any other crime which would exclude them from protection under international refugee law, should be held accountable for the violations they have committed in accordance with international standards of due process.

- The Guinean government should allow UNHCR full and unimpeded access to places of detention for refugees and asylum seekers.

- The Guinean government should continue to work closely with UNHCR to register all refugees and issue them identification cards. Police and military should immediately cease the arbitrary arrest, extortion, and harassment of refugees who do not have identification cards.

- The government should maintain the arms embargo against the AFRC/RUF and assure that Guinea is not used as a supply or transit point for arms, ammunition, food or other supplies to these forces. Authorities should arrest and hold accountable any Guinean military personnel or civilians found to have violated the arms embargo to the AFRC/RUF in Sierra Leone or those involved in trade with AFRC/RUF forces.

To the United Nations:

United Nations Security Council

- The United Nations should integrate human rights into its programs and further expand the capacity of the human rights office of UNOMSIL. This should include adequate resources and additional staff to monitor and report publicly on the human rights situation throughout the country, implement technical assistance programs with the government of Sierra Leone, and provide support and training to Sierra Leonean human rights groups.

- UNOMSIL should carry out its mandate of assuring that ECOMOG respect international humanitarian law during the Disarmament, Demobilization and Reintegration (DDR) program. It should further monitor ECOMOG's respect for international humanitarian and human rights law during all of its activities, especially military operations.

- The U.N. Security Council should call upon Liberia to not allow their territory to be used in support of the AFRC/RUF activity in Sierra Leone. It should urge the Liberian government to take all measures necessary to assure that present and former Liberian military or rebels are not supporting AFRC/RUF in Sierra Leone. Such measures should include the deployment of ECOMOG and U.N. military observers in the border area.

- Similarly, the Security Council should call upon all governments to respect the international arms embargo against the AFRC/RUF and, in particular, assure that Liberia is not used as a point of supply or transit for arms, ammunition, food or other supplies to or from the AFRC/RUF.

United Nations High Commissioner for Refugees

- Refugee camps most at risk should be relocated to secure, accessible areas a safe distance from the borders of Guinea and Liberia, as soon as the availability of resources permits this. Where not already developed, plans for relocation should be designed and implemented as soon as possible.

- UNHCR should maintain a permanent presence at border entry points to Guinea and Liberia in order to monitor access to asylum determination procedures for those fleeing Sierra Leone; conduct basic screening to determine group-based prima facie refugee status; and conduct pre-screening of those suspected of having committed a war crime, a crime against humanity, or any other such crime which would exclude them from international refugee protection.

- UNHCR should seek access in writing and in practice to all detention centers in Guinea and Liberia where asylum seekers and refugees are held, including those where refugees suspected of being former combatants are held. UNHCR should monitor conditions of detention and ensure, to the extent possible, that its own guidelines on detention of asylum seekers are applied.

- UNHCR should seek a presence at screening interviews to identify refugees who are suspected of committing crimes that would deem them undeserving of international refugee protection. UNHCR should monitor screening for exclusion and ensure necessary safeguards. UNHCR should advise the governments of Guinea and Liberia on fair and just criteria and procedures for the application of the exclusion clauses, according to international refugee law and its own guidelines.

- In collaboration with the governments of Guinea and Liberia, UNHCR should ensure that an efficient and effective registration program for Sierra Leonean refugees is in place in both countries. Registered refugees should be provided with identity cards.

- UNHCR should provide refugees in Liberia and Guinea with accurate, neutral, and objective information about security conditions in Sierra Leone, to enable refugees to make informed choices about repatriation.

- UNHCR should rapidly implement an evaluation of the psychological and medical needs of the large numbers of refugee victims of psychological and physical trauma. In particular, UNHCR should respect and implement its own guidelines regarding assistance and protection for women who are victims of rape, sexual violence, or survivors of trauma. UNHCR and other relief agencies should have qualified personnel to implement these guidelines and programs and promote a general awareness and sensitivity to these issues among refugees and local authorities.

- Special considerations in programming should be made to protect the large numbers of vulnerable refugees among the new Sierra Leonean caseload, including unaccompanied children, unaccompanied women, single parents, victims of atrocities, the elderly and the infirm. Funding should be provided for the implementation of education programs for reconciliation, conflict resolution and human rights education in refugee camps, especially for youth.

To ECOWAS and ECOMOG:

- While its record in Sierra Leone has improved from past performances, the Economic Community of West African States (ECOWAS) should closely monitor ECOMOG's respect for international humanitarian and human rights law in all aspects of its mandate, especially while conducting military operations, as well as during its retraining of the new army and its implementation of the DDR program. In accordance with international humanitarian law, ECOMOG should take measures to reduce the toll of its military operations on civilians and civilian structures.

- ECOMOG should produce accurate, neutral and objective information about security conditions in Sierra Leone to enable refugees to make informed choices about repatriation

To the United States, United Kingdom, European Union, and other Members of the International Community:

- In order to end cycles of violence in Sierra Leone, the international community should maintain a strong focus on Sierra Leone and assure that respect for human rights and the rule of law are foundations of the newly reinstated government.

- The arms embargo against the AFRC/RUF should be strictly enforced. States, arms dealers, private security firms or others found in violation of the embargo should be held accountable. The international community should state unequivocally that no group or individual associated with abuses committed by the AFRC/RUF will receive any international support.

- Members of the international community should respond to UNHCR's $7.3 million emergency appeal for assistance to Sierra Leonean refugees in Guinea and Liberia. Funds are needed for food, shelter and sanitation, medical, educational, psychological and social services, the relocation of camps, transportation and logistical support.

- Donors should also respond to bilateral requests for assistance in addressing Guinea's environmental and infrastructure damage resulting from the refugee flow. International donors should provide funds in response to OCHA's request for $11.2 million to meet humanitarian needs in Sierra Leone. Without these funds, the UNHCR and other humanitarian agencies will not have the human or financial resources to provide basic assistance to refugees, internally displaced persons, and other Sierra Leoneans affected by the crisis.

III. HUMAN RIGHTS ABUSES COMMITTED AGAINST CIVILIANS

Human Rights Abuses Committed by Members of the AFRC/RUF

A War of Terror against Civilians

Human Rights Watch took testimony from dozens of survivors and witnesses of gross violations of human rights committed by the AFRC/RUF,[1] involving the physical mutilation, torture and murder of Sierra Leonean civilians. They included: amputations by machete[2] of one or both hands, arms, feet, legs, ears and buttocks and one or more fingers; lacerations to the head, neck, arms, legs, feet and torso; the gouging out of one or both eyes; rape; gunshot wounds to the head, torso and limbs; burns from explosives and other devices; injections with acid; and

---

[1] The Revolutionary United Front (RUF) was formed in 1991 and entered eastern Sierra Leone from Liberia. Originally, the RUF was a mix of members of Charles Taylor's National Patriotic Front of Liberia (NPFL), NPFL-trained Sierra Leoneans and others. Since its inception, the RUF has failed to publicly and clearly articulate a political agenda other than ousting successive governments and has committed atrocities from the beginning. Abdul Koroma in "Sierra Leone: The Agony of a Nation," (Andromeda Publications, 1996) reports that during one of their first attacks in 1991 in eastern Kailahun district, the RUF decapitated civilian leaders and placed their heads on sticks. Over the next seven years, the RUF attempted to gain power through guerrilla warfare and attacks against civilians. RUF leader Foday Sankoh is a former colonel in the Sierra Leonean military. He was imprisoned in 1971 for his alleged involvement in a coup attempt, released seven years later and dishonorably dismissed from the army. The Armed Forces Revolutionary Council (AFRC) was formed by a group of military officers who took power in a coup on May 25, 1997 ousting President Kabbah. Its chairman, Major Johnny Paul Koroma, had been in detention in Freetown awaiting trial for alleged involvement in a prior attempted coup in September 1996. The AFRC invited RUF forces to join them in the new government. The AFRC cited the government's failure to implement a peace agreement with the RUF and the practice of ethnic favoritism as reasons for assuming power. They also called for the release of Foday Sankoh, who had been detained in Nigeria on March 2, 1997, charged with possession of arms and ammunition. Upon taking power, the AFRC suspended the constitution, banned political parties, public meetings, and demonstrations and announced rule by military decree. Many judges, attorneys and police were among those who fled the country, causing a total collapse of the judiciary. The AFRC established the People's Revolutionary Courts, whose staff had little or no legal training. The government arbitrarily arrested and detained its suspected opponents and critics. In indiscriminate attacks on villages, AFRC/RUF forces amputated, raped, killed and abducted civilians to use as laborers and fighters.

[2] Also referred to as "cutlasses" by the survivors.

beatings. Human Rights Watch also received unconfirmed reports of sexual mutilation such as the cutting off of breasts and genitalia, among other atrocities.

This is a war being waged through attacks on the civilian population. AFRC/RUF soldiers typically capture civilians, round them up from their hiding places in the forest or in villages and commit atrocities against them in an effort to instill terror. The AFRC/RUF appears to use this campaign of fear as a means of exerting political and military control. They often summarily execute civilians, accusing them of being Kabbah or Kamajor[5] supporters, or Kamajor relatives. The soldiers further terrorize their victims by forcing them to participate in their own mutilation, asking them to make choices about which finger, hand or arm, for example, to have amputated. They also use mutilation and other forms of physical abuse as punishment for refusing to follow their instructions.

The AFRC/RUF uses the civilians it abuses to "send messages" to its opponents. Victims of amputations or other mutilations are frequently told that they should take their amputated limb and a verbal or written message to ECOMOG or the Kabbah government. The messages are typically demands that ECOMOG should "leave the country to Sierra Leoneans" or that Kabbah should replace the limbs of amputees. The AFRC/RUF also state that they will keep fighting until Kabbah is gone and their leaders are restored to power. They call for the release of RUF leader Fodey Sankoh, imprisoned in Nigeria. According to testimony from other victims and witnesses, many victims die from complications related to their wounds before their messages of horror can be heard.

Since February 1998, attacks on civilians have occurred in almost all regions of the country but with a particularly high concentration in the Koidu diamond-mining area in the east, where the AFRC/RUF maintain a strong presence. The vast majority of victims are males between the ages of sixteen and forty-five, but women, children, and the elderly are not spared. For example, testimonies collected by Human Rights Watch included male and female amputees over the age of sixty, as well as from a three-year-old boy with a gunshot wound. Attacks on villages or civilians hiding in the forest are seemingly carried out without regard for ethnic or religious affiliation. Perpetrators and victims come from diverse ethnic and religious groups, and ethnicity is seldom invoked as a motivating factor in killings or abuse.

Men of voting and fighting age are particularly targeted in order to discourage them from giving political or military support to President Kabbah or the Kamajors. When the RUF committed atrocities prior to elections in 1996, they told victims that their hands were being amputated so that they could not vote. Women and girls are also frequently subject to rape and other forms of gender-based violence, including sexual slavery. Pregnant women and nursing mothers are also targets of the AFRC/RUF.

The AFRC/RUF led at least two loosely organized campaigns of terror, "Operation No Living Thing" and "Operation Pay Yourself." These campaigns, both of which originated in the Koidu area in February 1998 and then spread throughout the country, were designed to loot, destroy, or kill anything in the path of the combatants. Operation Pay Yourself included AFRC/RUF roadblocks where civilians were forced to place their belongings into two piles, one for civilians to keep, to "pay themselves," and one to be handed over to the soldiers. One witness who fled Koidu described what happens at the road blocks:

---

[5]"Kamajors," meaning traditional hunter in Mende, are among the Civilian Defense Forces (CDFs) which fight on behalf of Kabbah's government. CDFs evolved as local protection responses to insecurity and violence throughout Sierra Leone. The Kamajors are the largest and most powerful of these groups, and most Kamajors are from the Mende ethnic group. They dress in traditional clothing, often wearing charms and mirrors. Other ethnic groups, including the Temne, Mandingo and Kuranko have also formed CDFs known as "traditional hunters" in their respective languages. The Kamajors became an important fighting force under the previous government of Captain Valentine E.M. Strasser, helping to combat the RUF, but also committing human rights violations. The Kamajors were armed by and grew in number under the first Kabbah government, allegedly fueling resentment among the Sierra Leonean military and leading to the subsequent AFRC coup.

> Ten of them [AFRC/RUF soldiers] in a van with weapons—RPGs, AK47s—stopped us and told us to put down our bags. They searched us from shirt to pants. They told us to make two piles and put all the best of what we had—money, rice—into one pile, and the rest in another. They took all the best and gave us the one that wasn't good. That's "Operation Pay Yourself!"[4]

These operations were apparently designed to force the local populations to provide them with economic support and to assert their position as political and military players in Sierra Leone.

Although the attackers claim to be seeking out supporters of President Kabbah or the Kamajors, which have fought on behalf of Kabbah, there is often no distinction being made by AFRC/RUF forces. A small minority of victims are, in fact, Kabbah supporters or Kamajors; most are subsistence farmers, miners or small merchants with no history of political activity. One witness to atrocities near Koidu said, "They don't ask you if you're a Kabbah supporter; they just kill randomly... they just kill anyone. But if they know you are a Kabbah supporter, they will kill you faster."[5]

Actual supporters of President Kabbah and those who served under his first administration, in particular civilian administrators, paramount chiefs, traditional section chiefs, Catholic priests, other religious figures and other community leaders, are actively sought out by AFRC/RUF for intimidation, extortion, or abuse. Several traditional chiefs and Catholic priests interviewed by Human Rights Watch explained that the AFRC/RUF perceives them as supporters of the democratically elected government of President Kabbah. Many traditional chiefs, often with ethnic ties to Civilian Defense Forces (CDFs), fled after learning that the AFRC/RUF was looking for them. One Catholic priest who was captured by the AFRC/RUF and later escaped stated that his captors planned to execute him. They told him, "Look here's one Kamajor to take care of. You priests are supporting the SLPP government and the Kamajors. Stand here because we are going to kill you."[6] The AFRC/RUF takes whatever money and property these individuals have and brutalizes them to show the population how they will treat their opponents.

International Law Governing the Crisis

The hostilities in Sierra Leone constitute an internal armed conflict under the laws of war, also known as humanitarian law. Sierra Leone is a party to the Geneva Conventions and both optional protocols. Common Article 3 to all four Geneva Conventions sets out fundamental rules applicable to internal armed conflicts that are not subject to suspension under any circumstances, and that are widely accepted as constituting customary international law. Virtually a convention within a convention, Common Article 3 provides in relevant part:

> In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:
>
> (1) Persons taking no active part in the hostilities, including those placed *hors de combat* by sickness, wounds, detention or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.
>
> To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

---

[4]Human Rights Watch interview, Pandouyema II Refugee Camp, Guéckedou, Republic of Guinea, June 12, 1998.

[5]Human Rights Watch interview, Koundou Lengo Bengo Refugee Camp, Republic of Guinea, June 6, 1998.

[6]Human Rights Watch interview, Guéckedou, Republic of Guinea, June 9, 1998.

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) taking of hostages;
(c) outrages upon personal dignity, in particular humiliating and degrading treatment;
(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

The 1977 Protocol II to the Geneva Conventions is also directed at internal armed conflicts, and elaborates these fundamental guarantees of humane conduct and protection of civilians. In particular, Article 4 of this protocol provides in relevant part:

(1) All persons who do not take a direct part or who have ceased to take direct part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honor and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.
(2) Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and whatsoever:
(a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
(b) collective punishments;
(c) taking of hostages;
(d) acts of terrorism;
(e) outrages on personal dignity, in particular humiliating or degrading treatment, rape, enforced prostitution and any form of indecent assault;
(f) slavery and the slave trade in all their forms;
(g) pillage;
(h) threats to commit any of the foregoing acts.

The principle of protection of civilians is at the core of both provisions, and indeed, is fundamental to all humanitarian law. For the purposes of the conflict in Sierra Leone, a civilian is anyone who is not a member of the armed forces or of an organized armed group of a party to the conflict. Included as protected persons are also members of government or insurgent forces who are wounded, sick, unarmed or in captivity. Both Common Article 3 and Protocol II bind all parties to the internal armed conflict, including the insurgent party.[7]

The government of Sierra Leone is also bound by the provisions of the International Covenant on Civil and Political Rights, to which the state is a party. That treaty, at Article 4(1), provides that states parties may take measures derogating from certain rights "in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed". On March 10, 1998, President Kabbah declared a state of emergency which was communicated to the office of the Secretary-General to the United Nations. Even for rights the derogation of which is permitted, however, any derogation may be only "to the extent strictly required by the exigencies of the situation" and must not "involve discrimination solely on the ground of race, colour sex, language, religion or social origin." Some of the rights that may not be derogated even during a state of emergency include the right to life

[7] The commitment of a state to these provisions applies also to private individuals in that state's territory who are thereby bound by the same rights and obligations. International Committee of the Red Cross, *Commentary on the Additional Protocols of 1977* (Geneva: International Committee of the Red Cross, 1987) p. 1344-45. The government's application of these provisions does not confer on the insurgents any international recognition on the insurgent party. Nor do Common Article 3 and Protocol II provide any special status for insurgents in internal armed conflict such as the combatants privilege to kill or capture enemy troops, or prisoner-of-war status when captured. *Ibid.* at 1344.

(Article 6), the prohibition of torture or cruel, inhuman or degrading treatment or punishment (Article 7), the ban on slavery in all its forms (Article 8) and freedom of thought, conscience and religion (Article 18).

Killings, Mutilations, Sexual Abuse, and Enslavement by the AFRC/RUF

As mentioned above, it is impossible to determine the precise number of victims of these types of abuse due to a lack of access to much of Sierra Leone and the fact that most deaths occurred without record. Human Rights Watch collected testimonies from hundreds of Sierra Leoneans who survived or witnessed these types of atrocities.[8] A few of the countless examples follow:

Ike C. was a reporter for the *Herald Guardian* newspaper in Koidu town, Kono. He is thirty-two years old and fled the AFRC/RUF's attack on Koidu on February 21 but was captured, held by the AFRC/RUF, and threatened with death. He ultimately escaped. Among other atrocities he witnessed, he described the following:

> I saw them kill two people right before my face at Tomboudou, in front of the residence of the Paramount Chief of Tomboudou.[9] One man they arrested at a village called Nemessedu. They brought him to Tomboudou along with his wife. He was killed before his wife. They tied him up and shot at him in his chest three times. Then they took his wife as their own.
>
> The second executed was a youth. He was tall, and before killing him, they told him, "You're too tall." So, they chopped off his foot, and he fell to the ground. Later, they shot him three times in the chest, too, and he died. After that, they agreed to set Tomboudou on fire as a part of Operation Non-Living Thing.[10]

Helen C. was a fish seller in Koidu. She claims that she lost her two children in chaos related to an attack by the AFRC/RUF near Koidu in May 1998. Later that month, she was caught by the AFRC/RUF in Tumbodu, Kono district, where she saw them kill approximately fifty people. The AFRC/RUF caught her and cut off her hand and forearm.

> They captured me and said lie on the floor. I was reluctant; they cut me on the neck with a machete. I was cut by a small boy. Then they put my hand on a stone and cut me. They told me to go to Kabbah and tell him what happened.
>
> They left me there. They said they would go to the bush and kill anyone they found there. I walked eleven days to Forekonia [the border with Guinea]. I left my belongings with my hand. I had to bury my own hand.[11]

Franklin M., a farmer from Sinekoro town, Kabalah district, was returning from his fields around May 21, 1998 when he saw members of the AFRC/RUF coming toward him.

---

[8]The names of all the refugees interviewed have been changed in order to protect their safety and privacy.

[9]Ike C. provided this information for purposes of describing the location of the killings only, not to imply involvement of the Paramount Chief in the killings of these two individuals.

[10]Human Rights Watch interview, Boodou Refugee Camp, Guéckedou, Republic of Guinea, June 23, 1998. Survivors referred to this military offensive both as "Operation No Living Thing" and "Operation Non-Living Thing."

[11]Human Rights Watch interview, Faranah Hospital, Guinea, June 5, 1998.

> I saw people with cutlasses and guns. So I started to run; they caught me and cut off both of my hands. Then they left me. Some of them wore uniforms, some were in plainclothes. They said I was a supporter of Tejan Kabbah.[12]

Human Rights Watch interviewed Franklin M. in Faranah Hospital, Guinea where he sought refuge and health care. He further described his dilemma as a refugee and victim of a double arm amputation.

> My family is here. How can I hope to feed my family? My mother is here. My wife is here. My children are here. I have no hands.[13]

Timothy C., a history teacher from Koidu, was one of two survivors of a group of ten civilians captured near his home by the AFRC/RUF on June 10, 1998. The other eight were killed with machetes. He was cut so deeply on his forearms that it is likely that both will have to be amputated.[14]

In March 1998, **Catherine M.**, an administrator from Segbwema, was shot in the back by the AFRC/RUF as they fled from ECOMOG. Her husband and son were shot dead in front of her. She was stripped and forced to flee with the AFRC/RUF. She witnessed the killing of many children and a nursing mother as she fled.[15]

Atrocities Against Children

Children are the frequent targets of brutal, indiscriminate acts of violence by the AFRC/RUF.[16] Children are murdered, mutilated, tortured, beaten, raped, enslaved for sexual purposes, forced to work, and forced to become soldiers by the AFRC/RUF.

In addition to violating the instruments of international humanitarian law cited above, these crimes violate the Convention on the Rights of the Child, which makes explicit children's right to life and freedom from sexual abuse, abduction and forced recruitment, among other rights.[17]

Examples of these types of violations were frequent. **Sam R.**, a farmer in the Koidu area, saw six of his children and his wife attacked in front of his house on June 12. He recalled,

> They accused me of being a Kamajor. When they want to kill you, they accuse you of anything. There is no reason. I am a farmer. I don't vote. I have no money. They burnt my house.[18]

> At about 4:00 a.m., I heard bombs and gunshots outside my house. The rebels came and banged on the door. They said they would kill us all outside. My wife took five of the children outside. I stayed inside with one. My wife threw herself on top of two of the children to protect them.

---

[12]Human Rights Watch interview, Faranah Hospital, Guinea, June 4, 1998.

[13]Ibid.

[14]Human Rights Watch interview, Connaught Hospital, June 24, 1998.

[15]Human Rights Watch interview, Kolahun refugee camp, Lofa county, Liberia, June 12, 1998.

[16]Children are considered persons below the age of eighteen, as defined in Article 1 of the Convention on the Rights of the Child, September 2, 1990.

[17]All states are party to the Convention on the Rights of the Child except for the United States of America and Somalia.

[18]Human Rights Watch interview, Faranah Hospital, Guinea, June 3, 1998.

> They shot my wife, killed two of the children, shot my seven-year-old through the stomach, and cut another one on the buttocks. Two got away.[19]

Human Rights Watch received documentation on dozens of similar cases. According to medical records, out of 265 war wounded patients admitted to Connaught hospital from April 1 though June 20, approximately one-quarter were children. According to reports from humanitarian agencies, 111 children died between February 15 and 24, 1998 during AFRC/RUF attacks in the Bo area.[20]

Gender-based Violence

Women and girls are the primary targets of widespread rape, sexual slavery, and other forms of sexual violence.[21] Although the exact number of those raped will never be known, testimonies from survivors confirm that sexual violence has been widespread, against thousands of women and girls. Furthermore, no comprehensive medical statistics have been compiled on rape-related injuries or on pregnancies as a result of rape. Those who have witnessed, or endured and survived these and other atrocities are suffering enormous psychological trauma.

Women and girls are brutally raped and gang-raped at gunpoint and knife point by AFRC/RUF soldiers or raped with objects, such as sticks. Often, the rapes occur in front of family members and others, and in some cases relatives are forced to rape their sisters, mothers or daughters. Women and girls are frequently abducted individually or collectively and kept as so-called "wives" for members of the AFRC/RUF. Some suffer rape or gang rape multiple times as they escape one AFRC/RUF group, only to be caught by another. Rape is also used as an immediate punishment for refusing to follow instructions or in retaliation for the acts of others held in captivity.

These crimes, and other forms of sexual violence, are explicitly and implicitly condemned under international humanitarian law. The Geneva Conventions of August 12, 1949 and the Protocols Additional to the Geneva Conventions prohibit rape in both international and internal conflicts.[22] Likewise, rape, when committed on a mass scale against a civilian population, constitutes a crime against humanity. The Convention on the Rights of the Child further protects children from "all forms of sexual exploitation and sexual abuse."[23]

The crimes of sexual violence committed by the AFRC/RUF against women and girls are often accompanied by other forms of violence. Murder or mutilation frequently follows these rapes. Many are forced to work as porters for the AFRC/RUF and witness their children being abducted, abused, or killed. Some women and young girls are abducted to care for the many young children captured by the AFRC/RUF.

Pregnant women are not spared from attacks by the AFRC/RUF. In light of the gruesome nature of the atrocities committed against them, these women seem to be targeted because of their status as pregnant women

---

[19]Human Rights Watch interview, Connaught Hospital, Freetown, Sierra Leone, June 24, 1996.

[20]Internal survey conducted in Bo, Sierra Leone, by humanitarian organizations, March 19-21, 1998.

[21]Human Rights Watch also received an account of boys having been sexually abused alongside women and girls; while sexual abuse of males has occurred, it has not occurred to the extent of the abuse of women and girls.

[22]Rape in internal armed conflict is prohibited under Article 3, subparagraphs (a) and (c), common to the four Geneva Conventions of 1949 and by Article 2(e) of Protocol II. For international armed conflict, this is established in the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949 [Fourth Geneva Convention], Arts. 27 and 147, 75 U.N.T.S. 287.

[23]Convention on the Rights of the Child, Article 34.

Witnesses report having seen the mutilated bodies of pregnant women whose fetuses had been cut out of their wombs or who died of gunshot wounds to the abdomen. Some pregnant women are also forced into labor due to the extreme physical hardship of having to flee their homes, and at times die in flight due to complications in childbirth.

The AFRC/RUF's rape and enslavement of women and girls for sex is not only a vicious expression of power over the individual, but also a means of expressing dominance over the community. Throughout the world, sexual violence is routinely directed against women and girls during situations of armed conflict as a weapon to terrorize a community and to achieve a political end. The humiliation, terror and pain inflicted by the rapist is meant to harm not only the individual victim but also to strip the humanity from the larger group of which she is a part. The rape of one person can be translated into an assault upon the community through the emphasis placed in every culture on women's sexual virtue; the shame of the rape humiliates the family and all those associated with the survivor.

The following are some of the testimonies of Sierra Leonean women who survived or witnessed sexual violence, and of some of the service providers and others who witnessed the abuse or assisted them once they reached refugee camps in Guinea and hospitals in Sierra Leone.[24]

Ruth B. is a thirty-six-year-old farmer from Gandorhun, in Kono District. She fled her village when it was attacked by the AFRC/RUF, but was captured, beaten, raped, and forced to work. She ultimately escaped and made her way to Guinea. When Ruth described her one-month ordeal in captivity, she was visibly traumatized, in poor health and still bore scars on her back and legs. The back of her ankles had been sliced just below the Achilles tendon to prevent her from escaping:

> They took three of my children and killed my husband. The rest of us ran away. But we were captured by the junta,[25] and they took the women away to carry their loads. I was with them one month. They held us in a house. One day while we were there and they were away, another group came from Gongo and asked us what our mission was. We told them we were from Gandorhun, and they beat us. They beat us severely. They stomped on my stomach, and the next day, I was bleeding from my vagina as if I had had an operation. Now, I have a serious backache.
>
> Later the two groups came together, and the second group told the first group that we were family members of the Kamajors. They used me for sex, and they cut my heels with their bayonets so I wouldn't run or walk off. But I escaped into the bush even though I was wounded...
>
> I didn't know who captured me. They were older and younger—adults and children. Some had uniforms and machetes, and some wore ordinary clothes, like jeans, and had guns. There were lots of nicknames: one of them was called "Blood." They said they didn't like Kabbah and said, "If

[24] The majority of women Human Rights Watch interviewed fled villages in the diamond-rich Kono district of Sierra Leone and became refugees across the border in the Gueckedou area of Guinea, which is now home to over 200,000 Sierra Leonean refugees. The names of all the rape survivors interviewed have been changed in order to protect their safety and privacy.

[25] Witnesses often referred to their attackers as "rebels" or "juntas," common terminology for the RUF and the AFRC respectively. Human Rights Watch interviews revealed that attackers were in most cases a mix of plainclothes "rebels" and uniformed AFRC/RUF soldiers. They also sometimes disguised themselves as Kamajor or ECOMOG forces. For these reasons and a lack of a reliable method of distinguishing former government soldiers from rebels in Sierra Leone, this report refers to them collectively as AFRC/RUF.

he's there, we will continue to fight." They were both Liberian and Sierra Leonean. I could tell from their language.[26]

Finda T. is a forty-five-year-old woman from Koidu town, Kono who fled with her family when the AFRC/RUF attacked at the end of February. She told Human Rights Watch how her family had been killed and how she had been raped by rebel soldiers:

> The rebels caught us in the bush after my family and I had fled one Saturday in February. They killed my brother immediately, and they took my two children. One of them raped me. He used me as his wife, and another one beat me with a gun. They made me and others carry their loads. They told us to take their bags of rice back to Koidu town. They seriously used us. In Koidu, they took our clothes and freed us. I lived in the bush for two months using leaves to cover myself. Eventually, I found some people who showed me the way to Guinea. A child gave me her clothes, and I have only one dress now.[27]

In April, medical staff in Connaught Hospital, Freetown reported that they were witnessing an alarming number of patients suffering mutilations. A number of the female patients they interviewed were raped and had foreign objects inserted in their vaginas. They had been attacked by AFRC/RUF between April 15-25 in villages between Njaiama Sewafe and Koidu. The patients said the AFRC/RUF rounded up civilians in groups or lines, nt them to a cutting block and commenced limb amputations with a cutlass. Doctors reported:

> In some villages, after the people were rounded up, they were stripped naked and ordered to "use their women;" men were ordered to "use" their sister. When men refused to do so, their arm was amputated, and the women were raped by the attackers.[28]

Alice M. is a forty-one-year-old former police officer from Jabwema Fiama, Kono, Sierra Leone, who is now a refugee in Guinea. On March 10, 1998, she and her family fled their home into the forest two days after the AFRC/RUF began to attack and loot her town. The AFRC/RUF captured her with her husband in the forest, but didn't catch her children. They let her husband go, but seeing her police identification, they kept her. She remembered:

> Commander Steven Gbenya and Sergeant Moussa captured me. They had also captured other police officers, whom they killed. The commander said he wasn't going to kill me, and instead, he raped me all night. I cried and cried and prayed. I don't know why, but early in the morning, about 6:00 a.m., he let me go. I think he felt sorry for me. He and Moussa escorted me out without telling anyone else and took me to a place in the bush. They deliberately raped many women. To save your life, you have to agree, or they will kill you. They are beastly.[29]

---

[26]Human Rights Watch interview, Mangay Refugee Camp, Guéckedou, Republic of Guinea, June 15, 1998. Many refugees interviewed described their captors as having spoken with Liberian accents. They were not able to say whether or not they were Liberian fighters or Sierra Leonean fighters from the Kailahun region of Sierra Leone, closest to Liberia, who would have spoken with the same accent. Nonetheless, many believed them to be Liberians.

[27]Human Rights Watch interview, Sowadou Refugee Camp, Guéckedou, Republic of Guinea, June 14, 1998.

[28]"Atrocities against Civilians in Sierra Leone," Médecins Sans Frontières, May 1998, p. 4.

[29]Human Rights Watch interview, Fangamadou, Guéckedou, Republic of Guinea, June 14, 1998.

Abductions

The abduction of civilians by the AFRC/RUF is commonplace. People of all ages are abducted, but witnesses point to young men, women, and girls and boys as preferred targets. The soldiers capture individuals and groups to labor for them and in general perform tasks necessary for their subsistence and advancement.[30] Women and girls are taken as "wives," or sexual slaves, to cook and perform other domestic tasks. Young men and boys are also abducted for forced recruitment as soldiers. It is unclear whether or not they have designated large-scale holding centers, although at least one witness testified to this effect.

Human Rights Watch received reports that the AFRC/RUF abducts these groups for use as human shields against attacking ECOMOG forces, in the belief that ECOMOG would hesitate to target civilians, particularly women and children, or that in the event of an attack, the "shield" would be hit first.

As described below, many witnesses are under the impression that abductions number in the thousands. The AFRC/RUF captures many civilians apparently with the intention of holding them permanently to reinforce their numbers and ensure their future existence. Others abducted are executed or ultimately allowed to go free after having suffered a number of abuses.

Forced Labor

Many who had been captured by the AFRC/RUF and either escaped or were released testified to Human Rights Watch that they were forced to "carry loads" and perform other tasks for them. The civilians were collected or called upon individually to transport items that the fighters looted from town to town and from one point to another within villages. They prepared food for the soldiers and performed any task required of them to contribute to meeting the daily needs of the soldiers.

Mary F., a nine-year-old girl who fled Koidu town, Kono, was captured by AFRC/RUF soldiers and forced to work. She was freed by the soldiers but was separated from her parents and is now an unaccompanied minor in a refugee camp in Guinea. Upon finishing her story, her steady, serious mood changed, and she burst into tears.

> A group of about eleven junta soldiers captured me, my parents and others. They killed one person in our group in front of us. The group split, and I lost my parents. They took us back to Koidu and released us but arrested us again and used us to carry their loads. We were adults and children. They didn't tell us anything about why they were making us do this. Eventually they let us go....[31]

Sia T., who is eighteen and the mother of one, fled the fighting in Koidu town and hid in the forest for three months before making her way to Guinea. She witnessed the murder, rape and abduction of civilians and was herself captured and forced to work for the AFRC/RUF. Some of her captors were children. She remembered:

> We were hiding in the bush, not too far from where some of the junta stayed. They knew where people were. They would go into the bush and get some of them, take them to town, make them work and let them go. Then they'd go back and get more. They made me pound rice. We were afraid. They said they weren't going to do anything, but we were working at gunpoint. They were

[30]Other civilians were forced to labor for the AFRC/RUF, but weren't abducted per se. Survivors testified that often the soldiers would know where their hide-outs were in the forest and would regularly call upon them to perform tasks or subject them to other forms of abuse, under threat of additional physical harm. Although these civilians were not held inside AFRC/RUF installations, it was difficult for them to flee.

[31]Human Rights Watch interview, Bondou Refugee Camp, Guéckedou Republic of Guinea, June 23, 1998.

as young as the boys here. [She gestures at three young boys, approximately five to seven years old, sitting nearby the interview setting]. The small ones had guns, too. They even fought between themselves over whose girls were whose.[32]

Sexual Slavery

Human Rights Watch documented repeated accounts of women and girls being abducted by the AFRC/RUF in large numbers for sexual and other purposes. The AFRC/RUF holds these women and girls indefinitely and requires them to perform a variety of tasks, such as preparing food. Women and girls may also have been abducted to care for the many young children captured by the AFRC/RUF. Some who have escaped report that the soldiers divide them up amongst themselves and refer to them as their "wives." They have sex with them at will and at times brutalize them with other forms of physical violence. The AFRC/RUF move these women and girls with them from one location to another. Targeting women and girls in these ways serves the AFRC/RUF practically, in terms of meeting their own daily needs, and strategically, as they coopt their labor and destroy local family and economic structures.

Grace M. is from Gbense Chiefdom, Kono District. She is twenty-one years old. When the AFRC/RUF attacked Koidu in February and launched "Operation Pay Yourself," Grace fled to Kombayendeh (thirty-two miles from Koidu) to find rice. She stayed there for a while but was forced to flee again, first to Bovoma and finally into the forest. AFRC/RUF soldiers captured her along with seventeen other women and kept them as so-called "wives." She ultimately escaped and made her way to Guinea. She believes the other women who did not escape are probably still with the AFRC/RUF, perhaps in Kailahun. She said:

> It was on a Monday mid-day, that the junta stormed where we hid. They arrested eighteen of us, and we were taken to Koidu town again. We spent sixteen days with them in the township. While in Koidu town, I saw dead bodies littered all over the place. I also saw some of the soldiers' captives, regardless of age, carrying looted items from the surrounding villages; they took them to Kailahun. We were eighteen in number, all females. It was this same day that the soldiers shared us amongst themselves as wives. Each of us got a man as a husband. It was indeed horrible as one soldier that I was assigned to sexually abused me. He had sex with me any time he wished—at night, mid-day and anywhere. I can still remember his name, Alie, Mende tribe.[33]

Ike C., the newspaper reporter from Koidu town, fled the AFRC/RUF's attack on Koidu and was caught. He was able to escape, however, and among many atrocities he witnessed, he said this about sexual violence:

> There was rampant raping. I saw a fifteen-year-old girl raped right before me. They left her, but they captured others, and among them was a seven-year-old girl. I also saw many girls held in vehicles, ready to be transported. They force them to carry loads, use them as "wives" and encourage them, saying, "I will give you everything, stay with me." But they have no alternative but to stay.[34]

Forced Recruitment

---

[32]Human Rights Watch interview, Fandouyema II Refugee Camp, Guéckedou, Republic of Guinea, June 12, 1998.

[33]Center for Rural Adult Education (CREA) interview, conducted the week of June 15, 1998, Kissidougou, Republic of Guinea. Also, Human Rights Watch interview, Kissidougou, Republic of Guinea, June 17, 1998.

[34]Human Rights Watch interview, Boodou Refugee Camp, Guéckedou, Republic of Guinea, June 23, 1998.

The AFRC/RUF is using and forcibly recruiting children and young men to engage in armed attacks against Sierra Leone civilians, Civilian Defense Forces, and ECOMOG soldiers.[35] Many witnesses told Human Rights Watch that they had seen AFRC/RUF soldiers abducting and holding young men and boys to use as child soldiers and that child soldiers had been among their AFRC/RUF attackers.

The forced recruitment of boys as child soldiers by the AFRC/RUF in Sierra Leone is not new. As armed conflict in Sierra Leone has intensified in recent years, the social fabric of the country has unraveled, and children have increasingly seen their rights erode. Many children have lost or been separated from their parents in the fighting, do not have enough to eat and do not have schools and other basic structures in place to meet their needs. They are particularly vulnerable to forced recruitment and have clearly been targeted by the AFRC/RUF as it seeks to reinforce its ranks.[36]

Young boys are targeted in part because their captors consider them to be less afraid to fight; they likely do not have children or wives to consider in risking their lives. They are readily manipulated because they are vulnerable and without protection. Child soldiers are often placed at the front line and forced to commit atrocities against their own communities. This establishes a sense of culpability in them, as well as traumatization, and makes it less possible for them to be accepted back into society or to be psychologically prepared to return.

Little is known about the condition of the young men and children abducted since February by the AFRC/RUF for use as soldiers; few have escaped to tell the story. Over the past few years, however, child recruits were typically provided with food, mind-altering drugs and firearms and were forced to fight and commit atrocities alongside the AFRC/RUF soldiers. The demobilization, rehabilitation and reintegration of these children will ultimately present an enormous challenge to all those involved in healing the wounds of war and building a future for Sierra Leone.

Alice M. is a forty-one-year-old former police officer in Jabwema Fiama, Kono. While she was held captive by two members of the AFRC/RUF, she was confined to a room with a ten-year-old boy. She said:

> Commander Steven Gbenya and Sgt. Moussa were also holding a ten-year-old boy in the room I was held in. They didn't release him. The house we were in was full of rebels. The room next to mine was the Liberian commando room.[37] The commander said that they no longer planned to kill children below fifteen, pregnant women, or old men and women. They said they were going

[35]Although prevailing international law sets fifteen as the minimum age for military recruitment and participation in armed conflict, Human Rights Watch shares a growing consensus among independent, nongovernmental sources which believe that this age is too low and must be raised to eighteen. Not only does the Convention on the Rights of the Child define a child as any human being under the age of eighteen, unless under the law applicable to the child, majority is attained earlier, but eighteen is the voting age in the vast majority of countries. Establishing eighteen as the minimum age for participation in hostilities would be consistent with existing international norms and offer greater protection for children in situations of particularly grave risk. In Sierra Leone, Human Rights Watch also noted the problem of birth registration: individuals often did not know their own age or the age of their children. The lack of records makes it easier for those who forcibly recruit children to do so by claiming the recruits were older than they actually were.

[36]The Child Protection Committee, a United Nations-Nongovernmental Organization group established to address child protection issues in Sierra Leone, estimated the number of children in armed groups in Sierra Leone in September 1997 at approximately 3,000. (Inter-agency strategy paper for Child Protection Activities in Sierra Leone, Child Protection Committee, Camp Conakry, September 1997.) The actual number is not known, but has increased significantly since the renewal of fighting in February.

[37]The interviewee claimed that there were Liberian fighters among the AFRC/RUF.

to train-up those children because they knew they were going to die themselves. They encouraged the boy not to be afraid. They cooked for us, but I couldn't eat. The boy didn't say much, but he was hungry, and he ate.[38]

Ike C., the reporter for the *Herald Guardian* in Koidu town who was captured by the AFRC/RUF, also testified to the role of child soldiers. Some of his captors were under ten years old and wielded guns. He said:

I was captured by Gittaboi, who said he'd execute me because I am a press man. There were little kids, boys, around seven, nine, twelve years old who were among the soldiers. They had guns and felt they had power.... I saw girls held in vehicles ready to be transported. The last group of kids I saw were held at the Branch Energy mining group office in Koidu town. They had 1,500-2,000 of them there. I *saw* them. In Koidu, the junta forces shouted for kids and gathered them. A soldier told me they are holding those kids as a shield in the event of an ECOMOG attack. They also use them as soldiers, for labor, and for sexual purposes.[39]

Other Violations of International Humanitarian Law

In addition to the abuses described above, members of the AFRC/RUF flagrantly violated other provisions of international humanitarian law. The AFRC/RUF regularly showed a gross disrespect for principles granting protection to hospitals, places of worship, and other non-military structures providing public services.[40]

The private property of civilians was frequently looted and their homes intentionally burned.[41] Witnesses spoke regularly of theft and mass destruction by the AFRC/RUF as they retreated from ECOMOG forces. Members of the AFRC/RUF completely stripped civilians of their belongings on a regular basis. Many of those fleeing Sierra Leone arrived in refugee camps with little more than their clothing; and several witnesses explained how they had been left naked by the AFRC/RUF and spent days in flight without clothing.

In February 1998, in Lunsar town of Porto Loko district, as a part of their "Operation Pay Yourself," members of the AFRC/RUF raided the Magbesemi hospital. Medicines and equipment were taken, patients were forced to flee, and some medical personnel reportedly abducted by the AFRC/RUF. One patient being treated for a gunshot wound described their actions:

The AFRC/RUF soldiers came to Magbesemi Hospital, fleeing the ECOMOG advance. They took the doctors away. There were many rebels—in several trucks with arms and heavy weapons. They took all the drugs. We were about twenty-five patients. They said, "this is Operation Pay Yourself."[42]

---

[38]Human Rights Watch interview, Fangamadou, Guéckedou, Republic of Guinea, June 14, 1998.

[39]Human Rights Watch interview, Boodou Refugee Camp, Guéckedou, Republic of Guinea, June 23, 1998.

[40]Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol I), of 8 June 1977, Article 52, and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977, Articles 9, 10, 11, and 16.

[41]Protocol II, Article 4 (2) (g).

[42]Human Rights Watch interview, Faranah Hospital, Faranah, Guéckedou, Republic of Guinea, June 3, 1998.

Abuses Committed by Members of Civilian Defense Forces (CDFs)

Human Rights Watch documented numerous abuses, including killings and torture, by members of the Civilian Defense Forces, frequently referred to in local dialects as "traditional hunters." Civilian Defense Forces were developed primarily in the early 1990s as local protection responses to insecurity and violence throughout Sierra Leone. The largest and most powerful of these groups, the Kamajors, were responsible for the majority of the most serious abuses committed by those fighting on behalf of the Kabbah government since February 1998. In recent months, Kamajors have also been responsible for obstructing humanitarian assistance and demanding money or compensation at roadblocks.

Humanitarian and United Nations organizations complain that Kamajors frequently obstruct the delivery of aid to IDPs and civilian groups in need. Humanitarian agency vehicles were frequently commandeered by Kamajors, and aid workers were occasionally detained by Kamajors, two as recently as June 1998.[43] Groups providing assistance to the interior of Sierra Leone reported in June that the Kamajors had become increasingly demanding at checkpoints, often insisting that they be compensated for having "liberated" the country from the AFRC/RUF.

Killings and Mutilation

The scale and nature of abuses committed by Kamajors and other members of CDFs differ significantly from atrocities carried out by the AFRC/RUF, but the abuses are often no less horrific. Many witnesses of abuses committed by Kamajors spoke of the grotesque nature of killings, at times including disembowelment followed by consumption of vital organs, such as the heart. Acts such as these were intended to transfer the strength of the enemy to those involved in the consumption. Killings by Kamajors usually targeted people they believed to be members of the AFRC/RUF and their civilian supporters.

A Sierra Leonean Catholic priest described how the Kamajors reacted to the presence of the AFRC/RUF in Koidu in early February, just following ECOMOG's takeover of Freetown:

> On February 7th, they [the AFRC/RUF] started "Operation Pay Yourself." On Friday the 13th, I went back to the mission. The youths had called the Kamajors who started arriving on the 11th, 12th, a day or two after "Operation Pay Yourself" had ended. They came from Sewafe, Punduru, Gondama... When they found AFRC, they would kill them immediately. The Kamajors and youths started burning [AFRC/RUF] soldiers and collaborators. On about February 11th, they [Kamajors] called a meeting at the town counsel. They said it was to restore law and order—they said if anyone knows where they are, they should tell us. They decapitated one surrendered soldier and I saw them eat his raw liver and heart.[44]

Another witness from Koidu remembered:

> After the first night of "Operation Pay Yourself," the youths and the Lebanese businessmen called the Kamajors. The Kamajors came, and if they and the youths caught soldiers, they burned them alive with tires and petrol.[45]

---

[43]Human Rights Watch interview with humanitarian agency whose staff had been detained by Kamajors to "make a point," Freetown, Sierra Leone, June 23, 1998.

[44]Human Rights Watch interview, Guéckedou, Republic of Guinea, June 9, 1998.

[45]Human Rights Watch interview, Fandouyema II Refugee Camp, Guéckedou, Republic of Guinea, June 12, 1998.

Several foreign residents of Sierra Leone that had worked with or observed Kamajors in the field concurred that this "take no prisoners" policy was widespread. One foreign trainer of the Kamajors claimed that the fighters were as "malicious as the AFRC/RUF"[46] but committed fewer abuses due to their supervision, even though this was limited. The Kamajors have been led by Capt. Samuel Hinga Norman, deputy defense minister, who in recent months repeatedly stated that all CDFs were now under the control of ECOMOG.[47] With their knowledge of the local terrain, Kamajors are frequently relied upon by ECOMOG as combatants and guides in unfamiliar rural areas.

Recruitment of Child Soldiers

CDFs, especially the Kamajors, have contributed to one of the most urgent human rights problems involving children in Sierra Leone: the recruitment of child soldiers. Children have been recruited by the CDFs for many of the same reasons that the AFRC/RUF abduct them into their ranks: children are often easily indoctrinated, fearless, have little sense of what is morally right or wrong, and, according to Kamajor leaders, are more likely to be "unadulterated."[48] While no one knows the number of children fighting among the CDF forces, one field commander estimated that their forces in the eastern Kailahun district alone numbered 3,000.[49]

The situation for child combatants provoked a mission to Sierra Leone from Special Representative of the Secretary-General for Children in Armed Conflict Olara Otunnu. Otunnu urged that, "the international community make Sierra Leone a pilot project for a more concerted and effective response to the needs of children effected by war."[50] During his visit, Otunnu obtained commitments from the government to assure that the CDFs would cease recruitment of children under the age of eighteen, begin demobilization of child soldiers, provide special protection to child combatants, and create a Joint Task Force comprising representatives from the government, ECOMOG, U.N. agencies, and relevant NGOs. On June 25, in an interview with Human Rights Watch, the Deputy Minister of Defense, Hinga Norman, also declared that the government was committed to demobilizing CDF child combatants.[51] In mid-July, however, aid agencies and press reports concurred that the CDFs were still recruiting children in northern Sierra Leone.[52]

National and international human rights and humanitarian workers in Sierra Leone expressed their concern to Human Rights Watch that Civilian Defense Forces, such as the Kamajors and loosely organized bands of youths, represent a serious and growing human rights issue in Sierra Leone today. Like the AFRC/RUF, these groups are able to act largely with impunity. This trend, when considered in the context of past practices of armed groups in Sierra Leone, underscores the need to develop a comprehensive program to disarm, demobilize and reintegrate all combatants into the new national army or Sierra Leonean society.

Many former combatants, mostly from the AFRC/RUF, are presently being retrained by ECOMOG and integrated into the new national army. This training should be carried out by qualified ECOMOG personnel and

---

[46]Human Rights Watch interview, Freetown, Sierra Leone, June 23, 1998.

[47]Human Rights Watch interview with deputy defense minister, June 25, 1998.

[48]According to Kamajor rules of conduct, combatants must refrain from drugs, sex, looting, and other illicit acts in order to maintain their magical powers, including being bulletproof, on the battlefield.

[49]Lansana Fofana, "Militia Admits Recruiting Child Soldiers," IPS, Freetown, Sierra Leone, June 29, 1998.

[50]Press release, "Mr. Olara A. Otunnu, Special Representative of the Secretary-General for Children in Armed Conflict urges the international community make Sierra Leone a pilot project for a more concerted and effective response to the needs of children effected by war," New York, New York, June 2, 1998.

[51]Human Rights Watch interview with Deputy Minister of Defense, Freetown, Sierra Leone, June 25, 1998.

[52]Ibid. and phone conversations with aid agencies in Sierra Leone, July 27, 1998.

onitored by UNOMSIL observers. Diplomats and aid workers in Sierra Leone have noted the lack of support for the approximately 3,000 ex-combatants in an encampment in dire conditions in the Lungi area outside of Freetown. Former combatants wishing to be reintegrated into the new national army will need appropriate support in order to complete their retraining. Those who are screened out as possible war criminals should be investigated and prosecuted where appropriate according to international standards. Those who wish to return to civilian life will require appropriate assistance to reintegrate into communities, including programs to encourage a return to farms, schools, or micro-economic activities. The reintegration aspects of the Disarmament, Demobilization and Reintegration (DDR) program must emphasize a respect for the laws of war and human rights. As combatants from rebel groups, CDFs and government forces have comprised the principal perpetrators of human rights abuses in Sierra Leone, the success of this program could play a crucial role in preventing future human rights abuses

IV. SIERRA LEONEAN REFUGEES

The atrocities and violence described above are unfortunately only the first chapter of hardship for many Sierra Leoneans. Approximately one-quarter million Sierra Leoneans have fled to neighboring Guinea and Liberia in order to escape the abuses and fighting. The continuing conflict in Sierra Leone prevents them from leaving the refugee camps in these countries.

The Situation of Sierra Leonean Refugees in the Republic of Guinea

Since February 1998, the refugee situation in the Republic of Guinea has reached a state of emergency. As the AFRC/RUF attacked and committed atrocities in villages and towns in Sierra Leone's Kono and Kailahun districts, civilians fled by the thousands and crossed the border into Guinea. UNHCR puts the total number of new arrivals since May 1997 at over 200,000.[53] The new Sierra Leonean refugees have joined thousands who had fled fighting at earlier points in Sierra Leone's seven-year internal armed conflict.

Refugees poured out of Sierra Leone, sometimes at the rate of 3,000 per day, primarily into Faranah, Guéckedou, Kissidougou, and Macenta prefectures, in the forest area of eastern Guinea known as Guinée Forestière. The largest number of this population are settled in approximately 124 camps, or local settlements,[54] in Guéckedou, where refugees now outnumber Guinea nationals.[55]

---

[53]According to UNHCR, there are approximately 255,000 new Sierra Leonean refugees in Guinea and Liberia, over 185,000 of whom arrived in Guinea since August 1997. They joined 121,000 Sierra Leoneans already in Guinea as of June 1997. An additional 128,000 Liberian refugees are also in Guinea.

[54]Many of the refugees spontaneously settled in Guinea in areas abandoned by refugees from previous years and in new areas. Other refugee sites were planned by UNHCR, creating more traditional camp settings for larger numbers of people. Regardless of size, shape or history of formation, in the field the settlements are referred to by UNHCR, aid agencies, Guinean authorities and refugees alike as "camps." For the purposes of this report, the term camps will therefore be used to describe all refugee settlements. All of the camps are named after the local villages they are attached to, or are near to. In many cases, the camps are much larger than their namesakes. None of the camps are enclosed or are guarded by the Guinean military, although the border region of Guéckedou has been increasingly militarized with the increase in conflict across the border. Many military checkpoints have been established along the roads in the area. If security issues arise within the camp, they are currently dealt with by refugee camp committee authorities, who may consult with UNHCR and may refer issues to the Guinean police.

[55]Sierra Leonean refugees and members of the local Guinean population do mix. Although the refugees' movement is restricted, trading does occur and the refugees sell their labor, food obtained from UNHCR, wood, kerosene and other items to nationals. They also trade their rations for a variety of other items, such as salt or rice. This interaction is made easier by similarities in the tribal languages and heritage of the groups, and many share family relationships.

Assistance

The refugees arrive in terrible shape after days, weeks, and sometimes months hiding and walking in the forest with little to eat, little to wear, and no health care. They suffer great trauma and urgently need food, shelter, clothing, and medical attention. From the outset, the crisis placed immense pressure on the Guinean civil and health authorities,[56] along with UNHCR and its implementing partners,[57] who struggled to respond.

Although UNHCR and its implementing partners in Guéckedou reported to Human Rights Watch that the situation has improved somewhat, the humanitarian response to the refugee emergency was slow and disorganized.[58] Humanitarian organizations working with UNHCR to address the crisis cite a lack of resources, particularly trucks for food distribution, and a general lack of emergency preparedness as the main factors contributing to the poor initial response.[59] Prolonged exposure to the elements during flight in Sierra Leone and in Guinea, the continuing uneven distribution of food, the lack of medical attention, and insufficient shelter have led to severe health problems, especially in the under-five population, including malnutrition, malaria, acute respiratory afflictions, and diarrhea. Infant mortality is high.

The situation became worse on June 14, 1998 when fighting intensified on the Sierra Leone side of the border with Guéckedou. Ostensibly for security reasons, the government of Guinea on June 15 blocked access to roads leading to approximately fifty refugee camps, housing over 150,000 newly arrived refugees. The lack of access made it impossible to provide adequate services to the refugees and infringed upon UNHCR's ability to provide protection over four weeks. The Guinean government's refusal to provide even limited access on a regular basis risked a humanitarian disaster and the possibility of increased insecurity and unrest among the refugee and local populations—a situation no one would have been prepared to adequately address. The World Food Program was finally permitted to deliver a week's worth of rations on July 14, feeding approximately 130,000 refugees.

The closing of access to refugee encampments and consequent blockage of humanitarian supplies can result in a severe violation of the rights to adequate food, clothing and housing, and to medical care. Guinea is a party to

---

[56]Health services for refugees are provided through Guinea's health authority—Le Département Publique de la Santé (DPS). Refugees can report to often overcrowded and sometimes distant health posts where they can receive treatment for minor ailments and/or referrals to hospitals. At the time of Human Rights Watch's visit, hospitals were overflowing and lacked adequate medical supplies, including medicines, and had limited surgical capacity.

[57]UNHCR contracts local and international nongovernmental organizations to provide food, shelter, water, health, educational, counseling, and other services to refugees. UNHCR also works with Guinean authorities, particularly in the areas of refugee security and protection and health.

[58]The principal problems that refugees reported to Human Rights Watch include lack of food, medical care, shelter and the provision of non-food items. The distribution of corn meal as the main food item for refugees poses a problem for many. The staple food in Sierra Leone is rice, and refugees have difficulty preparing and digesting the corn meal. Intermittent and delayed deliveries of food have left many hungry and struggling to find sustenance. Longer-term assistance challenges include the need for adequate programs to address the psychological and social needs of survivors of trauma and sexual violence. Culturally appropriate counseling and other activities, particularly for single women, single mothers, and children should be a priority. Women alone also face ongoing self-sufficiency problems, and programs for these women with real income-generating potential are needed.

[59]At the time of Human Rights Watch's visit, the arrival of a UNHCR Emergency Response team to Guéckedou in late April, along with weekly interagency coordination meetings and additional support from the international community, had gone a long way to improving the situation.

the International Covenant on Economic, Social and Cultural Rights (the ICESCR) which guarantees these rights in articles 11 and 12.[60]

Refugee Protection

Location of the Camps

The most immediately striking refugee protection concern in Guéckedou is the proximity of the refugee camps to the Sierra Leone border. Many of the camps, in particular those that were cut off from humanitarian assistance in June and July, are located in the area of Guéckedou which forms a peninsula-like territory stretching into eastern Sierra Leone. They are extremely close to the border with Sierra Leone; some are as little as three kilometers away.[61] A river running along the border forms a natural barrier between Guinea and Sierra Leone, providing minimal protection to refugees who are in gunshot range of the AFRC/RUF soldiers, located just on the other side. Pressure on the border is growing as ECOMOG forces continue to attack AFRC/RUF-held territory in Kono and Kailahun districts, squeezing AFRC/RUF soldiers further north. In addition, the roads leading to many of the camps are extremely treacherous, even for four-wheel-drive vehicles. Once Guinea's June-November rainy season begins, the roads often become impassable.

Although all of the Guinean military and civil authorities Human Rights Watch spoke with rejected the possibility of a cross-border attack by the AFRC/RUF, the risk is clear. AFRC/RUF soldiers are located dangerously close to the border and, on several occasions in mid-June, gunfire was exchanged across the border in the Nongoa village area, resulting in casualties among the Guinean military and small numbers of civilians.[62] Refugees from a camp in Nongoa fled the fighting.

Access to Asylum, Screening and Registration

Although Sierra Leonean refugees are granted group-based prima facie refugee status in Guinea,[63] and in many respects, Guinea stands out as a generous host nation, obtaining asylum is not without obstacles. Refugees

---

[60]Although the covenant stipulates that developing countries "with due regard to human rights and their national economy" may determine to what extent they guarantee these rights to non-nationals, the Refugee Convention requires that refugees be accorded treatment in these areas not less favorable than that accorded to nationals. (Refugee Convention, Article 23 relating to public relief and assistance. Guinea is also a party to this treaty.) Moreover, the Universal Declaration of Human Rights, to which all states are deemed to accept and adhere by virtue of their membership in the United Nations, explicitly guarantees the right to food, clothing, housing and medical care to "everyone" (Article 25).

The Committee on Economic, Social and Cultural Rights, which is charged with interpreting these economic, social and cultural rights under the ICESCR, has stated in General Comment 3 that a state party which allows any significant number of individuals to be deprived of essential foodstuffs, of essential primary health care or of basic shelter and housing is "prima facie failing to discharge its obligations under the Covenant." Although states parties are required to guarantee only the "progressive" realization of these rights, "[i]f the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its raison d'etre." The state must use "all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations." Such resources would also include proffered humanitarian assistance.

[61]Article II (6) of the OAU Convention states that "For reasons of security, countries shall as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin." This has generally been understood to mean a minimum of fifty kilometers from the border.

[62]Human Rights Watch interviewed a ten-year-old refugee victim of a bullet wound and observed several wounded Guinean soldiers at Guéckedou Hospital, all casualties from this exchange of fire.

[63]Lists of new arrivals are compiled by Guinean officials at the sub-prefecture and prefecture levels and given to UNHCR, which then goes out to the field, identifies, and registers the refugees.

consistently testified to Human Rights Watch that they receive a mixed welcome when they reached the Guinea border. There are no reports of forced return— *refoulement*— by the Guinean military patrolling the border, but the refugees are routinely subjected to summary searches, and border authorities extort fees and property from them prior to entry into Guinea.[64] Sixty-year-old **Fea R.** from Kuyoh, Kono, and her husband entered Guinea at Bakador after one month in the forest in Sierra Leone. She remembered: "We met Guinean military at the border, and they were making people pay. The soldiers took the palm oil we were traveling with."[65]

Refugees, however, also frequently expressed their appreciation for the assistance the Guinean military provided to the most vulnerable arrivals, particularly survivors of gross human rights violations, such as amputations. The soldiers transported refugees in dire need of medical assistance to hospitals in military vehicles or to places of temporary shelter.

UNHCR does not maintain a presence at border crossings, and UNHCR protection officers have rarely monitored the treatment of refugees as they seek to enter Guinea. In part, this is due to the fact that Guinean authorities have in many areas recently barred access to the border, citing security concerns. To ensure the protection of refugees seeking to enter Guinea, UNHCR should work with the government of Guinea to establish a presence at border crossing points to monitor access to asylum.

Detention and Exclusion

Human Rights Watch has received reports that possibly hundreds of suspected AFRC/RUF soldiers trying to enter Guinea have been detained by Guinean military authorities. Unlike the situation in Liberia described below, infiltration of the camps by AFRC/RUF members is not known to have happened to a large extent. Suspected AFRC/RUF members have reportedly turned up in refugee camps in small numbers and have been identified by the refugees and handed over to the Guinean authorities. For example, refugees in Fangamadou told Human Rights Watch that six suspected AFRC/RUF soldiers had been turned over to Guinean authorities, who reportedly detained them and later transferred them to jails in Conakry.

UNHCR and the International Committee of the Red Cross (ICRC) have both been denied access to detainees to determine whether or not they actually have bona fide asylum claims and whether they are being treated as candidates for exclusion.[66] The government of Guinea has provided no information about the detainees or the procedures and criteria used to screen, detain, and seemingly exclude these persons from protection in Guinea. The Guinean government should give UNHCR unlimited full access to entry points and places of detention of refugees and asylum seekers, including potential exclusion candidates, in order to determine their status and provide assistance and protection where appropriate.

---

[64]Guinean border authorities behaved similarly with Liberian refugees returning to Liberia in 1997.

[65]Human Rights Watch interview, Fandouyema II Refugee Camp, Republic of Guinea, June 12, 1998.

[66]UNHCR and governments are obliged under international refugee law to deny the benefits of refugee status to persons who would otherwise qualify as refugees if they have committed certain human rights violations. These provisions are commonly referred to as "exclusion clauses." Article 1(F) of the 1951 Convention Relating to the Status of Refugees states that the Convention "shall not apply to any person with respect to whom there are serious reasons for considering" that: (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) he has been guilty of acts contrary to the purposes and principles of the United Nations. Article 1(5) of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa contains identical language and excludes from refugee status any person who "has been guilty of acts contrary to the purposes and principles of the Organization of African Unity."

These concerns underline the need for UNHCR to maintain a presence at entry points into Guinea, where protection officers can monitor access to asylum for new arrivals, conduct basic screening to determine group-based, prima facie refugee status and pre-screen those who may be potential exclusion candidates.[67] UNHCR should also advise the Guinean government on criteria and procedures for exclusion.

Freedom of Movement

The Guinean government has thus far failed to issue refugee identification cards to the refugees, which has created a number of problems. Without an identification card, the refugees' freedom of movement is constrained, and they risk arrest should they be stopped by Guinean military or police authorities at various checkpoints along the road. Refugees are frequently stopped, threatened with arrest, and pressured to pay what little they have in money or goods for failure to present an identification card.

William S., a refugee from Sierra Leone in Nyeadou Refugee Camp, said:

> I was arrested two days ago by a police officer while I was walking along the road for not having an identification card. I had the piece of paper saying I'm a refugee from Sierra Leone, my *auto-collant* and my fixing token,[68] but he said I need an ID card. He said if I didn't pay him he was going to take me to the jail. He said if I pay FG5,000, I can get a small receipt and go by. I produced FG1,000 to get released and came straight back to the camp fast. And he didn't give me any receipt.[69]

A form of identification which the Guinean authorities do recognize is available for a hefty fee (FG5,000, approximately U.S.$5.00) from the Sierra Leonean Refugee Coordinating Committee. But the price is too high for most. UNHCR is reportedly in continued negotiations with the Guinean government regarding issuance of these cards. The slow process may be an indication of the government's desire to keep the refugee population as separate from the local population as possible.

Security

There have been few reports of crimes being committed in the refugee camps. The only incidents reported to Human Rights Watch involved refugees stealing property, such as tarpaulins, from the houses of "vulnerable"[70] refugees during the night. "Vulnerable" populations are still in the process of being identified and situated within

---

[67]Screening for exclusion should take place after screening for refugee claims, as a person may have a valid fear of persecution but not be deserving of international protection for the reasons described. Efforts should be made, however, to ensure as much as possible that combatants and war criminals are not mixed in with the rest of the refugee population, as is currently the case in refugee camps in Liberia. Those excluded are still entitled to protection under international human rights law. For example, the 1984 Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment provides protection against *refoulement* to a country where there are substantial grounds for believing that a person would be subjected to torture.

[68]The *auto-collant* is a temporary card issued to new Sierra Leonean refugees in Guinea to facilitate distribution of supplies, including food. Refugees later receive a temporary card and a "fixing token," which is also used to identify refugees for distribution. The temporary card is meant ultimately to be replaced with a refugee identification card, but none have been issued. Refugees also receive a copy of their UNHCR registration form, issued by UNHCR, which identifies all of the members of their family.

[69]Human Rights Watch interview, Nyeadou Refugee Camp, Guéckedou, Republic of Guinea, June 20, 1998.

[70]Certain members of the refugee population have special needs, are deemed "vulnerable" by UNHCR, and receive targeted assistance. "Vulnerable" populations include such groups as unaccompanied minors; single female heads of household; victims of torture; sexually abused; chronically ill; handicapped; mentally disturbed; blind; and others.

the camps. The location and security of these populations in the camps are ongoing concerns, as is assistance to this community.

There have also been no reports of abductions by any party taking place in the camps. Sexual attacks on women in the camps, if occurring, have not been reported. However, women alone, or with children, have been subjected to another form of sexual abuse. Human Rights Watch received reports that fellow male refugees often tell women that they will assist them in the camp only in exchange for sex.[71] Volunteer social workers who work with UNHCR to identify, counsel and assist "vulnerable" refugees in Nyeadou Refugee camp said:

> There are more women than men here. Women have children to take care of and no husbands. There is little money and no one to help with the family. Many women tell us that men tell them, "I'll help you if you sleep with me." This is practiced widely in all the camps. Many women agree because they are in need. It is against their real will, but they don't want to starve.[72]

A number of refugees have been arrested for crimes committed in Guinean villages and cities. Lists of these individuals, their crimes, terms of imprisonment and location have been compiled and made available to UNHCR. UNHCR protection officers have been allowed to visit these refugees, and provide them with one meal per day.

Situation for Sierra Leonean Refugees in Liberia

From February through April 1998, approximately 42,000 Sierra Leoneans fled fighting in the eastern part of the country for Liberia, joining an existing Sierra Leonean refugee population of about 11,000.[73] Sierra Leonean civilians have fled on repeated occasions to western Liberia since 1991. Armed rebel groups from both Liberia and Sierra Leone have also moved back and forth across the border on numerous occasions, in order to find refuge, get supplies, such as food, and seek new recruits.[74] The refugees face serious security and assistance problems in two main camps in Liberia.

Separation of Ex-combatants from Civilian Refugees

The situation for Sierra Leoneans who fled to Liberia is different in several regards from the conditions in the refugee camps in Guinea. Aside from the smaller numbers of refugees in Liberia, the most striking contrast is the presence of former combatants among the refugee populations in the two main camps in Liberia, located at Vahun and Kolahun in northwestern Liberia. According to witnesses at the border, a large number of AFRC/RUF soldiers, perhaps over 2,000, arrived in Vahun from Sierra Leone during the months of February and March 1998. The fighters reportedly entered without weapons. At least one large group was allegedly escorted from the border at Vahun to the interior of Liberia by members of the Liberian military; some may even be Liberian nationals. Others were integrated into the general refugee or local populations. Refugees and aid workers both report that the combatants have gradually slipped away as time passed; by June 1998, a large number had either moved elsewhere in Liberia, or had returned to Sierra Leone. A significant number, probably at least several hundred, remain in the Kolahun and Vahun camps at the time of this writing.

---

[71]Human Rights Watch also received unconfirmed reports of women and girls entering into prostitution in Guinean cities and villages in order to survive.

[72]Human Rights Watch interview, Nyeadou Refugee Camp, Republic of Guinea, June 20, 1998.

[73]These statistics were provided by UNHCR field staff in Liberia. Other estimates varied.

[74]The border between Sierra Leone and Liberia, like many in the region, is poorly controlled and subject to much traffic, both legal commerce and illegal crossings. Members of the Mende ethnic group live on both sides of the border, resulting in additional cross-border ties and regular movement between families.

Human Rights Watch interviewed Liberians, Sierra Leoneans, and foreign agency staff who, on multiple occasions, had witnessed interaction between Liberian military and members of the AFRC/RUF in the Vahun and Kolahun areas. Witnesses concurred that, in general, the interaction appeared to have been friendly, including encounters with one of the key RUF commanders, Sam Bouckarie, also known as "Mosquito."[75]

Human Rights Watch also spoke with former combatants in the Vahun camp who stated that members of the AFRC/RUF had come from Sierra Leone into the camps on numerous occasions to encourage them to return to the fighting in Sierra Leone. In addition to recruitment, members of the AFRC/RUF cross the border at unofficial crossing points to sell looted goods from Sierra Leone and to purchase supplies, such as food and clothing.[76] The AFRC/RUF conduct their business in broad daylight but in civilian clothing. On June 13, Human Rights Watch observed one group of young men transporting goods on the Vahun-Kolahun road that, according to Liberians from the area, were members of the AFRC/RUF on their way back to Sierra Leone. This type of traffic is apparently frequent, according to refugees and Liberians.

Assistance and Protection in Vahun

The presence of former combatants among the refugee population has hampered humanitarian assistance for refugees, as well as their protection. In February 1998, UNHCR, the World Food Program (WFP), and other humanitarian organizations became aware of former combatants among the refugee population in Vahun. In view of the proximity of the Vahun camp to AFRC/RUF-controlled territory in Sierra Leone, members of the international aid community attempted to develop a plan to assist refugees as well as transfer them to a safe and accessible area in Kolahun. Much debate ensued among the international humanitarian community regarding how to avoid the danger of creating a "Goma-like" situation.[77]

The proximity of the camp to AFRC/RUF fighters in Sierra Leone and the permeable nature of the border presents a clear security risk for refugees in the Vahun camp. The remote location and vulnerability of the Vahun camp has made it a target in the past: in 1993, armed rebel groups operating in the border area attacked the camp, looted UNHCR facilities, and forced the evacuation of aid workers.

Refugees in the Vahun camp also suffer from abuses by the Liberian military. Upon arrival at the Liberian border, refugees are regularly stripped of their belongings by authorities and subject to beatings if they resist. Refugees claim that Liberian military frequent the camps and openly steal from them, at times in the presence of international aid workers.[78] Refugees face the constant risk of theft, rape, or other abuse especially when traveling to fields that they till, nearby markets, or other destinations outside the camps. Refugees and medical workers in Vahun also claim that rape, often by Liberian military, is a serious problem for refugees.

Some members of international agencies and nongovernmental organizations have expressed strong criticism at the disjointed and very slow response to the present precarious situation in Vahun. By June 1998, refugees in Vahun had received only one fourteen-day ration from UNHCR since their arrival (most refugees had arrived in

---

[75]Human Rights Watch interview, Vahun, Liberia, June 14, 1998.

[76]Human Rights Watch interview, Vahun, Liberia, June 14, 1998.

[77]The reference is to Rwandan refugee camps in eastern Zaire, near the border town Goma. The international community was widely criticized for allowing camps in this area to be set up too close to the border with Rwanda and for not taking steps to separate out armed elements and those responsible for the genocide from civilian refugees. This allowed for aid to benefit combatants and war criminals, and exacerbated insecurity in the region.

[78]Human Rights Watch interview, Vahun, Liberia, June 13, 1998.

February and March), and no concrete plan to separate combatants from civilian refugees had been put into place by the Liberian authorities or UNHCR. Refugees also complained that mixed signals from UNHCR had left them confused as to whether they should stay in Vahun or relocate to Kolahun. Human Rights Watch repeatedly heard reports from refugees who said they had been told by UNHCR to build their shelters in Vahun in order to receive tarpaulins and other assistance, only to be told later that they need to move to Kolahun in order to receive assistance.

According to medical aid workers, by June 1998 the lack of humanitarian assistance to the Vahun camp had led to a serious decline in the nutritional health of the refugees. The shortage of assistance created enormous tension in the refugee camps. Refugees and aid workers noted that as pressure on the refugee and local populations increased, theft was rising and it was likely that many of the former combatants would return to Sierra Leone to rejoin the fighting, or else resort to banditry in Liberia. Refugees also claimed that they would at times risk crossing back into AFRC/RUF territory across the border in Sierra Leone to search for food. At least one refugee single mother of three had disappeared while seeking palm oil in Sierra Leone; the caretaker of her children claimed that the woman had been abducted by AFRC/RUF while in Sierra Leone.[79]

Assistance and protection has further been compromised by the onset of the rainy season and poor road conditions,[80] as well as a lack of resources for UNHCR and other humanitarian agencies. UNHCR was able to maintain only one field officer at the Vahun camp, home to some 42,000 refugees in June 1998.

Kolahun Camp

Protection, security, and humanitarian conditions in the Kolahun camp, some fifty kilometers from the border, are far better than in the Vahun camp. Some refugees have been hesitant to move to the Kolahun camp, however, due to cultural and family ties with the local Mende population in Vahun. These ties create better opportunities for crop cultivation and small business ventures for those who stay in Vahun. Refugees also explained that they do not want to relocate to Kolahun, first, because of the forbidding prospect of establishing new shelters and fields (already established in Vahun) during the rainy season; second, many are unable to make the three-day journey due to age, illness, or nutritional status; and third, they are receiving unclear messages regarding where and when aid will be delivered. By mid-June 1998, some 10,000 refugees had relocated to Kolahun; while approximately 32,000 remained in Vahun, waiting for clearer signals from UNHCR as to future assistance.[81]

V. THE INTERNATIONAL RESPONSE

Overshadowed by conflict in Liberia and events elsewhere on the continent, Sierra Leone has largely escaped the attention of the international community. Over the past seven years, aside from the involvement of diamond mining firms, international interest has focused on the provision of humanitarian assistance to victims of the internal conflict and, to a lesser extent, finding political or military solutions to end the violence. Until recently, human rights concerns have largely taken a back seat to emergency relief, support for military interventions, or efforts to negotiate peace between the various warring parties.

---

[79]Human Rights Watch interview, Vahun, Liberia, June 14, 1998.

[80]Deteriorating road conditions due to heavy rain are likely to cut off road access to the Vahun and Kolahun camps and also to camps in Guinea.

[81]According to statistics from UNHCR field office, Vahun, Liberia, June 13, 1998.

The recent surge in atrocities against civilians in Sierra Leone has raised a limited level of awareness from the international community regarding the human rights implications of the crisis. In general, the plight of civilians in Sierra Leone has had to compete with other refugee-related emergencies for the attention of international players. This competition, often with crises in Europe, combined with a general lack of funds for UNHCR and other humanitarian agencies, has resulted in insufficient responses to the political, humanitarian, and human rights situation in Sierra Leone. In the words of one human rights worker, "half the battle is keeping Sierra Leone, Guinea, and Liberia on the world's radar screen."[82]

In June 1998, a team of three experts from the World Bank visited Sierra Leone to discuss and refine a program for Disarmament, Demobilization, and Reintegration (DDR) with the Sierra Leonean government. The World Bank, UNDP, and other donors have agreed to fund this program, to be carried out by ECOMOG. The United Nations Observer Mission to Sierra Leone (UNOMSIL) will have the critical role of monitoring and assisting with the disarmament, demobilization, and reintegration of combatants and assuring the respect for international humanitarian law during this process.[83] The success of this program and the humane treatment of former combatants from all sides will be crucial to bring about an end to the conflict in Sierra Leone.[84]

A major challenge to the international community is developing policies and providing assistance that protect human rights and promote peace and stability in the long run. Some past and present policies of governments and international organizations, as discussed below, have targeted only short-term political, economic, or military objectives, while ignoring fundamental human rights concerns. As the reinstated Kabbah government rebuilds national institutions of justice, and ECOMOG creates a new national army, the international community is presented with a unique opportunity to promote human rights in Sierra Leone.

The United Nations

In response to political, military, humanitarian, and human rights developments since February 1998, the U.N. presence in Sierra Leone is undergoing significant expansion. In early July, following a report on Sierra Leone from U.N. Secretary-General Kofi Annan, the U.N. Security Council unanimously approved a measure to establish the United Nations Observer Mission to Sierra Leone (UNOMSIL),[85] subsuming and expanding the office of the U.N. Special Envoy to Sierra Leone. UNOMSIL's role will increase the present U.N. military observer presence from approximately ten to seventy officers along with support and medical staff. Its mandate will include monitoring and helping ECOMOG with the DDR program for combatants; reporting on the security situation; and "monitoring respect for international humanitarian law at disarmament and demobilization sites."[86]

The secretary-general's June report also calls for adding three human rights officers to support the existing human rights advisor in the Office of the Special Envoy. These officers "would have a monitoring role and the task of addressing the country's long-term human rights institution building needs."[87] A July 13 U.N. Security Council

---

[82]Human Rights Watch interview, relief organization representative, Freetown, June 24, 1998.

[83]Fifth Report of the Secretary General on the Situation in Sierra Leone, S/1998/486, 9 June 1998.

[84]Lawyers and international observers in Freetown have called into question the respect for due process in the ongoing trials of fifty-nine civilians being tried on various charges related to collaboration with the AFRC/RUF. Whether or not these fifty-nine are given a fair trial may send a strong message to AFRC/RUF members considering laying down their arms and enrolling in an eventual DDR program.

[85]United Nations Security Council Resolution 1181 (1998), S/RES/1181 (1998), 13 July 1998.

[86]Fifth Report of the Secretary General on the Situation in Sierra Leone, S/1998/486, June 9, 1998.

[87]Ibid.

Resolution further states that UNOMSIL should advise the "Government of Sierra Leone and local police officials on police practice, training, re-equipment and recruitment, in particular on the need to respect internationally accepted standards of policing in democratic societies."[88] The Security Council also reiterated the secretary-general's report in calling for UNOMSIL to "report on violations of international humanitarian law and human rights in Sierra Leone, and in consultation with the relevant U.N. agencies, to assist the government of Sierra Leone in its efforts to address the country's human rights needs."

In addition to these statements, United Nations officials have paid significant attention to the human rights situation in Sierra Leone in recent months, largely due to the scale and horrific nature of atrocities committed against civilians. Several agencies have sent high-level delegations to the region, while five senior U.N. officials issued an unprecedented joint statement calling for an end to the atrocities and impunity, and underscoring the need for an International Criminal Court to hold perpetrators accountable for the atrocities.[89]

> The current crisis in Sierra Leone is a brutal reminder to the delegations now meeting in Rome of the urgent need for an effective international criminal court to provide justice for the appalling violations of human rights in that country and elsewhere. Since April this year, rebel forces in the east, north and, more recently, the west of Sierra Leone have engaged in a terror campaign involving the systematic laceration, mutilation or severing of limbs of non-combatants, including children and the elderly.

In addition to the office of the special envoy, other U.N. agencies in Sierra Leone have engaged in a number of initiatives in recent months designed to protect rights and promote reconciliation and peace. In conjunction with the U.N. special envoy for Sierra Leone and the U.N. special representative for children in armed conflict, UNICEF has pushed for the creation of a joint task force for the demobilization of child combatants and other measures to protect the rights of children. Among other U.N. initiatives in human rights and civic education, UNDP approved a $2.5 million support program in June to the Sierra Leonean National Commission on Democracy and Human Rights to promote reconciliation, forgiveness, and civic education.[90]

It will be critical that these programs put into practice the principles that they preach. ECOMOG's poor human rights record in the past raises questions about its appropriateness as trainer of the new Sierra Leonean army, unless it is closely monitored and assisted by qualified UNOMSIL personnel. The National Commission on Human Rights and Democracy has also been widely criticized for being corrupt and inefficient. Donors must ensure that implementing organizations or government ministries have the technical expertise, capacity, and will to implement these and other programs that promote or protect human rights. Monitoring and coordination among the various implementing U.N. agencies, government ministries, and NGOs will be critical to making good use of funds dedicated to rights issues.

As required by its mandate, UNOMSIL should insist that ECOMOG respect the rights of demobilized combatants and that high standards are maintained throughout the training of the new Sierra Leonean army in international humanitarian law. Linked with this responsibility, UNOMSIL should work closely with ECOMOG to

---

[88]United Nations Security Council Resolution 1181 (1998), S/RES/1181 (1998), 13 July 1998.

[89]Sergio Vieira de Mello, the under-secretary-general for humanitarian affairs, Olara Otunnu, the special representative of the secretary-general for children in armed conflict, and Soren Jensen Peterson, the assistant high commissioner for refugees, have all recently visited the region. Mr. Vieira de Mello and Mr. Otunnu were joined by Carol Bellamy, executive director of the United Nations Children's Fund (UNICEF), Mary Robinson, United Nations high commissioner for human rights, and Sadako Ogata, United Nations high commissioner for refugees, in making the joint declaration on June 18, 1998.

[90]"UNDP approves USD 2.5 million Awareness Plan," *For di People*, Freetown newspaper, June 24, 1998.

monitor arms flows and recruitment in support of AFRC/RUF. Human Rights Watch received numerous allegations that the AFRC/RUF was continuing to receive arms from outside the country, via land and air. In order to monitor and deter military support to the AFRC/RUF, a strong presence of UNOMSIL will be necessary to monitor arms trafficking, in particular along the porous border with Liberia. The monitoring of the Liberian border should be performed in conjunction with ECOMOG forces in Liberia.

The Organization of African Unity, ECOWAS, and ECOMOG

ECOWAS and ECOMOG have played key roles in recent political negotiations and military interventions respectively in Sierra Leone. As part of bilateral security accords, Nigerian forces and Guinean forces have been in Sierra Leone since 1995 to help the NPRC and, later, the Kabbah government to fight the RUF. The Nigerian and Guinean forces were in Sierra Leone at the time of the May 25, 1997 coup, and later reinforced ECOMOG's efforts to oust the AFRC/RUF.

Following the 1997 coup, the Organization of African Unity (OAU) called on ECOWAS to restore constitutional order to Sierra Leone. When their negotiations with the AFRC/RUF failed to achieve progress, ECOWAS imposed an economic embargo, which was later reinforced by an October 1997 U.N. Security Council global arms and oil embargo[91] and restrictions on international travel by AFRC/RUF members and their families.[92] ECOMOG enforced these sanctions with the permission of ECOWAS and the Security Council. With the failure of diplomatic efforts and the escalation of tension, ECOMOG's mandate was upgraded from sanction enforcement to actual military intervention to oust the AFRC/RUF. The ECOMOG contingent in Sierra Leone is led by Nigerian Commander Brigadier General Maxwell Khobe and composed of approximately 9,000 troops, predominately Nigerian with several Guinean support battalions. As of June 23, Gambia, Ghana[93] and Niger[94] had all promised to send troops to reinforce ECOMOG. In late July, ECOMOG announced that it was finishing the transfer of its headquarters from Monrovia to Freetown and that an additional 3,500 troops would soon arrive.[95]

While residents of Freetown and Sierra Leonean refugees consistently stated that ECOMOG's role in ousting the AFRC/RUF and enabling a return to civilian rule was welcome, international humanitarian groups complained that shelling by ECOMOG led to a high number of civilian casualties. One humanitarian organization in Freetown at that time stated that even after ECOMOG had been provided with maps of high-density population zones and medical structures, shelling continued in these areas for several days, resulting in over 600 war-wounded hospital admissions during a nine-day period in early February.[96]

Despite these serious allegations, ECOMOG has been praised by the Sierra Leonean press and international community, largely due to its military success in Sierra Leone and significant improvements in its conduct since its intervention in Liberia. United Nations military observers and aid workers attributed the improvements in ECOMOG's human rights record to improved supervision, more regular payment of salaries, and a sensitivity to past

---

[91]Petroleum for humanitarian purposes was permitted.

[92]U.S. Agency for International Development Bureau for Humanitarian Response (BHR) and Office of Foreign Disaster Assistance (OFDA), Situation Report #1, January 28, 1998.

[93]Integrated Regional Information Network, Office of the Coordinator for Humanitarian Affairs, IRIN-West Africa Update 169, March 19, 1998.

[94]"More ECOMOG Troops Due," page 1, *Daily Mail*, Freetown newspaper, June 23, 1998.

[95]Integrated Regional Information Network, Office of the Coordinator for Humanitarian Affairs, IRIN-West Africa Weekly Roundup, July 24, 1998.

[96]Human Rights Watch interview, New York, July 15, 1998.

criticisms.[97] ECOMOG has also evacuated dozens of war victims via helicopter and road, saving many civilian lives. However, ECOMOG and Kamajor commandeering of humanitarian vehicles has been, in the words of the director of one aid organization, "blatant and prevalent."[98] In response to this problem, which has significantly obstructed the delivery of humanitarian aid, the United Nations Humanitarian Assistance Coordination Unit (HACU) organized a seminar for ECOMOG and Kamajors in the Bo district in May.[99] In May and June 1998, ECOMOG and the Ministry of Defense repeatedly declared in public that the Kamajors were entirely under the control of ECOMOG.[100] While the obstruction of aid decreased after this and subsequent seminars and the arrival of logistical support and trucks donated by the United States in May, at least one humanitarian group stated that ECOMOG had yet to return one aid vehicle by late June 1998.

ECOMOG holds the key responsibilities of disarming and demobilizing combatants as well as forming and training the new Sierra Leonean army. ECOMOG commander Maxwell Khobe has stated that the new army will be ethnically and regionally balanced.[101] ECOMOG's past human rights record in Liberia and problems in the present, however, underscore the need for UNOMSIL to provide assistance and closely monitor the disarmament, demobilization, and training processes to assure that the new army is founded upon principles of respect for international humanitarian law.[102]

Misinformation regarding the security situation in Sierra Leone has created serious risks for both Sierra Leonean refugees and civilians within the country. ECOMOG, along with Sierra Leonean government and some U.N. officials, has downplayed the capacity of the AFRC/RUF and portrayed the security conditions in Sierra Leone as safe and returning to normal in many districts. This information has contrasted sharply with reports from aid organizations with a field presence as well as from other U.N. officials. During a humanitarian assessment mission to Koidu on June 10, aid workers were told by an ECOMOG commander on the scene that the area had been entirely secured by ECOMOG and that security was "no problem."[103] Several hours later, after the mission left Koidu, AFRC/RUF forces began the first of several sustained attacks over four days on the town, temporarily pushing ECOMOG out of strategic positions.[104]

Information regarding the security situation in Sierra Leone reaches refugees generally through international radio and new arrivals to the camps. Refugees reported that misinformation regarding security conditions in Sierra

---

[97]ECOMOG succeeded in Liberia in stopping the bloodshed and ethnic violence on several occasions, and human rights benefits clearly flowed from the intervention. However, ECOMOG did not integrate human rights into its activities, which has been a serious shortcoming. ECOMOG allied itself with other warring factions, which clearly undermined its credibility. It was responsible for extensive looting, harassment and detention of civilians. There were also serious concerns about the civilian toll and violations of medical neutrality by ECOMOG air strikes in Liberia.

[98]Human Rights Watch interviews with aid organizations, Freetown, Sierra Leone, June 22-25, 1998.

[99]Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, June 9, 1998.

[100]Human Rights Watch interview with Sierra Leone Deputy Minister of Defense, Freetown, Sierra Leone, June 25, 1998.

[101]Press conference led by Brig. Gen. Maxwell Khobe, Wilburforce military base, June 25, 1998, Freetown, Sierra Leone.

[102]See Human Rights Watch, "Liberia: Waging War to Keep the Peace."

[103]Human Rights Watch interview with aid organization that participated in the mission, Freetown, June 23, 1998.

[104]Human Rights Watch interviews with several members of the assessment mission, Freetown, Sierra Leone, June 23, 24, and 25, 1998.

Leone had on several occasions led to voluntary repatriation to zones perceived as safe. Human Rights Watch interviewed refugees in Guinea who claimed that dozens of refugees had been killed while attempting to return to the Koidu area in April.[105] Their decision to repatriate was made following declarations on international radio claiming that area was under the control of ECOMOG. In order to protect refugees, civilians in Sierra Leone, and humanitarian workers, both ECOMOG and UNOMSIL should ensure that accurate information regarding security conditions is provided to the public, especially to refugees, internally displaced persons, and aid workers.

The United Kingdom, European Union and United States

Since May 1998, the United Kingdom, European Union (E.U.), and United States have issued several strong statements denouncing the human rights violations committed by the AFRC/RUF in Sierra Leone. On May 21, 1998, the U.S. Department of State and European Union issued a joint statement which expressed their grave concern over the atrocities.

> The European Union and the United States strongly condemn these horrific actions and urge all parties to call an immediate end to the senseless slaughter, mutilation, and torture of the civilian population and show full respect for human rights.[106]

In June, the U.S. and E.U. sent a joint high-level assessment mission to the region led by U.S. Assistant Secretary of State Julia Taft which resulted in financial pledges for humanitarian assistance in Sierra Leone, Guinea, and Liberia. These calls for an end to atrocities against civilians and financial commitments for humanitarian assistance should be combined with long-term support from the U.S. and the E.U. that promotes human rights and the rule of law.

In addition to its support of elections in 1996, the E.U. has had a significant and growing presence in Sierra Leone and neighboring countries affected by the refugee flows. Through the European Community Humanitarian Office (ECHO), the E.U. has been the most important donor of non-food humanitarian aid to Sierra Leone, contributing over 20 million European Equivalency Units (ECU) (over U.S. $22 million), since 1993, mostly to support the activities of international humanitarian nongovernmental organizations (NGOs). ECHO has also provided aid in response to the refugee crisis in Guinea and Liberia, while the European Commission has been a long-term supporter of development activities and infrastructure projects in Sierra Leone. ECHO is now considering a 6 million ECU (U.S. $ 6.6 million) global aid package for assistance in Guinea, Liberia, and Sierra Leone.

Both the U.S. and U.K. have played significant roles in recent political and military developments in Sierra Leone. The U.S. is the single largest donor in response to the Sierra Leonean crisis, having contributed $53 million in food, humanitarian and other aid in fiscal year 1998, including support for ECOMOG. The British have led fund-raising efforts at the European Union for the 1996 elections, ECOMOG, and other assistance. Both the U.S. and the U.K. have provided support for the Nigeria-led ECOMOG force in Sierra Leone.[107] In May, the U.S. State

---

[105]Human Rights Watch interview, Koundou Lengo Bengo Refugee Camp, Guéckedou, Republic of Guinea, June 5, 1998.

[106]U.S. Department of State, "Sierra Leone: Rebel Atrocities Against Civilians," May 21, 1998.

[107]In a further effort to support ECOMOG and retake power, the Kabbah government engaged Sandline, a private security firm. Sandline claims that it imported between twenty-eight and thirty-eight tons of small arms and ammunition to ECOMOG with the consent of the British government. The arms were impounded by ECOMOG forces and never used. However, a scandal ensued because the shipment could constitute a violation of a U.N. or a U.K. arms embargo against Sierra Leone. U.N. legal analysts subsequently determined that the U.N. embargo had not been broken. British Foreign Secretary Robin Cook ordered an investigation into whether anyone in the Foreign Office had knowledge of or gave consent to such a shipment. The investigation is ongoing.

Department announced $3.9 million for logistical support to ECOMOG through Pacific Architects and Engineers (PAE).[108] PAE is a U.S.-based military logistics firm contracted to provide transportation, communication, and other support to ECOMOG. The U.K. has contributed £2 million (U.S. $ 3.3 million) to a U.N. trust fund for peacekeeping activities in Sierra Leone, some of which may be used to support ECOMOG.

This support for ECOMOG should be accompanied by close monitoring of its conduct and complemented by additional efforts to protect human rights. The U.S. and U.K. should closely monitor the performance of ECOMOG in international humanitarian law observance and in its disarmament, demobilization, and training efforts. In particular, the U.S. and U.K. should insist on high-quality training in international humanitarian law for the new Sierra Leonean army and on the humane treatment of demobilized combatants from all sides. The U.K. has sent an evaluation team to Sierra Leone to consider a police training program to Sierra Leone. The success of these types of initiatives in contributing to building institutions that protect human rights will depend largely on their careful design and monitoring of their implementation.

Both the U.S. and the U.K. have encouraged negotiated solutions to end the violence, most recently during talks at Abidjan in November 1996 and at Conakry in October 1997. Since the scale of atrocities has increased, the U.K. has been cautious about promoting negotiations with the AFRC/RUF. In an interview with Human Rights Watch, U.K. High Commissioner Peter Penfold stated that the U.K. was not pushing in "public or in private" for negotiations with the AFRC/RUF. The U.S. has taken a more open stand, stating that it:

> did not preclude any possible option that might lead to peace. ECOWAS, with the support of the international community, must explore every political avenue and determine the best way to proceed."[109]

The U.S. elaborated that the RUF and former junta leadership must first, however, "unambiguously and honestly renounce" atrocities against civilians before talks could begin.

The U.S. has been a key supporter of humanitarian organizations, including the UNHCR, and has recently promised an additional $19.5 million to support international humanitarian organizations working in response to the Sierra Leonean crisis and for the repatriation of Liberian refugees. Additional funds have been allocated to supporting civic education, and, to a lesser extent, the initiatives of local human rights groups. Through its Office of Transition Initiatives, the U.S. is providing $900,000 in programs for war-affected children, the reintegration of former combatants, and to promote reconciliation. The U.S. should continue to expand its funding for well-coordinated training and support programs for civil society, in particular for local organizations promoting human rights and the rule of law.

ACKNOWLEDGMENTS

This report, based on findings from a mission to Sierra Leone in June 1998, was written by Scott Campbell and Jane Lowicki, consultants to the Africa division of Human Rights Watch. The report was edited by Peter Takirambudde, executive director of the Africa division, Regan Ralph, executive director of the Women's Rights division, Lois Whitman, executive director of the Children's Rights division, Dinah PoKempner, deputy general counsel, Michael McClintock, deputy program director, Reed Brody, advocacy director, Rachael Reilly, refugee policy director, Janet Fleischman, Washington director of the Africa divis on, and Binaifer Nowrojee, counsel to the

[108]Human Rights Watch telephone interview with U.S. Department of State official, May 25, 1998.

[109]Hearing on Sierra Leone before the House Subcommittee on Africa, June 8, 1998. Statement of Johnnie Carson, principal deputy assistant secretary for African affairs.

Africa division. Production assistance was provided by Ariana Pearlroth, associate for the Africa division, Patrick Minges, publications director, and Fitzroy Hepkins, mail manager.

Human Rights Watch
Africa Division
Human Rights Watch is dedicated to protecting the human rights of people around the world.
We stand with victims and activists to bring offenders to justice, to prevent discrimination, to uphold political freedom and to protect people from inhumane conduct in wartime.
We investigate and expose human rights violations and hold abusers accountable.
We challenge governments and those holding power to end abusive practices and respect international human rights law.
We enlist the public and the international community to support the cause of human rights for all.

The staff includes Kenneth Roth, executive director; Michele Alexander, development director; Reed Brody, advocacy director; Carroll Bogert, communications director; Cynthia Brown, program director; Barbara Guglielmo, finance and administration director; Jeri Laber, special advisor; Lotte Leicht, Brussels office director; Patrick Minges, publications director; Susan Osnos, associate director; Jemera Rone, counsel; Wilder Tayler, general counsel; and Joanna Weschler, United Nations representative. Jonathan Fanton is the chair of the board. Robert L. Bernstein is the founding chair.

Its Africa division was established in 1988 to monitor and promote the observance of internationally recognized human rights in sub-Saharan Africa. Peter Takirambudde is the executive director; Janet Fleischman is the Washington director; Suliman Ali Baldo is the senior researcher; Alex Vines is the research associate; Bronwen Manby and Binaifer Nowrojee are counsels; Ariana Pearlroth and Juliet Wilson are associates; Alison DesForges is a consultant; and Peter Bouckaert is the Orville Schell Fellow. William Carmichael is the chair of the advisory committee.

Web Site Address: http://www.hrw.org
Listserv address: To subscribe to the list, send an e-mail message to majordomo@igc.apc.org with "subscribe hrw-news" in the body of the message (leave the subject line blank).

2001 HUMAN RIGHTS WATCH PUBLICATIONS

(A) SUB-SAHARAN AFRICA

Short Reports

(A1309) Nigeria– Jos: A City Torn Apart, 12/01, 26pp., $3.00
(A1308) Rwanda: Observing the Rules of War?, 12/01, 17pp., $3.00
(A1307)Burundi -- To Protect the People: The Government-sponsored "Self-defense" Program in Burundi, 12/01, 18pp., $3.00
(A1306) Cote D'Ivoire: The New Racism: The Political Manipulation of Ethnicity in Cote D'Ivoire, 08/01, 68pp., $7.00
(A1305) Guinea: Refugees Still At Risk: Continuing Refugee Protection Concerns in Guinea, 07/01, 21pp., $3.00
(A1304) Kenya: In The Shadow of Death: HIV/AIDS and Children's Rights in Kenya, 06/01, 35pp., $5.00
(A1303) Democratic Republic of Congo: Reluctant Recruits: Children & Adults Forcibly Recruited for Military Service in North Kivu, 05/01, 19pp., $3.00
(A1302) Democratic Republic of Congo: Uganda in Eastern DRC: Fueling Political and Ethnic Strife, 03/01, 46pp., $5.00
(A1301) Uganda: Not A Level Playing Field: Government Violations in the Lead-Up to the Election, 02/01, 12pp., $3.00

Perfect-Bound Books

(2637) South Africa: Unequal Protection: The State Response to Violence Crime on south African Farms, 08/01, 254pp., $20.00
(2610) Rwanda: Uprooting The Rural Poor, 05/01, 102pp., $10.00
(2572) South Africa: Scared At School: Sexual Violence Against Girls in the South African Schools, 03/01, 146pp., $10.00
(2556) Africa: Protectors or Pretenders? Government Human Rights Commissions in Africa, 01/01, 428pp., $25.00

(B) AMERICAS

Short Reports

(B1305) Argentina: Reluctant Partner: The Argentine Government's Failure to Back Trials of Human Rights Violators, 12/01, 47pp., $5.00
(B1304) Mexico: Military Injustice: Mexico's Failure to Punish Army Abuses, 12/01, 23pp., $3.00
(B1303) Colombia: Beyond Negotiation: International Humanitarian Law and Its Application to the Conduct of the FARC-EP, 08/01, 22pp., $3.00
(B1302) Mexico: Trading Away Rights: The Unfulfilled Promise of NAFTA's Labor Side Agreement, 04/01, 65pp., $7.00
(B1301) Chile: Progress Stalled: Setbacks in Freedom of Expression Reform, 03/01, 46pp., $5.00

Perfect-Bound Books

(2653) Colombia: The "Sixth Division": Military-Paramilitary Ties and U.S. Policy in Colombia, 09/01, 138pp., $10.00

(C) ASIA

Short Reports

(C1305) Afghanistan: Humanity Denied: Systematic Denial of Women's Rights, 10/01, 27pp., $5.00
(C1304) Indonesia: The War in Aceh, 08/01, 41pp., $5.00
(C1303) Afghanistan: Crisis of Impunity: The role of Pakistan, Russia, and Iran in Fueling the Civil War, 07/01, 58pp., $7.00
(C1302) Indonesia: Violence and Political Impasse in Papua, 07/01, 27pp. $5.00
(C1301) Afghanistan: Massacres of Hazaras in Afghanistan, 02/01, 12pp, $3.00

Perfect Bound Reports

(D) EUROPE AND CENTRAL ASIA

Short Reports
(D1305) Macedonia: Crimes Againsst Civilians: Abuses by Macedonian Forces in Ljuboten, August 10-12, 2001, 09/01, 28pp., $5.00
(D1304) Uzbekistan: Sacrificing Women To Save The Family: Domestic Violence in Uzbekistan, 07/01, 54pp., $7.00
(D1303) Russia: Burying The Evidence: The Botched Investigation Into A Mass Grave in Chechnya, 05/01, 26pp., $5.00

(D1302) Turkey: Small Group Isolation in F-Type Prisons and Violent Transfers of Prisoners to Sincan, Kandira, and Edirne Prisons on December 19, 2000, 04/01, 23pp., $3.00
(D1301) Russia: The "Dirty War" in Chechnya: Forced Disappearances, Torture, and Summary Executions, 03/01, 42pp., $5.00

Perfect-Bound Books
(2645) F.R. Yugoslavia: Under Orders: War Crimes in Kosovo, 10/01, 623pp., $40.00

(E) THE MIDDLE EAST AND NORTH AFRICA
Short Reports
(E1304) Israel, The Occupied West Bank and Gaza Strip, and The Palestinian Authority Territories: Justice Undermined: Balancing Security and Human Rights in the Palestian Justice System, 11/01, 51pp., $7.00
(E1303) Iran: Stifling Dissent: The Human Rights Consequences of Inter-Factional Struggle, 05/01, 20pp., $3.00
(E1302) Tunisia: A Lawsuit Against the Human Rights League, An Assault on All Rights Activists, 04/01, 28pp., $5.00
(E1301) Egypt: Underage And Unprotected: Child Labor in Egypt's Cotton Fields, 01/01, 20pp., $3.00

Perfect-Bound Books
(2663) Israel: Second Class: Discrimination Against Palestinian Arab Children in Israel's Schools, 09/01, 200pp., $15.00
(2602) Israel/The Occupied West Bank and Gaza Strip and The Palestinian Authority Territories: Center of The Storm: A Case Study of Human Rights Abuses in Hebron District, 04/01, 156pp., $15.00

(G) GENERAL
Short Reports
(G1306) September 11 Attacks: Crimes Against Humanity: The Aftermath, A Compilation of Human Rights Documents, Volume II: November 6, 2001, 114pp., $7.00
(G1305) September 11 Attacks: Crimes Against Humanity: The Aftermath, A Compilation of Human Rights Documents, Volume I: October 15, 2001, 114pp., $7.00
(G1304) International Criminal Court: Making The International Criminal Court Work: A Handbook for Implementing the Rome Statute, 09/01, 32pp., $5.00
(G1303) Caste Discrimination: A global Concern, 08/01, 60pp., $7.00
(G1302) U. S.: Hidden in The Home: Abuse of Domestic Workers with Special Visas, 6/01, 56pp., $7.00
(G1301) United States: Beyond Reason: The Death Penalty and Offenders with Mental Retardation, 03/01, 50pp., $7.00

Perfect-Bound Books
(2629) Landmine Monitor Report 2001: Toward a Mine-Free World, 08/01, 1216pp., $45.00
(2599) United States: Hatred in The Hallways: Violence & Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in U.S. Schools, 05/01, 220pp., $15.00
(2580) United States: No Escape: Male Rape in U.S. Prisons, 04/01, 396pp., $25.00
(2548) Human Rights Watch World Report 2001, 12/00, 540pp., $25.00

(A) SUB-SAHARAN AFRICA
Short Reports

Perfect-Bound Books

(B) AMERICAS
Short Reports
(B1401) Colombia: Colombia Human rights Certification III-Briefing Paper, 02/02, 34pp., $5.00

Perfect-Bound Books
(2696) Guatemala: From the Household to the Factory- Sex Discrimination in the Guatemala Labor Office, 01/02, 152pp., $15.00

(C) ASIA
Short Reports

Perfect Bound Reports
(270X) China: Dangerous Meditation: China's Campaign against Falungong, 01/02, 128pp., $10.00

(D) EUROPE AND CENTRAL ASIA
Short Reports
(D1401) Spain: The Other Face of the Canary Islands: Rights Violations Against Migrants and Asylum Seekers, 02/02, 37pp., $5.00

Perfect-Bound Books

(E) THE MIDDLE EAST AND NORTH AFRICA
Short Reports
(E1401) Egypt: The State of Egypt VS. Free Expression: The Ibn Khaldun Trial, 01/02, 21pp., $3.00

Perfect-Bound Books

(G) GENERAL
Short Reports
(G1401) U.S.: Dangerous Dealings-Changes to U. S. Military Assistance After September 11, 02/02, 15pp., $3.00

Perfect-Bound Books
(2548) Human Rights Watch World Report 2002, 01/02, 687pp., $30.00

Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice.

We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those who hold power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

Human Rights Watch
350 Fifth Avenue 34th Floor
New York, N.Y. 10118-3299
http://www.hrw.org

SIERRA LEONE

HUMAN RIGHTS WATCH

350 Fifth Ave 34th Floor
New York, N.Y. 10118-3299
http://www.hrw.org
(212) 290-4700

Vol. 15, No. 1 (A) – January 2003



A woman receives psychological and medical treatment in a clinic to assist rape victims in Freetown. In January 1999, she was gang-raped by seven revels in her village in northern Sierra Leone. After raping her, the rebels tied her down and placed burning charcoal on her body. (c) 1999 Corinne Dufka/Human Rights Watch

I was captured together with my husband, my three young children and other civilians as we were fleeing from the RUF when they entered Jaiweii. Two rebels asked to have sex with me but when I refused, they beat me with the butt of their guns. My legs were bruised and I lost my three front teeth. Then the two rebels raped me in front of my children and other civilians. Many other women were raped in public places. I also heard of a woman from Kalu village near Jaiweii being raped only one week after having given birth. The RUF stayed in Jaiweii village for four months and I was raped by three other wicked rebels throughout this period.

-Testimony to Human Rights Watch

"WE'LL KILL YOU IF YOU CRY"
SEXUAL VIOLENCE IN THE SIERRA LEONE CONFLICT

1630 Connecticut Ave, N.W., Suite 500
Washington, DC 20009
TEL (202) 612-4321
FAX (202) 612-4333
E-mail: hrwdc@hrw.org

2nd Floor, 2-12 Pentonville Road
London N1 9HF, UK
TEL: (44 20) 7713 1995
FAX: (44 20) 7713 1800
E-mail: hrwuk@hrw.org

15 Rue Van Campenhout
1000 Brussels, Belgium
TEL (32 2) 732-2009
FAX (32 2) 732-0471
E-mail: hrwbe@hrw.org

1613

January 2003 Vol. 15, No. 1 (A)

SIERRA LEONE

"WE'LL KILL YOU IF YOU CRY"

Sexual Violence in the Sierra Leone Conflict

GLOSSARY OF ACRONYMS 1

DEFINITION OF SEXUAL VIOLENCE, RAPE AND SEXUAL SLAVERY 2

I. SUMMARY 3

II. RECOMMENDATIONS 6
- To the Government of Sierra Leone 6
- To Members of the African Union and Economic Community of West African States (ECOWAS) 6
- To Members of the International Community 7
- To the Special Court for Sierra Leone 7
- To the Truth and Reconciliation Commission 7
- To the United Nations Mission in Sierra Leone (UNAMSIL) 8

III. METHODOLOGY 9

IV. BACKGROUND 9
- The Civil War 9
- Women and Girls under Sierra Leonean Law 15
  - The Sierra Leonean Legal system 15
  - Constitutional Status of Women 16
  - Marriage 17
  - Divorce and Death of Husband 18
  - Domestic Violence 19
  - Rape as a Crime under General Law 19
  - Prosecution of Sexual Violence under Customary Law 21
- Discrimination against Women and Girls in Practice 21
  - Education 21
  - The Workplace 21
  - In the Political Arena 22
  - Harmful Traditional Practices and Their Impact on Women's and Girls' Health 23
  - Societal Attitudes to Sexual Violence against Women and Girls 24

V. SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS DURING THE CIVIL WAR 25
- Prevalence of Sexual Violence during the War 25
- Perpetrators 26
  - Rebel Forces 26
  - Pro-Government Forces 27
  - Peacekeeping Forces 28
- Sexual Violence Committed by the Rebel Forces 28
  - "Virgination"—Targeting Young Girls 28
  - Rape Victims Subjected to Multiple Human Rights Abuses 31
  - Rape with Objects and Other Sexual Torture, including Sexual Mutilation 33
  - Sexual Violence with the Added Element of Violating Cultural Norms 35

Forced Pregnancies....40
Forced Abortion by West Side Boys....41
Rape by Female Combatant....41
Rape and Other Sexual Violence against Boys and Men by Male and Female Rebels....42
Abduction, Sexual Slavery, Forced Labor, and Conscription....42
RUF Officers' Responsibility for Sexual Violence....45
Sexual Violence Committed by the CDF....46
Sexual Violence Committed by International Peacekeeping Forces....48

VI. EFFECTS OF SEXUAL VIOLENCE....50
Health....50
Stigmatization and Shame of Survivors....52

VII. INTERNATIONAL LEGAL PROTECTIONS AGAINST GENDER-BASED VIOLENCE....53
Introduction....53
International Humanitarian Law....54
Sexual Violence as a Crime against Humanity....55
Human Rights Law....57
Gender Jurisprudence for Crimes of Sexual Violence....58
Command Responsibility....60

VIII. TRANSITIONAL JUSTICE MECHANISMS FOR SIERRA LEONE....61
The Lomé Amnesty....61
Truth and Reconciliation Commission....61
Special Court for Sierra Leone....63
Principle of Universal Jurisdiction....65

IX. THE NATIONAL AND INTERNATIONAL RESPONSE....66
National Response....66
Climate of Impunity....66
Corrupt and Ineffective Judiciary....67
Need for Law Reform....67
The Sierra Leone Police....68
The International Response....68
The Disarmament, Demobilization, and Reintegration program....69
United Kingdom....69
United States....70
European Union....70
United Nations....71
World Bank....73

X. CONCLUSION....73

ACKNOWLEDGEMENTS....75

GLOSSARY OF ACRONYMS

AFRC	Armed Forces Revolutionary Council
APC	All People's Congress
CAT	Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment
CCP	Commission for the Consolidation of Peace
CCSSP	Commonwealth Community Safety and Security Project
CDC	Centers for Disease Control
CDF	Civil Defense Forces
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CMRRD	Commission for the Management of Strategic Resources, National Reconstruction and Development
C. O.	Commanding Officer
CRC	Convention on the Rights of the Child
DDR	Disarmament, Demobilization and Reintegration Program
DFID	Department for International Development, United Kingdom
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
EIDHR	European Initiative for Democracy and Human Rights
E.U.	European Union
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficieny Virus/Acquired Immunodeficiency Syndrome
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IMATT	International Military Advisory and Training Team
IRC	International Rescue Committee
FAWE	Forum for African Women Educationalists
MSF	Médecins Sans Frontières
NPFL	National Patriotic Front of Liberia
OAU	Organization of African Unity
OFR	Operation Focus Relief
OHCHR	Office of the High Commissioner for Human Rights
PHR	Physicians for Human Rights
RUF	Revolutionary United Front
SBU	Small Boys Unit
SCSL	Special Court for Sierra Leone
SLA	Sierra Leone Army
SLP	Sierra Leone Police
SLPP	Sierra Leone People's Party
STD	Sexually Transmitted Disease
TRC	Truth and Reconciliation Commission
UNAMSIL	United Nations Mission in Sierra Leone
UNDP	United Nations Development Program
UNIFEM	United Nations Development Fund for Women
UNOMSIL	United Nations Observer Mission in Sierra Leone
USAID	United States Agency for International Development (USAID)
VRF	Vasico-rectal Fistula
VVF	Vasico-vaginal Fistula
WHO	World Health Organization

DEFINITION OF SEXUAL VIOLENCE, RAPE AND SEXUAL SLAVERY

In this report:

Sexual violence is an overarching term used to describe "[a]ny violence, physical or psychological, carried out through sexual means or by targeting sexuality."[1] Sexual violence includes rape and attempted rape, and such acts as forcing a person to strip naked in public, forcing two victims to perform sexual acts on one another or harm one another in a sexual manner, mutilating a person's genitals or a woman's breasts, and sexual slavery.

Rape as defined in the appeals chamber judgment of the International Criminal Tribunal for the former Yugoslavia (ICTY) in the 2002 *Foca* case is "[t]he sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) [of] the mouth of the victim by the penis of the perpetrator; where such sexual penetration occurs without the consent of the victim. Consent for this purpose must be consent given voluntarily, as a result of the victim's free will, assessed in the context of the surrounding circumstances. The *mens rea* is the intention to effect this sexual penetration, and the knowledge that it occurs without the consent of the victim."[2] The appeals chamber rejected the "resistance" requirement argued by the appellants as it is justified neither in law or fact, and stated that the use of force in itself is not a necessary element of rape. The coercive circumstances present in the Foca rapes, which were committed in circumstances similar to the crimes of sexual violence perpetrated in Sierra Leone, made the victims' consent to the sexual acts impossible. The use or threat of force often removes any requirement that a victim show resistance and most jurisdictions have discarded the idea that a rape victim must resist under all circumstances as impractical, if not absurd. This definition also underscores that rape is an attack on the physical integrity of a woman and not an attack against her honor or that of her family or community.

Rape was defined in the judgment of the *Akayesu* case at the International Criminal Tribunal for Rwanda (ICTR) as "[t]he physical invasion of a sexual nature, committed on a person under circumstances which are coercive" and is not limited to the insertion of a penis into a victim's vagina or anus or the insertion of a penis in the mouth of the victim.[3] This definition, however, has been criticized for being too broad and has not been included in the Rome Statute of the International Criminal Court (ICC).

Sexual slavery, defined by the 1926 Slavery Convention and the 1953 Protocol amending the same convention, refers to "[t]he status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including sexual access through rape or other forms of sexual violence."[4] The Statute of the ICC includes the trafficking of women and children in its definition of enslavement.[5]

---

[1] United Nations, *Contemporary Forms of Slavery: Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict*, Final Report submitted by Ms. Gay J. McDougall, Special Rapporteur (New York: United Nations, 1998), E/CN.4/Sub. 2/1998/13, pp. 7-8.

[2] *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic* (*Foca* case), Appeals Chamber Judgement, June 12, 2002, IT-96-23 and IT-96-23/1, paras. 127-133.

[3] *Prosecutor v. Jean-Paul Akayesu*, Judgement, ICTR-96-4-T, September 2, 1998, para. 688.

[4] United Nations, *Contemporary Forms of Slavery: Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict*, p. 9. Sierra Leone ratified the Slavery Convention on March 13, 1962.

[5] Article 7 (1) (g) lists enslavement as a crime against humanity with the definition given in Article 7 (2) (c). Rome Statute of the International Criminal Court, opened for signature July 17, 1998, Article 7, reprinted in 37 I.L.M. 999 (1998). The Rome Statute entered into force on April 11, 2002 and the ICC has the authority to prosecute the most serious international crimes from July 1, 2002.

I. SUMMARY

Throughout the armed conflict in Sierra Leone from 1991 to 2001, thousands of women and girls of all ages, ethnic groups, and socioeconomic classes were subjected to widespread and systematic sexual violence, including individual and gang rape, and rape with objects such as weapons, firewood, umbrellas, and pestles. Rape was perpetrated by both sides, but mostly by the rebel forces. These crimes of sexual violence were generally characterized by extraordinary brutality and frequently preceded or followed by other egregious human rights abuses against the victim, her family, and her community. Although the rebels raped indiscriminately irrespective of age, they targeted young women and girls whom they thought were virgins. Many of these younger victims did not survive these crimes of sexual violence. Adult women were also raped so violently that they sometimes bled to death or suffered from tearing in the genital area, causing long-term incontinence and severe infections. Many victims who were pregnant at the time of rape miscarried as a result of the sexual violence they were subjected to, and numerous women had their babies torn out of their uterus as rebels placed bets on the sex of the unborn child.

Thousands of women and girls were abducted by the rebels and subjected to sexual slavery, forced to become the sex slaves of their rebel "husbands." Abducted women and girls who were assigned "husbands" remained vulnerable to sexual violence by other rebels. Many survivors were kept with the rebel forces for long periods and gave birth to children fathered by rebels. Some abducted women and girls were forcibly conscripted into the fighting forces and given military training, but even within the rebel forces, women still held much lower status and both conscripted and volunteer female combatants were assigned "husbands." For civilian abductees, aside from sexual violence their brutal life with the rebels included being made to perform forced labor, such as cooking, washing, carrying ammunition and looted items, as well as farm work. Combatants within the rebel forces had considerable latitude to do what they wanted to abducted civilians, who were often severely punished for offenses as minor as spilling water on a commander's shoes. Escape for these women and girls was often extremely difficult: In many instances, the women and girls, intimidated by their captors and the circumstances, felt powerless to escape their life of sexual slavery, and were advised by other female captives to tolerate the abuses, "as it was war." The rebels sometimes made escape more difficult by deliberately carving the name of their faction onto the chests of abducted women and girls. If these marked women and girls were caught by pro-government forces, they would be suspected of being rebels, and often killed. Even though many women did manage to escape, some escaped from one rebel faction or unit only to be captured by another. An unknown number of women and girls still remain with their rebel "husbands," although the war was declared over on January 18, 2002.

The main perpetrators of sexual violence, including sexual slavery, were the rebel forces of the Revolutionary United Front (RUF), the Armed Forces Revolutionary Council (AFRC) and the West Side Boys, a splinter group of the AFRC. Human Rights Watch has documented over three hundred cases of sexual violence by the rebels; countless more have never been documented. From the launch of their rebellion from Liberia in March 1991, which triggered the war, the RUF perpetrated widespread and systematic sexual violence. Its ideology of salvaging Sierra Leone from the corrupt All People's Congress (APC) regime quickly degenerated into a campaign of violence whose principal aim was to gain access to the country's abundant diamond mines. The AFRC, which consisted of disaffected soldiers from the Sierra Leone Army (SLA) who in May 1997 overthrew the elected government of President Ahmad Tejan Kabbah, were also responsible for subjecting thousands of women and girls to sexual violence, including sexual slavery. After the signing of the peace agreement in Lomé, Togo, in July 1999, sexual violence, including sexual slavery, continued unabated in RUF-controlled areas and was also perpetrated by the West Side Boys, who operated outside of the capital, Freetown. The human rights situation worsened after the May 2000 crisis when fighting broke out again, until relative peace was re-established, with U.N. and British assistance, by mid-2001. The prevalence of sexual violence peaked during active military operations and when the rebels were on patrol. Even in times of relative peace, however, sexual violence continued to be committed against the thousands of women and girls who were abducted and subjected to sexual slavery by the rebels. No region of Sierra Leone was spared.

Human Rights Watch has documented only a limited number of cases of sexual violence by pro-government forces, the Sierra Leone Army (SLA) and the militia known as Civil Defense Forces (CDF), the latter consisting

of groups of traditional hunters and young men who were called upon by the government to defend their native areas. Human Rights Watch has not documented any cases of sexual violence by the SLA prior to 1997. This may in part be due to the fact that survivors would have often found it difficult to distinguish between rebel and government soldiers, as the latter frequently colluded with and disguised themselves as RUF forces. Sexual violence was committed relatively infrequently by the CDF, whose internal rules forbid them from having sexual intercourse before going to battle and who believe their power and potency as warriors depends upon sexual abstinence. Some of this internal discipline, however, was lost as CDF moved away from their native areas and traditional chiefs and were given more responsibility in national security. Human Rights Watch has documented several cases of rape by the largest and most powerful CDF group the Kamajors, who operate predominantly in the south and east.

Human Rights Watch has documented several cases of sexual violence by peacekeepers with the United Nations Mission in Sierra Leone (UNAMSIL), including the rape of a twelve-year-old girl in Bo by a soldier of the Guinean contingent and the gang rape of a woman by two Ukrainian soldiers near Kenema. There appears to be reluctance on the part of UNAMSIL to investigate and take disciplinary measures against the perpetrators. Reports of rape by peacekeepers with the Economic Community of West African States Monitoring Group (ECOMOG), the majority of whom were Nigerian, deployed at an earlier stage in the war, were rare. Both ECOMOG and UNAMSIL peacekeepers have sexually exploited women, including the solicitation of child prostitutes, whilst deployed in Sierra Leone.

Rape in wartime is an act of violence that targets sexuality. Moreover, conflict-related sexual violence serves a military and political strategy. The humiliation, pain, and fear inflicted by the perpetrators serve to dominate and degrade not only the individual victim but also her community. Combatants who rape in war often explicitly link their acts of sexual violence to this broader social degradation. The armed conflict in Sierra Leone was no exception. The rebels sought to dominate women and their communities by deliberately undermining cultural values and community relationships, destroying the ties that hold society together. Child combatants raped women who were old enough to be their grandmothers, rebels raped pregnant and breastfeeding mothers, and fathers were forced to watch their daughters being raped.

To date there has been no accountability for the thousands of crimes of sexual violence or other appalling human rights abuses committed during the war in Sierra Leone. The 1999 Lomé Peace Agreement included a blanket amnesty under Sierra Leonean law for offenses committed by all sides, as the price for the RUF/AFRC agreeing to lay down arms. The United Nations (U.N.) stated that it did not recognize the Lomé amnesty insofar as it purported to apply to international crimes of genocide, crimes against humanity, war crimes, and other serious violations of international humanitarian law.

Two important transitional justice mechanisms, the Special Court for Sierra Leone (SCSL) and the Truth and Reconciliation Commission (TRC) have been established with U.N. assistance and are tasked with investigating the human rights abuses, including sexual violence and sexual slavery, committed by all parties during the war. Both bodies were operational by the third quarter of 2002. The SCSL, a hybrid national and international court, is mandated by the U.N. Security Council to try "persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law" committed in the Sierra Leonean conflict since November 30, 1996. As the SCSL is likely to try only a very limited number of persons, due to funding constraints, a clear and comprehensive prosecutorial strategy is essential, with a strong affirmation that gender-related crimes will be thoroughly and competently investigated and rigorously prosecuted as crimes against humanity or war crimes. The TRC, provided for under the 1999 Lomé Peace Agreement partially to offset the controversial amnesty it also included, has the mandate to establish an impartial historical record of violations and abuses of human rights and international humanitarian law from the outset of the war in 1991, promote reconciliation, and make recommendations aimed at preventing a repetition of the violations committed. The final report on the findings of the TRC should highlight the crimes of sexual violence committed throughout the entire country during the armed conflict and make recommendations to strengthen the promotion and protection of women's human rights.

Sexual violence has remained Sierra Leone's silent war crime. Until recently, little attention has been paid either nationally or internationally to this less visible human rights abuse, although sexual violence was committed on a much larger scale than the highly visible amputations for which Sierra Leone became notorious. The underreporting is a reflection of the low status of women and girls in Sierra Leone as well as the internal shame that survivors suffer and their fear of rejection by family and communities. Women and girls in Sierra Leone are subjected to structural discrimination by practice, custom and law. They face discrimination in terms of education and employment, in the political arena, and in other walks of life. Both customary law, which governs the majority of the population, and general law, which was inherited from the United Kingdom and is primarily applied in Freetown, discriminate against women and girls in terms of family law, as well as property and inheritance rights. In addition, the provisions pertaining to rape under general and customary law offer inadequate protection. The misinterpretation of the complicated provisions of general law by the police and courts means, for example, that those who are alleged to have sexually assaulted a minor are generally charged with "unlawful carnal knowledge of a child," for which the sentence is lighter, rather than rape. Under customary law, the perpetrator is generally required to pay a substantial fine to the victim's family as well as to the chiefs. The victim may also be forced to marry the perpetrator.

The concept of sexual violence as a crime in itself is a very recent one in Sierra Leone's patriarchal society. Only rape of a virgin is seen as a serious crime. Rape of a married woman or a non-virgin is often not considered a crime at all: as in many countries, there is often a belief that the woman must have consented to the act, or she is seen as a seductress. The virtual destruction of Sierra Leone's already corrupt and inefficient court system and police force during the war, moreover, created a climate of impunity that persists, allowing perpetrators of sexual violence (as well as other crimes) to escape justice.

The lack of attention to conflict-related sexual violence means that few assistance programs have been established for women and girls who were subjected to sexual violence, including sexual slavery. Survivors not only live with the severe physical and mental health consequences of the abuses suffered, but also fear ongoing non-conflict-related sexual violence, largely perpetrated with impunity. International donors and nongovernmental organizations should work together with the government of Sierra Leone to establish programs (health care, education, adult literacy, skills training, trauma counseling, and income-generating schemes) that will help to rehabilitate the survivors of sexual violence. To combat impunity and work toward changing societal attitudes toward sexual violence, the government of Sierra Leone should, with the technical and financial support of the international community, revise its discriminatory laws to ensure that they meet international standards. The constitution also needs to be reviewed and the provision exempting personal and customary law from the prohibition against discrimination removed. In addition, the government should take steps to improve the response of the legal system to ongoing sexual and domestic violence, including strategies for effective prosecution and protection. A nationwide public awareness campaign also needs to be undertaken to educate the general population on women's human rights.

Women have a crucial role to play at this critical phase in Sierra Leone's history, but they will only be able to contribute fully in a civic culture in which women and girls are respected as equal partners and gender-based abuses are not tolerated.

II. RECOMMENDATIONS

To the Government of Sierra Leone

- Take all necessary measures to ensure that former rebels release all women and girls abducted during the armed conflict who continue to be held. Provide these women and girls with the necessary social and economic options to enable them to leave these often abusive relationships.

- Prioritize the nationwide establishment of reproductive health clinics for women and girls that can provide testing and treatment for sexually transmitted diseases, along with other services.

- Revoke or revise existing laws (general, customary and Islamic) that discriminate on the basis of gender and ensure that they meet international human rights standards. Take the necessary steps to amend the constitution to remove the provision exempting personal law and customary law from the prohibition on gender-based discrimination. Provide training on these new laws for the judiciary, police, prosecutors, and staff of local courts.

- Establish an inter-ministerial task force with representatives from nongovernmental organizations to deal with the conflict-related sexual violence and related current problems facing women, with the aim of improving the social, medical and legal responses to women's and girls' needs.

- Take steps to improve the response of the legal system to ongoing sexual and domestic violence, including strategies for effective prosecution and protection, such as recruiting and training more female police officers, allowing nongovernment doctors to examine victims and providing legal aid to victims.

- Mainstream gender within the government and government policies. Launch a nationwide public awareness campaign on sexual and domestic violence against women to dispel the prevailing societal attitudes to sexual and domestic violence against women.

- Provide training on human rights and international humanitarian law, with a focus on women's human rights issues and gender-based crimes, to members of the security forces.

- Repeal the provision in the 1999 Lomé Peace Agreement Act that grants amnesty to all warring parties, so that individuals who committed acts of sexual violence (and other crimes) during the war may be prosecuted in the domestic courts.

- Cooperate fully with the Special Court for Sierra Leone and the Truth and Reconciliation Commission.

- Establish an independent national human rights commission as provided under the Lomé Peace Agreement that will contribute to the promotion and protection of human rights beyond the lifespan of the Special Court for Sierra Leone and the Truth and Reconciliation Commission.

To Members of the African Union and Economic Community of West African States (ECOWAS)

- Provide military personnel participating in peacekeeping operations in Sierra Leone (and elsewhere) with training in human rights and international humanitarian law, including a focus on women's human rights issues, and gender-based crimes. Ensure that peacekeepers understand the U.N. Code of Conduct for peacekeepers, which provides that peacekeepers should not commit any act that could result in physical, sexual or psychological harm or suffering to members of the local population, especially women and children. Prosecute any nationals that have been repatriated from Sierra Leone for crimes of sexual violence in line with the zero tolerance policy on sexual exploitation by anyone employed or affiliated with UNAMSIL.

- Issue a statement, jointly, if possible, declaring your willingness to support the Special Court for Sierra Leone and to surrender any alleged war criminals to it. Commit to extraditing to Sierra Leone individuals indicted by the Special Court, take the legal steps that may be necessary to ensure that this can happen (for example, by amending extradition laws), and otherwise cooperate with the Special Court, for example, by locating witnesses or providing information.

To Members of the International Community

- Prioritize the funding of reproductive health clinics for women and girls that can provide testing and treatment for sexually transmitted diseases, along with other services.

- Greatly increase funding for legal reform programs, including training, to ensure that both the laws and domestic courts meet international standards, as well as for programs that will establish better medical, legal and social support services for survivors of sexual violence.

- Monitor all aspects of the Special Court for Sierra Leone to ensure that cases involving sexual violence and sexual slavery are fully prosecuted and that survivors and witnesses of sexual violence receive necessary protection and support throughout the judicial process and post-trial period. Cooperate with the court and take the necessary steps for the extradition or surrender of persons indicted by the Special Court for Sierra Leone.

- Fund the Truth and Reconciliation Commission and monitor it to ensure that conflict-related sexual violence and sexual slavery are fully investigated and properly documented by the TRC in a gender sensitive manner.

- Prosecute military personnel, who have been repatriated from Sierra Leone in line with the zero tolerance policy on sexual exploitation by anyone employed or affiliated with UNAMSIL.

To the Special Court for Sierra Leone

- Conduct thorough investigations into incidents of sexual violence against women and girls including sexual slavery during the war for possible prosecution under the court's mandate. Ensure that gender-integrated teams investigating these acts have competence in investigating rape and conducting interviews with rape victims, who should only be interviewed by experienced female investigators.

- Ensure the gender crimes investigators conduct compulsory gender sensitization training for all staff, and provide more in-depth training for staff members dealing most directly with survivors of sexual violence. Ensure the gender crimes investigators have access to all cases under investigation, even the ones not previously identified as gender cases, to provide guidance and expertise.

- Recruit a staff member with expertise in juvenile justice who can provide training on juvenile justice issues and interviewing skills for staff dealing most directly with young children.

- Establish a strong Victims and Witnesses Unit with protection and support for prosecution and defense witnesses. Protect and support the victims and witnesses not only during the investigation and trial phase but extend this to post-trial protection, where appropriate.

- Provide judges, prosecutors and defense counsel with strict guidance to prevent them from unnecessarily re-victimizing witnesses on the stand or releasing their identity publicly in violation of protective measures.

To the Truth and Reconciliation Commission

- Recruit an experienced gender advisor with expertise in sexual violence, and ensure staff of the Truth and Reconciliation Commission is gender balanced at all levels.

- Recruit a staff member experienced in dealing with child victims and perpetrators who can provide training on how to interview young children.

- Investigate and document fully gender-based abuses committed throughout the country. Ensure survivors of sexual violence are heard in a manner that ensures their dignity and safety, and avoids any re-traumatisation. Guarantee the confidentiality of these hearings when confidentiality is requested.

- Highlight gender-specific abuses in the final report on the findings of the Truth and Reconciliation Commission as well as recommendations on legal reform to ensure that the domestic laws and courts meet international standards; on human rights training for the judiciary and law enforcement officers; and on the assistance needs of survivors.

- Promote public awareness of gender-based crimes through the media umbrella organizations, NGOs and mobile community outreach teams as well as the creation of an information and resource center.

To the United Nations Mission in Sierra Leone (UNAMSIL)

- Investigate fully any allegations of sexual violence by UNAMSIL personnel, which will serve to enforce the policy of zero tolerance for any such acts perpetrated by anyone employed or affiliated with UNAMSIL. Establish a mechanism with the Sierra Leone Police whereby cases of sexual exploitation by persons employed or affiliated with UNAMSIL are immediately reported to the relevant UNAMSIL staff member, including the provost marshal and gender specialist in the human rights section. Establish a mechanism to follow up on cases that have resulted in military personnel who commit such crimes being repatriated to their country of origin to ensure that states properly prosecute the offender. Civilian staff that have perpetuated sexual violence should be fired and their misconduct properly recorded in their personnel file so that they are not rehired in another U.N. mission.

- Provide in-depth gender sensitization training to military and civilian staff and ensure the human rights unit systematically monitors and reports on issues of gender-based violence. Ensure that peacekeepers understand the U.N. Code of Conduct for peacekeepers, which provides that peacekeepers should not commit any act that could result in the physical, sexual or psychological harm or suffering to members of the local population, especially women and children.

- Collaborate with the U.N. Department of Peacekeeping Operations to revise the U.N. Code of Conduct and the Military Observer Handbook, ensuring that the zero tolerance policy for sexual exploitation by persons employed or affiliated with U.N. missions and the consequences of such acts are clearly stated in these guidelines. Compile similar guidelines for civilian staff.

- Provide capacity building with a focus on women's human rights issues to national women's groups and human rights organizations across the country under the guidance of the gender specialist in UNAMSIL human rights units.

III. METHODOLOGY

Over three hundred women and girls were interviewed by Human Rights Watch as part of ongoing research and for this report. For a variety of reasons, including the lack of an ideological aspect and the limited ethnic dimension to the civil war in Sierra Leone and the all-pervasiveness of abuse, victims of human rights abuses, including survivors of sexual violence, generally feel free to talk very openly about their experiences.[6]

Great care was taken with the victims to ensure that recounting their experience did not further traumatize them. While we sought as much information as possible from each interview, the well-being of the interviewee was always paramount and some interviews were cut short as a result. The interviews were conducted in private settings in the presence of a female interpreter. The interviews with survivors were mostly conducted in Krio, the *lingua franca* of Sierra Leone, or in one of the other languages spoken by the different ethnic groups and interpreted into English. In most interviews only females were present and in the few cases where a man was present, it was with the permission of the interviewee. In order to guarantee the confidentiality of all information, interviewees are not identified by name.

In addition to the survivors, government officials, law enforcement officers, lawyers, key figures from the rebel forces, health personnel, religious leaders, and representatives of local and international nongovernmental organizations (NGOs) working in the areas of human rights, women's rights, and health, as well as U.N. officials were interviewed.

IV. BACKGROUND

The Civil War

Sierra Leone is a coastal West African country that shares borders with Guinea and Liberia. It has a population of close to five and a half million (July 2001 estimate) composed of sixteen ethnic groups.[7] These are the Fullah, Gola, Koranko, Kissi, Kono, Krim, Krio, Limba, Loko, Mandingo, Mende, Sherbro, Susu, Temne, Vai and Yalunka. The Mende, in the south, and the Temne, in the north, are the largest ethnic groups (around 30 percent each). The Krio, who are descendants of freed slaves, were settled in the area of Freetown (now the capital) in the late eighteenth century and make up 10 percent of the total population. The educated Krio minority generally still occupies a higher social and economic position and has traditionally been resented by the other groups. Sierra Leone was a British colony, and English is Sierra Leone's official language. Krio, largely based on English vocabulary but with its own grammar, is the first language of the Krios as well as Sierra Leone's *lingua franca*. Though there are no reliable figures, Sierra Leone is a predominantly Muslim country (around 60 percent) with the remainder of the population practicing indigenous religions (10 percent) and Christianity (30 percent).[8]

In 1961, Sierra Leone gained its independence from the United Kingdom. For most of the next three decades, Sierra Leone was governed by the All People's Congress (APC), dominated by the northern Temne and Limba ethnic groups, which came into power in 1967.[9] The corruption, nepotism and fiscal mismanagement under the one-party rule of the APC led to the decay of all state institutions and the impoverishment of Sierra Leone's population, notwithstanding the country's large deposits of diamonds, gold, rutile, and bauxite. Frustration with government corruption and mismanagement led to the formation of the Revolutionary United Front (RUF) in 1984. The RUF claimed to be a political movement with the aim of salvaging the country and overthrowing the APC. Its invasion of Sierra Leone from Liberia on March 23, 1991 triggered the civil war that was to last ten years.

---

[6] Women and girls who have been raped can be presented and/or perceived either as victims or survivors and there is an ongoing debate as to which is the more appropriate term. In this report, both terms are used interchangeably without significant distinction.

[7] *See* http://www.odci.gov/cia/publications/factbook/geos/sl.html.

[8] *See* http://www.state.gov/g/drl/rls/irf/2001/5730.htm.

[9] *See* generally, J.A.D. Alie, *A New History of Sierra Leone* (New York: St. Martin's Press, 1990).

At its inception, the RUF consisted of a mixture of middle class students with a populist platform, unemployed and alienated youths, and Liberian fighters from Charles Taylor's National Patriotic Front of Liberia (NPFL), who had helped Charles Taylor in his quest to become the president of Liberia. A lesser-known covert sponsor of the RUF was the Sierra Leone People's Party (SLPP), with its ethnic base among the Mendes from the south, which also sought the overthrow of the APC.[10] The RUF was led by Foday Sankoh, a former army corporal who had been imprisoned in 1971 for his alleged involvement in an attempted coup against the APC. Sankoh had also reportedly received training in Libya with Taylor.[11] The RUF initially consisted of two small groups of only 150 combatants in total. As the RUF captured border towns and villages in Kailahun and Pujehun districts, they used tactics similar to those used to terrorize civilians during the Liberian civil war: seizing and summarily executing chiefs, village elders, traders, government agents and suspected SLA collaborators.[12] The violence and looting or "jah-jah," especially by the Liberian mercenaries within the RUF, was sanctioned by Sankoh who justified them as reward for the mercenaries' support.[13] The RUF's ideology of salvation quickly degenerated into a campaign of violence whose principal aim was to gain access to the country's diamond and other mineral wealth. From the very beginning, the RUF's campaign of terror included sexual violence and sexual slavery, committed on a widespread and systematic basis.

In April 1992, APC President Joseph Momoh was overthrown in a military coup by twenty-six-year-old army captain Valentine Strasser, who formed the National Provisional Ruling Council (NPRC). Strasser vowed to end corruption and create opportunities for all Sierra Leoneans. The new regime, however, was as corrupt as the old. The RUF continued to gain strength and was joined by numerous soldiers from the Sierra Leone Army (SLA) who were disgruntled with their poor conditions. These soldier-rebels or "sobels" discarded their uniforms at night to loot but wore government uniforms and continued to work for the government during the day. The "sobels," who included officers, also provided weapons, ammunition, and intelligence to RUF forces.

Starting in January 1991, Momoh and later Strasser embarked on a recruitment drive that swelled the army's ranks to approximately twelve thousand, aiming to dislodge the RUF including by offering its youthful constituency a lucrative alternative. Many of the new soldiers were unemployed drifters, petty criminals, and street children as young as twelve. Given the inability of the undisciplined and ill-trained SLA to drive out the RUF, in March 1995, Strasser invited Executive Outcomes (E.O.), a South African private security company, to fight the RUF and guard the mining areas, in return for concessions over their production. The RUF was by that time approaching Freetown and controlled most of the diamond mining areas. By December 1995, E.O. had retaken a number of key diamond areas and began to collaborate with the pro-government militia known as the Civil Defense Forces (CDF), of which the Kamajors are the largest and most powerful.

The CDF movement began with the establishment of the Eastern Region Defence Committee in 1993-4 and was greatly expanded in 1996 when regent chief Hinga Norman was appointed deputy minister of defense in Kabbah's government and head of the CDF, with the government providing the CDF with training, weapons and food.[14] The CDF movement consists of groups of traditional hunters and young men who were used by the government to defend their native areas. The Kamajors operate mainly in the south and east, the Tamaboros in the far north, the Gbettis in the north and the Donzos in the far east. Civilians who joined the CDF underwent initiation ceremonies, which were said to bestow magical powers, making them immortal and invincible.[15] Units of fighters were initially deployed only in their own chiefdoms to ensure their loyalty and discipline and make the

[10] Paul Richards, *Fighting for the Rainforest: War, Youth and Resources in Sierra Leone* (London: The International African Institute in association with James Currey and Heinemann, 1996), p. 7. When the RUF first invaded from Liberia, villagers in Kailahun were ordered to cut palm fronds—the symbol of the SLPP—"in support" of the rebels.

[11] Ibrahim Abdullah and Patrick Muana, "The Revolutionary United Front of Sierra Leone," in Christopher Clapham (ed.), *African Guerrillas* (Oxford: James Currey, 1998), pp. 173-178.

[12] Ibid., p. 178.

[13] Ibid., p. 180.

[14] Ibid., p. 185. By 1999, the CDF had grown into a movement of an estimated fifteen thousand fighters who had to be disarmed and demobilized.

[15] Ibid. This is a throwback to the venerated esoteric Mende cult of invincible traditional hunters who were given power through initiation ceremonies. These powers enabled the hunters, *inter alia*, to turn into an animal in order to catch their prey.

best use of their superior bush knowledge. The CDF, in contrast to the SLA and the RUF, had the support of the local civilians and were very effective, overrunning main RUF camps in late 1996 with the support of E.O. and the army.

In January 1996, Strasser was overthrown by his deputy, Brigadier Julius Maada Bio. Bio initiated peace negotiations with the RUF, which had begun to suffer a number of defeats, as well as a program to return Sierra Leone to civilian rule. In March 1996, elections were held, and Ahmad Tejan Kabbah of the SLPP, who pledged to bring about an end to the war, became president of Sierra Leone.

In November 1996, the RUF and Kabbah's government signed the Abidjan Peace Accord, which provided for a ceasefire, disarmament, demobilization, an amnesty to the RUF, and the withdrawal of all foreign forces. The ceasefire was broken in January 1997, however, when serious fighting broke out in southern Moyamba district. In January 1997, Sankoh was arrested in Nigeria on an arms charge and imprisoned by the Nigerian government.

In May 1997, fourteen months after assuming power, President Kabbah was overthrown in a coup led by Major Johnny Paul Koroma, who formed a new government called the Armed Forces Revolutionary Council (AFRC). Koroma had escaped from prison, where he had been held following an earlier attempted coup in September 1996. The AFRC suspended the constitution, banned political parties, and announced rule by military decree. Days of looting by soldiers followed the coup, which also ushered in a period of political repression characterized by arbitrary arrests and detention. An attempt by Nigerian and Guinean troops (who had been in Sierra Leone since 1995 as part of bilateral security accords to give support to the NPRC), supported by South African mercenaries, to oust Koroma failed.[16]

The AFRC consisted primarily of disgruntled ex-SLA soldiers who had become disillusioned by President Kabbah's decision to cut back support for the military. Koroma also cited the government's failure to implement the peace agreement as the reason for the coup. The SLA accused Kabbah of having put greater confidence for the country's defense in and giving more economic resources to the CDF than to the army. Formalizing an alliance between the army and the rebels based on joint opposition to President Kabbah and the SLPP, the AFRC invited the RUF to join its government in June 1997.

From exile in Guinea, President Kabbah mobilized international condemnation for and a response to the coup makers. In response to a plea from Kabbah, hundreds of Nigerian troops based in Liberia as part of the Economic Community of West African States Monitoring Group (ECOMOG) moved to Freetown, reinforcing ECOMOG colleagues already based at the Freetown airport to defend it from attacks by the RUF. Nigerian vessels stationed off Freetown shelled the city, reportedly killing at least fifty people. Nigerian forces were, however, eventually forced to withdraw from around the capital. In August 1997, following the AFRC's announcement of a four-year program for elections and return to civilian rule, which represented a breakdown in negotiations initiated by the Economic Community of West African States (ECOWAS), ECOWAS established a strict economic embargo against Sierra Leone. In October 1997, the U.N. Security Council adopted a resolution also imposing mandatory sanctions on Sierra Leone, including an embargo on arms and oil imports, which ECOMOG forces were mandated to enforce.

After negotiations in Guinea under the auspices of ECOWAS, the Kabbah government-in-exile and the RUF/AFRC signed an agreement on October 23, 1997, providing for the return to power of President Kabbah by April 1998. The RUF/AFRC, however, undermined the implementation of the accord by stockpiling weapons and attacking the positions of ECOMOG forces. In February 1998, ECOMOG forces together with Kamajor militia launched an operation that drove the RUF/AFRC forces from Freetown. In March 1998, President Kabbah was

[16] *See* Human Rights Watch/Africa, "Getting Away with Murder, Mutilation and Rape," *A Human Rights Watch Short Report*, Vol. 11, No. 3 (A), June 1999, p. 8 for a discussion of the role of foreign mercenaries in the armed conflict. *See* Human Rights Watch/Africa, "Transition or Travesty? Nigeria's Endless Process of Return to Civilian Rule," *A Human Rights Watch Short Report*, vol. 9, no. 6, October 1997, for a discussion of the Nigerian intervention in Sierra Leone.

reinstated. Over the succeeding months ECOMOG forces were able to establish control over roughly two-thirds of the country, including all regional capitals: as of mid-1998, the ECOMOG contingent in Sierra Leone was composed of approximately 12,500 troops, predominantly Nigerian with support battalions from Guinea, Gambia, Ghana and Niger.[17] Sankoh was transferred to Sierra Leone from Nigeria and incarcerated in July 1998. In October 1998, the Supreme Court of Sierra Leone tried and sentenced Sankoh to death for his role in the 1997 coup.

Once expelled from Freetown, the AFCR/RUF rebels tried to consolidate their own positions in other parts of the country. The Kabbah government, which had negligible forces of its own, had to rely on ECOMOG to stay in power. Through a series of offensives, the RUF/AFRC managed to gain control of the diamond-rich Kono district and several other strategic towns and areas. By late 1998, the rebels had gained the upper hand militarily and were in control of over half of the country, including all the mineral-rich areas. From this position, the RUF/AFRC launched a major offensive on Freetown in January 1999.

The battle for Freetown and ensuing three-week rebel occupation of the capital were characterized by the systematic and widespread perpetration of a wide range of abuses against the civilian population, and marked the most intensive and concentrated period of human rights abuses and international humanitarian law violations in Sierra Leone's ten-year civil war. At least five thousand civilians were killed and one hundred civilians had limbs amputated, including twenty-six double arm amputations. Thousands of women and girls, including girls as young as eight, were raped and subjected to other forms of sexual violence. In addition, the rebels used civilians as human shields, both while advancing towards ECOMOG positions and as a defense against ECOMOG air power. They also burnt whole neighborhoods, often with the residents in their houses.

Government and the Nigerian-led ECOMOG forces also committed serious human rights abuses, though on a lesser scale, including over 180 summary executions of rebels and their suspected collaborators. Prisoners taken by ECOMOG, some of who had surrendered and many of whom were wounded, were executed on the spot often with little or no effort to establish their guilt or innocence. Officers to the level of captain were present and participated in the executions. ECOWAS officials have yet to initiate a formal investigation into these killings.

As the RUF/AFRC were driven out of Freetown in February 1999, they abducted thousands of civilians, who were used to carry looted goods and ammunition, forcibly conscripted into fighting or used for forced labor. Thousands of girls and women were used as sex slaves by the rebels and forced to "marry" rebel husbands. As they moved eastward, the rebels continued to commit egregious human rights abuses, including killings and amputations, particularly in the villages around the towns of Masiaka, Lunsar, and Port Loko.[18]

In the months following the January invasion, and as a result of intense international pressure, Kabbah's government and RUF rebels signed a ceasefire agreement on May 18, 1999,[19] followed by a peace agreement in Lomé, Togo, on July 7, 1999.[20] Sankoh was released from prison by the Sierra Leonean government to participate in the peace negotiations. The accord, brokered by the U.N., the Organization of African Unity (OAU), and ECOWAS, committed the RUF/AFRC to lay down its arms in exchange for representation in a new government. Sankoh was given the chairmanship of the board of the Commission for the Management of Strategic Resources, National Reconstruction and Development (CMRRD) and the status of vice-president.[21] Johnny Paul Koroma was made the chairman of the Commission for the Consolidation of Peace (CCP), provided for under Article 6 of the peace agreement.[22]

---

[17] *See* Human Rights Watch, "Sowing Terror: Atrocities against Civilians in Sierra Leone," *A Human Rights Watch Short Report*, Vol.10, No. 3 (A), July 1998.

[18] *See* Human Rights Watch/Africa, "Getting Away with Murder, Mutilation and Rape," for a comprehensive report on the January 1999 invasion.

[19] *See* the annex to U.N. Security Council report, S/1999/585, May 18, 1999.

[20] Lomé Peace Agreement at http://sierra-leone.org/lomeaccord.html.

[21] Article 5 (2) of the Lomé Peace Agreement.

[22] The RUF delegation to the peace talks in Lomé included members of the AFRC who were also appointed as ministers as part of the agreement to share power.

The peace agreement also included a general amnesty for all crimes committed by all parties during the civil war until the signing of the peace agreement.[23] At the last minute, the U.N. secretary-general's special representative attending the talks added a hand-written caveat that the U.N. held the understanding that the amnesty and pardon provided for in Article 9 did not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law. In addition, the peace agreement mandated the establishment of a Truth and Reconciliation Commission (TRC) and a national human rights commission.

The United Nations Observer Mission in Sierra Leone (UNOMSIL), initially established in July 1998 to monitor the military and security conditions, was transformed into a much larger peacekeeping mission.[24] In October 1999, months later than had been planned, UNOMSIL, which at its maximum deployment included 192 military observers as well as a small human rights unit of four persons, was transformed into the United Nations Mission in Sierra Leone (UNAMSIL). UNAMSIL was mandated to maintain the peace and monitor the ceasefire and had a maximum authorized strength of 6,000 military personnel, including 260 military observers.[25] The human rights unit was authorized to expand to a total of fourteen human rights officers. Two further Security Council resolutions followed, increasing the authorized troop strength to 11,100[26] and then 13,000.[27]

The peace process was marred by cease-fire violations, missed deadlines and infighting within rebel ranks. The RUF/AFRC failed to comply with several commitments, including the release of all civilian abductees. There was a relative decrease in human rights abuses following the peace agreement, although the RUF/AFRC continued to terrorize the civilian population in the north and east, which largely remained under its control. Sexual violence, in particular against the thousands of abducted women and girls, continued. In addition, a splinter group of the AFRC known as the West Side Boys established numerous bases in the Occra Hills near Freetown, from where they staged looting raids. The West Side Boys abducted hundreds of civilians, including girls and women, whom they raped and kept as sex slaves. In August 1999, they took hostage for one week forty-two members of a U.N.-led delegation composed of ECOMOG soldiers, religious leaders, aid workers, and journalists, who had gone to the Occra Hills to have abducted children released to them.

The Disarmament, Demobilization and Reintegration (DDR) program progressed slowly, with only 25,000 out of a total 45,000 combatants demobilized by May 2000.[28] There was also considerable delay in the deployment of U.N. peacekeeping forces, with only 8,700 peacekeepers deployed by the same month. The peace process then broke down completely, when, in early May, the RUF captured over five hundred UNAMSIL peacekeepers and military observers deployed in the north and the east, holding them for several weeks.[29] The conflict erupted again throughout the country and many of the combatants, including child combatants, who had been disarmed and demobilized, were re-conscripted. The human rights situation deteriorated sharply with numerous reports of RUF abuses, including murder, widespread rape, abduction, forced labor, and looting. During a demonstration in Freetown to protest the collapse of the peace process and hostage taking of the peacekeepers, twenty-two civilians were killed outside the house of the RUF leader, Sankoh. On May 17, 2000, several days

[23] Lomé Peace Agreement. Under Article 9 (1) of this agreement, the Government of Sierra Leone was required to grant Sankoh absolute and free pardon. Article 9 (3) refers to the amnesty granted to all combatants of the RUF/SL, ex-AFRC, ex-SLA or CDF for any crimes they may have committed in pursuit of their objectives (*See* below, p. 61, for a discussion on the amnesty).

[24] U.N. Security Council resolution 1181, S/RES/1181 (1998), July 13, 1998.

[25] U.N. Security Council resolution 1270, S/RES/1270 (1999), October 22, 1999.

[26] U.N. Security Council resolution 1289, S/RES/1289 (2000), February 7, 2000.

[27] U.N. Security Council resolution 1299, S/RES/1299 (2000), May 19, 2000.

[28] U.N. Office for the Coordination of Humanitarian Affairs (OCHA), Sierra Leone Humanitarian Situation report, May 29, 2001. *See* http://www.relief.int/w/Rwb.nsf/s/4A58557840970841C1256A5C0C50441B.

[29] The hostages in the north were released on May 28, 2000. The hostages in the east, however, were not released until June 29, 2000. Two hundred and thirty-three peacekeepers and military observers who had been encircled by the RUF were finally freed by the U.N. military operation "Khukri" on July 15, 2000.

after the demonstration, Sankoh was arrested by the government and held in custody, together with over 125 members of the RUF, without charge, using powers under a state of emergency declared in 1998.

There was also a disturbing intensification of abuses by pro-government forces. The Sierra Leonean government caused numerous civilian casualties through helicopter gunship attacks during May and June 2000 against the RUF strongholds of Makeni, Magburaka, and Kambia. Abuses by both the government forces and the RUF caused the displacement of some 330,000 civilians from behind rebel lines. Civilians leaving RUF territory were often captured and accused of being rebel sympathizers by the CDF. Whereas previously sexual violence against women had been very uncommon among the CDF, numerous cases of sexual violence were reported, including gang rape by Kamajor militiamen and commanders.

When, in May 2000, it seemed as though the fighting would threaten Freetown again, several hundred British soldiers were rapidly deployed to Sierra Leone—in the first instance to evacuate foreign nationals who wished to leave, but also to secure the airport, allow reinforcement of the U.N. contingent, and assist in the reorganization of the pro-government forces as an effective fighting force. At their maximum, there were more than 1,200 British soldiers in Sierra Leone, though they began to withdraw within two months of the first deployment. UNAMSIL was rapidly brought up to strength: by June 5, 2000 there were 11,350 U.N. troops in the country.

At the behest of Johnny Paul Koroma, the West Side Boys in May 2000 briefly fought on the government side to prevent the RUF from entering Freetown. However, they continued to commit human rights abuses, and in August 2000 abducted eleven British soldiers of the International Military Advisory and Training Team (IMATT) and one SLA officer. In September 2000, the West Side Boys bases were destroyed during an operation by British paratroopers to free the captured soldiers. Numerous West Side Boys, including their leader, were arrested and incarcerated.

From September 2000 through April 2001, RUF rebels and Liberian government forces acting together attacked refugee camps and villages accommodating several hundred thousand Sierra Leonean and Liberian refugees just across the border with Guinea. Following the attacks, Guinean security forces and the local population retaliated against the refugees, frequently looting, raping, and unlawfully detaining them. Guinean forces also responded to these RUF raids by killing and wounding dozens of Sierra Leoneans in indiscriminate helicopter and artillery attacks in the rebel-held areas in the north of Sierra Leone. Guinean troops conducted several ground attacks during which several civilians were gunned down and girls and women were raped.

In November 2000, the government and RUF signed a cease-fire, which committed both parties to restarting the disarmament process, the reestablishment of government authority in former rebel-held areas, and the release of all child combatants and abductees. On March 30, 2001, the U.N. Security Council authorized the further expansion of UNAMSIL to 17,500 military personnel, including 260 military observers. These forces, contributed by Bangladesh, Ghana, Guinea, Kenya, Nepal, Nigeria, Pakistan, Ukraine, and Zambia, were deployed into RUF strongholds, including the diamond-rich Kono district.[30] The DDR program recommenced in May 2001, and by the end of 2001 over three thousand child soldiers, abductees, and separated children had been released by the RUF and the CDF.

During this period, serious human rights abuses continued to be committed, though on a reduced scale. Fighting between the RUF and the CDF broke out in the east of the country in June through August 2001, leaving tens of civilians dead. RUF forces committed scores of serious abuses including rape, murder, and abduction. The victims of these abuses included Sierra Leoneans returning from refugee camps in Guinea; Guinean civilians who were attacked during the cross-border raids by the RUF from September 2000 through April 2001; and Liberians fleeing renewed fighting in Lofa county of Liberia from April 2001. While the RUF released or demobilized more than 1,500 male child combatants, they were reluctant to release Sierra Leonean and Guinean female abductees, most of whom are believed to have been sexually abused.

[30] U.N. Security Council resolution 1346, S/RES/1346 (2001), March 30, 2001.

The human rights situation continued to improve in 2002, with the disarmament and demobilization phases declared completed. By January 2002, 47,710 combatants had been disarmed and demobilized. On January 18, 2002, the armed conflict was officially declared to be over in a public ceremony attended by many dignitaries. In addition, the state of emergency was lifted for the first time in four years on February 28, 2002. Following the end of the state of emergency, the government charged Sankoh, and the other RUF and West Side Boys members held in custody since May 2000, with a number of crimes, including murder and related charges. The resettlement of internally displaced persons (IDPs) and returnees from Guinea and Liberia was ongoing as of the writing of this report. By July 2002, approximately 250,000 refugees and IDPs had been resettled. The RUF transformed itself into a political party and nominated presidential and parliamentary candidates for elections held on May 14, 2002.

In the elections, President Kabbah's SLPP was re-elected for a second term and faced the challenge of rebuilding the country and its economy. After a decade of war, Sierra Leone ranks last out of 162 countries in terms of life expectancy at birth; adult literacy; combined enrolment in primary, secondary and tertiary education; and GDP per capita.[31] Fifty-seven percent of Sierra Leone's population struggles to survive on only U.S. $1 per day.[32] Unemployment is rampant and the current economy is driven by the presence of UNAMSIL and other international organizations. Investors who could create desperately needed jobs remain cautious given the rampant corruption that permeates all levels of Sierra Leonean society and their concerns about regional security.

Women and Girls under Sierra Leonean Law

The Sierra Leonean Legal system

Three systems of law—general, customary, and Islamic—co-exist in Sierra Leone.

General Law

General law consists of the statutory law (codified) and common law (based on case law) mainly inherited from the United Kingdom, the former colonial power. General law is administered through the formal court system, which follows the usual Commonwealth structure, under which the High Court hears more important cases, and magistrates courts the less important ones, both civil and criminal. There is an appeal system, first to the Court of Appeal and then the Supreme Court, which is the ultimate court of appeal and also hears cases relevant to the interpretation of the constitution. The Court of Appeal and Supreme Court are located in Freetown. A High Court and magistrates courts are constituted in Freetown. The High Court was re-established in Kenema and Bo in 2002 and there are magistrates courts in Bo, Kenema and Port Loko.[33] The court system in the provinces, which had a limited infrastructure before the war broke out in 1991, was virtually destroyed during the war—the High Court has not held hearings outside Freetown for six years—and was only gradually being rehabilitated from 2002. Access to the judiciary for rural Sierra Leoneans is further limited by their lack of funds for lawyers, or even transport money.

Only a small number of women, primarily those who reside in the Western Area (where Freetown is located) and women with sufficient funds, have access to the formal court system. As many general law provisions have not been updated since colonial days, the protection that general law affords women is often only marginally better than that provided under customary or Islamic law.

Customary Law

Customary law is defined by the 1991 constitution as "the rules of law by which customs are applicable to particular communities in Sierra Leone."[34] Although there are sixteen ethnic groups in Sierra Leone, a general treatment of customary law is justified, as there are many fundamental similarities between the customary laws of

[31] United Nations Development Programme (UNDP), *Human Development Report 2001: Making New Technologies Work for Human Development* (New York: Oxford University Press, 2001), pp. 141-144.
[32] Ibid., p. 151.
[33] An itinerant judge covers the High Court in both Bo and Kenema.
[34] The Constitution of Sierra Leone (1991), Chapter XII - The Laws of Sierra Leone, Section 170 (3). *See* http://www.sierra-leone.org/constitution-xii.html.

these ethnic groups.[35] Customary law has not been written down or codified and is only applied by the local courts.[36] These courts operate in the provinces and not in the Western Area, which is historically where the Krio and the British colonizers settled. A chairman presides over the local courts with the assistance of chiefdom councilors who are knowledgeable in customary law. The chairmen in theory should be independent from the paramount chiefs who used to preside over the local courts before reforms were introduced both prior to and after independence.[37] Customary law officers who are trained lawyers are supposed to review decisions of local courts and provide training to the personnel of local courts. The government Law Officers' Department, however, remains chronically understaffed, and few of the customary law officers' posts are filled.

As the majority of Sierra Leoneans live in the provinces, customary law governs at least 65 percent of the population in relation to issues not reserved by statute to the magistrates courts or High Court. In practice, issues that should be dealt with in the magistrates courts and High Court are also dealt with under customary law. In addition to problems accessing the formal court system, rural Sierra Leoneans, in particular, have historically always preferred to administer justice amongst themselves to ensure that good community relations are maintained in villages where the other residents are invariably relatives by marriage or descent, rather than turning to outsiders.

Although customary law is not applied in the formal court system, it is recognized and there is some interaction between the two systems. There is the right of appeal from the local courts to the District Appeal Court, where a magistrate sits with two assessors who are chiefdom councilors from the given area of the local court and are knowledgeable about the customary law in their respective areas.[38] The assessors advise the magistrate on questions of customary law, with the decision remaining with the magistrate. Likewise, a decision of the District Appeal Court can be appealed to the High Court, with the High Court judge being advised by assessors with expertise in customary law.[39]

Islamic Law

Islamic law has been recognized by statute in Sierra Leone in relation to marriage, divorce, and inheritance among Muslims.[40] Otherwise, Islamic law, if applicable at all, is considered part of customary law. In this report, Islamic law is therefore treated as part of customary law except when referring to the specific areas dealt with by the Mohammedan Marriage Act, and cases involving Islamic law are heard by the local courts. Criminal *sharia* law is not applicable in Sierra Leone.

Constitutional Status of Women

In theory, Sierra Leonean women are granted equal rights to men under the 1991 constitution, which provides as one of the "fundamental principles of state policy" that the state "... [s]hall discourage discrimination on the grounds of place of origin, circumstances of birth, sex, religion,...."[41] The equal rights of women are again underscored in the human rights chapter of the constitution.[42] Under Section 27 of the constitution, however,

---

[35] H. M. Joko Smart, *Sierra Leone Customary Family Law* (Freetown: Atlantic Printers Ltd., 1983), p. 6.

[36] *See* 1963 Local Courts Act.

[37] Richards, *Fighting for the Rainforest*, p. 46.

[38] Section 29 (1) of the 1963 Local Courts Act and Section 76 of the 1965 Courts Act.

[39] Section 31 (1) of the 1963 Local Courts Act.

[40] The Mohammedan Marriage Act (Cap. 96 of the revised laws of Sierra Leone, 1960) deals with marriage, divorce, and intestate succession. Joko Smart, *Sierra Leone Customary Family Law*, p. 20. Intestate successions occur when the deceased did not leave a will.

[41] The Constitution of Sierra Leone (1991), Chapter II – Fundamental Principles of State Policy, Section 6 (2). *See* http://www.sierra-leone.org/constitution-ii.html. Under Section 8 (2) (a), "... [e]very citizen shall have equality of rights, obligations, and opportunities before the law...." and specific safeguards of equality before the law in terms of health care, employment and education are provided under Section 8 (3) (d); Section 8 (3) (a), (c), (e) and Section 9 (1) (a), (b) and (2) respectively.

[42] Ibid., Chapter III - The Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual, Section 15. *See* http://www.sierra-leone.org/constitution-iii.html. Section 15 provides that "every person in Sierra Leone is entitled to the fundamental human rights and freedoms of the individual, that is to say, has the right, whatever his race, tribe, place of origin, political opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public

discrimination is permitted, *inter alia*, under laws dealing with "adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law," which have direct bearing on the rights of women, as well as under customary law.[43] This important contradiction in the constitution—similar to that in many African constitutions—has contributed to the low status of women in Sierra Leone, as it legitimizes the application of discriminatory customary law. No protection from discriminatory customary law can be sought under the constitution on the basis of sex. Customary and Islamic laws also continue to be widely applied, notwithstanding the fact that legislation provides that general law should prevail over customary law when customary law is "repugnant to statute or natural justice, equity, and good conscience."[44]

Marriage

The rights of married women remain limited, particularly for those married under customary and Islamic laws, which govern most marriages. Women married under the general law have comparatively more rights.[45]

A married woman's position under customary law is comparable to that of a minor: a woman is generally represented by her husband who has the right to prosecute and defend actions on his spouse's behalf.[46] Sierra Leonean women can gain status through marriage as well as through their role as mothers: a woman's status within society and the polygynous household increases with the number of children she bears. Sierra Leone has one of the highest birth rates in the world, with the average number of children born to each woman estimated at 6.5.[47] Most households are polygynous, apart from the monogamous Christians (approximately 30 percent of the population); under customary law, a husband can marry as many wives as he wishes. Muslims (60 percent of the population) can marry up to four wives.

Under customary law, a girl is considered of marriageable age once her breasts have developed, her menses have started and she has been initiated, which could mean as young as twelve. Marriages are usually arranged, and the consent of the bride-to-be is not considered essential in most ethnic groups, but the consent of the girl's/woman's family is required.[48] The fact that a girl is considered "ready" for marriage at such a young age and her consent is not sought has contributed to the common practice of early forced marriages. Men wishing to marry do not need to seek consent from their own parents. The statutory age of marriage under general law is twenty-one years.

---

interest, to each and all of the following—(a) life, liberty, security of person, the enjoyment of property, and the protection of law; (b) freedom of conscience, of expression and of assembly and association; (c) respect for private and family life, and (d) protection from deprivation of property without compensation."

[43] Ibid., Section 27. Subsection 27 (1) provides that "Subject to the provisions of subsections (4), (5), and (7), no law shall make provision which is discriminatory either of itself or in its effect." Under Subsection 4, however, the protection provided under Subsection 1 does not apply "... (d) with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law, or (e) for the application in the case of members of a particular race or tribe or customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons." Discrimination is also permitted against persons who are not citizens of Sierra Leone or naturalized Sierra Leoneans. According to Dr. Tucker, former Chairperson of President's Kabbah's Advisory Committee, the original intent of Section 27 was "to preserve certain areas of segregation which are embedded in traditional practices and are generally acceptable to both sexes, such as the segregation between male and female secret societies. What was taken up in the constitution was more extensive than what was intended." Human Rights Watch interview with Dr. Tucker (Consultant on the Law Development Program funded by the U.K.'s Department for International Development (DFID)), Freetown, April 25, 2002.

[44] Section 2 of the 1963 Local Courts Act and Section 76 of the 1965 Courts Act.

[45] Marriages under the general law are governed, *inter alia*, by the Christian Marriage Act, (Cap. 95), the Civil Marriage Act (Cap. 97), and the Matrimonial Causes Act (Cap. 102).

[46] Joko Smart, *Sierra Leone Customary Family Law*, p. 98. Under customary law, a Sierra Leonean woman is always under the guardianship of a male relative.

[47] UNDP, *Human Development Report 2001*, p. 157. This figure is based on births recorded for 1995-2000.

[48] Consent is a very relative term, as girls generally will find it very difficult to disobey their parents' wishes, which can result in severe punishment, including ostracism from the immediate and extended family.

Under Islamic law, a male or female dependant can be given in marriage against his or her will, and the legal guardian of an adult woman has the right to object to her choice of husband if the prospective husband is not of equal birth.[49] Under customary law, a dowry is usually paid to the wife's family. Under Islamic law, the dowry is paid to the bride, although the contract is concluded with the legal guardian of the bride-to-be.[50]

Under customary law, a wife can only refuse to have sexual intercourse with her husband if she is physically ill, menstruating or suckling a young child. She can also refuse intercourse during the daytime, in the bush or during Ramadan.

Under customary law, a wife's decision-making powers are limited since she is obliged to always obey her husband. This lack of decision-making power means that women in families where the breadwinner is the man find it very difficult to influence decisions on how the (generally) little income that the family makes is disbursed. Under customary law, a married woman must ask her husband for permission to work outside the house or visit her family. In families where the woman has been given permission to work outside the house and is the breadwinner, it seems that the added responsibility has not necessarily come with increased decision-making power.

A wife, especially in rural communities, is expected to cultivate food for herself and her children, whilst the husband's responsibility is limited to providing accommodation and clothing.[51] A wife residing in an urban area is generally given a lump sum of money by her husband to start a small business, usually petty trading. If the business fails, the wife must refund the capital to her husband. Given the heavy work burden on women, however, there is little opportunity for women to seek remunerated work outside the house.

Divorce and Death of Husband

Under customary law, both parties can bring divorce proceedings either extrajudicially or judicially before a local court, but in practice women are generally not as free to do so as men.[52] Only the husband has the right to divorce through unilateral repudiation.[53] A wife married under customary or Islamic law may, however, seek dissolution of marriage on grounds of impotence of the husband, for example.[54]

Under customary law, the dowry is refundable upon divorce. Dowries paid to poor families are sometimes set purposely excessively high to ensure that the wife's family will not sanction a divorce given their inability to repay the dowry, again highlighting how little control women married under customary law have over their lives.[55] Under general law, a husband is expected to pay alimony for his wife and children on divorce, which both parties may initiate.[56]

When a husband dies, the widow is expected under customary law to undergo a mourning period and rituals.[57] It is only after these rituals that widows are considered purified and can remarry. Some ethnic groups

---

[49] Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1965), pp. 161-2.

[50] Schacht, *Introduction to Islamic Law*, p. 161.

[51] Full maintenance of his wife is only the responsibility of the husband during the rainy season (approximately between the months of May and November) or when his wife is sick or nursing a baby. Joko Smart, *Sierra Leone Customary Family Law*, pp. 106-7.

[52] Judicial divorces are rare as they are more expensive. Ibid., pp. 146-149.

[53] Ibid., pp. 143-4.

[54] Schacht, *Introduction to Islamic* Law, p. 165.

[55] Joko Smart, *Sierra Leone Customary Family Law*, p. 79. Strict tribal Muslims do not require that the dowry be repaid on divorce.

[56] Christian Marriage Act, Cap. 95 of the revised Law of Sierra Leone, 1960, s. 7 (2), s. 15 (1) (b), and s. 5 respectively.

[57] A widow must mourn for forty days. Her head is shaved or, in some chiefdoms, disheveled and her body is washed with the same water used to wash her husband's corpse. In some chiefdoms her body is smeared with mud to indicate her mourning. After either one week or forty days for strict Muslims, widows are taken to a stream to be ceremonially washed.

still insist that if the widow remarries, she does so within her deceased husband's family, otherwise all marriage payments are refundable.[58]

As Sierra Leone is a patrilineal society and the husband has custodial rights over children, children are handed over to the husband's family head upon his death.[59] Under Islamic law, the mother has the right to care for a boy child until the age of nine and a girl child until she comes of age.[60]

Under customary matrimonial property law, a wife is generally only able to keep her own possessions and her self-acquired property in the event of divorce or death. A wife is generally not entitled to keep property acquired through the joint efforts of husband and wife and has no rights over the matrimonial home.[61] Nor can a wife inherit under Islamic law: either the eldest son or brother or the official male administrator of the deceased inherits.[62] Under general law, a wife is also only entitled to one third of her deceased husband's property, if he has not made a will.

This denial of inheritance rights of women is a major problem given the large number of war widows who are now able to return to their villages of origin, but have no access to land.

Domestic Violence

Societal attitudes to domestic violence are another indicator of the status of women and girls in society; physical violence against women and children is common in Sierra Leone. Indeed, under customary law, a husband has the right to "reasonably chastise his wife by physical force."[63] If the husband is persistently cruel and frequently beats his wife to the point of wounding her or causing her great pain, the wife can divorce her husband, but under customary law a single act of physical and brutal force is permitted. A population-based assessment of war-related sexual violence in Sierra Leone carried out by Physicians for Human Rights among 991 female-headed households in camps for displaced people found that, although 30 percent of women surveyed expressed that there should be legal protections for the rights of women, more than 60 percent of the women believed that a husband had the right to beat his wife.[64]

Rape as a Crime under General Law

The laws governing rape in Sierra Leone are very confusing even for persons working in the criminal justice system, such as members of the judiciary and police force. They are also archaic and date back to the British 1861 Offences Against the Person Act. Under this Act, rape is defined as "the unlawful carnal knowledge of a woman without her consent by force, fear or fraud."[65] Penetration (however slight) is required to constitute the crime of rape.[66] In addition, although a child is defined as a person under the age of sixteen,[67] Sierra Leonean law makes the extremely unhelpful distinction between unlawful carnal knowledge of a girl under the age of thirteen and

---

[58] The Mende, Krim, Sherbro, Vai, Karonko and Yalunka adhere to this custom, whereas the Temne, Susu, Limba, Loko, Kissi and Kono allow a widow to select her own husband and do not require a refund of the marriage payments if she marries outside her deceased husband's family. Joko Smart, *Sierra Leone Customary Family Law*, p. 138.

[59] If the couple was married under general law, the custody of the children is often determined by the courts, which generally grant the mother custody of the children.

[60] Schacht, *Introduction to Islamic* Law, p. 167. In practice, the mother and children will stay with whomever has the money to provide for them.

[61] As customary marriages are generally polygynous, a divorce with one of the wives would result in the dissolution of the whole household if she were to ask for a refund for her contribution to building the house. Joko Smart, *Sierra Leone Family Customary Law* , pp. 113-120.

[62] Mohammedan Marriage Act, Cap. 96 of the revised laws of Sierra Leone, 1960, s. 9.

[63] Joko Smart, *Sierra Leone Family Customary Law*, p. 152.

[64] Physicians for Human Rights, *War-related Sexual Violence in Sierra Leone: A Population-based Assessment* (Boston: Physicians for Human Rights, 2002), p. 55 (hereafter referred to as PHR report)

[65] Offences Against the Person Act, 1861 (24 & 25 Vict. c 100), s. 63. Unlawful carnal knowledge refers to sexual intercourse between unmarried persons. The law does not actually forbid or make sexual intercourse between unmarried persons a punishable crime, but it only recognizes the right to sexual intercourse for married couples.

[66] Ibid.

[67] Prevention of Cruelty to Children Act (1926), Cap. 31 of the revised Laws of Sierra Leone 1960, s. 2.

unlawful carnal knowledge of a girl between thirteen and fourteen years of age. The law is unclear about unlawful carnal knowledge committed against persons aged between fourteen and sixteen, although the few cases involving this age group that have gone to trial have reportedly been prosecuted as rape.[68]

Nor is the age of consent explicitly stated, although it is presumably by necessary implication sixteen years old. Marital rape does not exist under Sierra Leonean statutory law, and most Sierra Leoneans firmly believe that it is the duty of a wife to have sex with her husband even if she does not want to.[69]

Unlawful carnal knowledge of a girl under the age of thirteen, whether with or without her consent, is a felony and carries a maximum sentence of fifteen years of imprisonment.[70] Unlawful carnal knowledge of a girl between the ages of thirteen and fourteen, whether with or without her consent, is, however, only considered a misdemeanor and carries a maximum sentence of two years.[71] The language "with or without her consent" refers only to cases of unlawful carnal knowledge that do not constitute rape; for example, an eighteen-year-old man who has sexual intercourse with a thirteen-year-old girl with her consent.

The police and judiciary seem to have misconstrued the meaning of the law. When an offence of rape against a girl under the age of fourteen is reported, the police and judiciary turn to either Section 6 or 7—depending on the age of the victim—of the Prevention of Cruelty to Children Act and determine that the girl did not consent. Based on her age, they then charge unlawful carnal knowledge and not rape. This misinterpretation therefore leads to a lesser charge for the rape of a child than for the rape of an adult.[72]

Rape of a person over the age of sixteen is considered a felony and carries a maximum sentence of life imprisonment.[73] Indecent assault—sexual assault without penetration—on or attempts to have carnal knowledge of girls under the age of fourteen years carry the same maximum sentence as unlawful carnal knowledge of girls between the age of thirteen and fourteen i.e. only two years of imprisonment.[74] No person can be convicted of unlawful carnal knowledge, indecent assault or attempted unlawful carnal knowledge "upon the evidence of one witness, unless such witness be corroborated in some material particular by evidence implicating the accused."[75]

The law pertaining to the abduction of girls for immoral purposes applies to any unmarried girls under the age of sixteen.[76] Abduction of girls for immoral purposes is a misdemeanor, carrying a maximum sentence of two years of imprisonment.

In addition to the legal confusion that exists in general law concerning rape, attempts by women to obtain the prosecution of rapists are frustrated by the collapsed state of the judiciary and the lack of effective law enforcement, which has contributed to the ongoing climate of impunity for offenders.

---

[68] Human Rights Watch interviews with Abdul Tejan-Cole (human rights lawyer and acting coordinator for the national nongovernmental organization Campaign for Good Governance), Freetown, February–May, 2002.

[69] As the right to have intercourse between a husband and wife is recognized, a husband cannot be guilty of raping his wife unless he has been legally separated from his wife. *See* also PHR report, p. 55.

[70] Prevention of Cruelty to Children Act, s. 6.

[71] Ibid., s. 7. If a man were legally married to a girl under fourteen years of age, sexual intercourse with her would not be an offence.

[72] Human Rights Watch interview with Bill Roberts and Anne Hewlett (respectively crime adviser and criminal investigation trainer with the Commonwealth Community Safety and Security Project), Freetown, May 1, 2002.

[73] Offences against the Person Act, s. 48.

[74] Prevention of Cruelty to Children Act, s. 9. Section 9 stipulates that "whosoever commits an indecent assault or attempts to have carnal knowledge shall be guilty of a misdemeanor, and shall on conviction before the Supreme Court be liable for imprisonment, with or without hard labour, for any period not exceeding two years." Consent is no defense to a charge of indecent assault of a child under fourteen years.

[75] Ibid., s. 14.

[76] Ibid., s. 12. There are also problems with the term "unmarried" because abduction of persons should obviously be prohibited irrespective of their marital status.

Prosecution of Sexual Violence under Customary Law

The manner in which rape is dealt with under customary law is indicative of the societal values towards sexual violence and the low status of women and girls in Sierra Leone. Although all serious criminal cases should automatically be tried under general law, rape cases continue to be prosecuted under customary law in the local courts.[77]

Under customary law, when a case is brought to the local court, the perpetrator is generally required to pay a substantial fine to the victim's family as well as to the chiefs. "Virgin money" is payable to the victim's family if the victim was a virgin. In some communities, in particular Muslim communities, the victim is forced to marry the offender, as a girl who is not a virgin is considered less eligible for marriage. Traditionally, in some ethnic groups, both the victim and the perpetrator will be made to undergo a purification ceremony. For the victim, the purification ceremony is supposed to restore her virginity and for the perpetrator to cleanse the guilt. Any man who invades the husband's exclusive sexual rights over a wife compensates the husband, and not the wife, for "woman damage."[78]

In addition to applying discriminatory laws, the local court system is problematic as women of some ethnic groups do not have direct access to the local courts, but must be represented by a male guardian.[79] The situation is further exacerbated as the chairmen and chiefdom councilors of the local courts are generally all male, which makes it difficult for women to bring cases of sexual violence as the women are often embarrassed and their cases are generally dealt with insensitively by the male court staff. The local courts are also prone to interference by the chiefs as well as the concerned parties, especially in cases dealing with sexual violence.

Many people in rural areas prefer to settle the case between the families and do not go to court. In cases settled between the two families, money or goods are given to compensate the victim's family. Paradoxically, the giving of gifts or money to a rape victim may even elevate her status within her family.

Some families turn to the local chiefs who can arbitrate between the two families but have no right to impose any fines. In practice, however, the local chiefs have been known to impose fines.

Discrimination against Women and Girls in Practice

In addition to being subjected to discriminatory laws, all women and girls face structural discrimination in Sierra Leone's patriarchal society, which accords automatic respect to its older male members. As a result of the low status accorded to them by law and by custom, women in Sierra Leone face substantial discrimination in practice.

Education

Systemic discrimination against women starts in childhood, when many parents prefer to spend their scarce resources on the education of their sons rather than their daughters. According to the United Nations Development Programme's (UNDP) Gender-Related Development Index, females account for only 21 percent of the combined primary, secondary and tertiary gross enrolment ratio, compared with 32 percent males.[80] This gender disparity illustrates not only that fewer girls attend school but also that their education is discontinued at an earlier age than boys. This is reflected in the literacy rate of persons over fifteen years: only 20 percent of females are literate compared to 40 percent of males.[8]

---

[77] Under Section 13 (1) of the 1963 Local Courts Act, the local courts have no jurisdiction in seduction actions, which includes any act intended to lead the wife astray. Joko Smart, *Sierra Leone Family Customary Law*, footnote 34, p. 121.

[78] Joko Smart, *Sierra Leone Customary Family Law*, p. 5.

[79] Human Rights Watch interview with Dr. Mariane Ferme (Lecturer, Department of Social Anthropology, Cambridge University, U.K.), Freetown, April 19, 2002.

[80] UNDP, *Human Development Report 2001*, p. 213.

[81] Government of Sierra Leone, *The Status of Women and Children in Sierra Leone: A Household Survey Report (MICS-2)* (Freetown: 2000), p. 30. The literate population includes those who are able to read "easily" or "with difficulty." Only 30 percent of the total population over fifteen years is literate.

The high illiteracy rate among women can in part be explained by the higher demand for female labor in the family. Girls are required to work in the house at an early age given that their mothers have to take care of the household and the children and do farm work. Another contributing factor to women's illiteracy is the harmful traditional practice of early forced marriage, which is very common in the provinces (see below).

The Workplace

Sierra Leone has ratified numerous international labor conventions.[82] Some discriminatory practices, such as restricting the right to maternity leave to married women, which was the norm in the formal sector in the 1970s, have been prohibited by law. Extremely poor working conditions, however, persist in Sierra Leone for the majority of workers. In addition, women working for male bosses continue to be subjected to sexual harassment. According to the president of the Sierra Leone Labour Congress, the trade union federation, much work remains to be done to ensure the full and even application of the labor laws, especially in the provinces.[83]

Sierra Leone's rural population is primarily engaged in subsistence farming, with women constituting 80 percent of the labor that produces 70 percent of the nation's food.[84] This agricultural labor is generally not remunerated by cash wages and women have unequal access to land or technology. In Sierra Leone, the different ethnic groups continue to operate under communal and family land holding systems. Women can use the land for subsistence farming but the control and management of the land and any property on it is vested in the male head of the family. With the post-war resettlement process underway, war widows returning to their villages of origin often lack the legal means or community support to reclaim their families' properties. As women have little or no property to offer as collateral, their access to credit is limited. Women therefore tend to rely on traditional sources of credit such as rotating savings, which only provide small loans.[85]

Due to the limited number of educated women, which is partly the result of the high demand for girls to perform household tasks at a young age, the preference of sending boys to school, and early forced marriages, few women are represented in the better remunerated professional or managerial jobs. Sierra Leone's crushing poverty and high unemployment have also meant that positions that in the West are perceived as women's jobs are often held by men in Sierra Leone, leaving even fewer openings for women. In the formal employment sector, women therefore constitute only 40 percent of the clerical staff and a mere 8 percent of the administrative and managerial cadre.[86] In the informal sector outside agriculture, where the cash returns are low, women are mainly involved in petty trading, soap making and tie-dying. Given the lack of opportunities for remunerated work, women tend to be heavily dependent on their husbands.

The breakdown of community values as the result of the war, combined with cultural practices, also serves to make girls and women vulnerable to abuse and sexual exploitation, which has historically been rampant in Sierra

---

[82] Multilateral Convention (no. 29) concerning Forced or Compulsory Labor, as modified by the Final Articles Revision Convention, June 28, 1930, 39 U.N.T.S. 55 (entered into force May 28, 1947); Multilateral Convention (no. 105) concerning the Abolition of Forced Labor, June 25, 1957, 320 U.N.T.S. 291 (entered into force January 17, 1959); Multilateral Convention (no. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, June 29, 1951, 165 U.N.T.S. 303 (entered into force May 23, 1953); Multilateral Convention (no. 111) concerning Discrimination in Respect of Employment and Occupation, June 25, 1958, 362 U.N.T.S. 31 (entered into force June 15, 1960). Sierra Leone has not signed Convention 47 (40 hour week), Multilateral Convention (No. 95) concerning the Protection of Wages, July 1, 1949 (entered into force September 24, 1952), Multilateral Convention (No. 102) concerning Minimum Standards of Social Security, June 28, 1952, 210 U.N.T.S. 131 (entered into force April 27, 1955) or Multilateral Convention (No. 182) concerning the Worst Forms of Child Labor, although a social security system for both the public and private sector was recently established.

[83] Human Rights Watch interview with Uriah O. H. Davies, president of the Sierra Leone Labour Congress, Freetown, April 14, 2002.

[84] Ministry of Social Welfare, Gender and Children's Affairs, *National Policy on the Advancement of Women* (Freetown: Government of Sierra Leone, 2000), p. 7.

[85] Ibid., p. 15. Rotating schemes are schemes whereby groups of women pool their resources and each member of the group has access to the funds on a rotating basis.

[86] Ministry of Social Welfare, Gender and Children's Affairs, *National Policy on Gender Mainstreaming* (Freetown: Government of Sierra Leone). p. 3.

Leone.[87] Many women and girls have been driven to prostitution as a result of the increased poverty caused by the conflict and their lack of other opportunities and skills.

In the Political Arena

Discrimination against women is evident in the political arena. Women were not granted the right to vote or stand for election for any political office until after independence in 1961. Given their economic dependence on men, it is also much more difficult for women to raise the necessary campaign funds. In the Northern Province, women continue to be excluded from contesting and voting for the elections for traditional leadership positions (although there are reportedly several female chiefdom councilors).[88] Out of the 149 paramount chiefs in the country, only three are female, all based in the south.

Under the new block voting system which was introduced for the 2002 elections, 112 parliamentary seats are elected by popular vote. An additional twelve parliamentary seats are reserved for paramount chiefs who are elected in separate elections by chiefdom councilors. There are presently only eighteen female parliamentarians, including two female paramount chiefs. This does represent an increase over the previous government, which had a total of eight women parliamentarians, including two female paramount chiefs. At government level, there are only three female ministers and three female deputy ministers, which is a marginal increase from President Kabbah's previous Cabinet.[89]

Harmful Traditional Practices and Their Impact on Women's and Girls' Health

Early forced marriages

The health of many women and girls in Sierra Leone is compromised by early forced marriage.[90] Early forced marriages are very common in the provinces, where men often sponsor a girl from birth (paying for school fees, clothes, etc.) and marry her after she has been initiated (see below for an explanation of the initiation process).

Early forced marriage is one of the factors contributing to Sierra Leone's high maternal mortality rate, since young girls have several children before their bodies are fully mature. At 1,800 maternal deaths per 100,000 live births, Sierra Leone's maternal mortality rate is one of the highest in the world. This mortality rate translates to approximately 4,000 maternal deaths per year based on a total population of five million.[91]

Girls who are forced to marry early not only miss out on education, but also on skills training opportunities and are therefore highly dependent on their husbands.

---

[87] Human Rights Watch interview with a highly respected international observer who has worked in Sierra Leone for two decades, Freetown, February 27, 2002.

[88] Only persons paying tax can contest and participate in elections for paramount chiefs who are elected from ruling houses. The paramount chieftaincy system was introduced by the British Colonial Administration to administer the various chiefdoms in the Protectorate (i.e. the whole of Sierra Leone excluding the Western Area). Although there is reportedly no law against women paying taxes, women in the Northern Province have historically not done so probably due to lack of opportunities to find remunerated work. The tax is a negligible amount that women are willing to pay to ensure their eligibility for these elections. Human Rights Watch interview with Joseph Hall and Honerin Muyoyatta from the National Democratic Institute (NDI), Freetown, March 22 and 23, 2002.

[89] The three ministerial posts are Minister for Social Welfare, Gender and Children's Affairs, Minister for Trade and Industry, and Minister of Health and Sanitation. The three female deputy ministers are in the Ministry of Social Welfare, Gender and Children's Affairs, the Ministry of Trade and Industry, and the Ministry of Works, Housing and Technical Maintenance. The new government was sworn in on July 12, 2002.

[90] Early forced marriages are marriages whereby the consent of either party is not sought or more commonly whereby the consent of the girl is not sought and whereby one or both spouses is/are under the age of consent (which under international law should not be less than fifteen years of age). This harmful traditional practice contravenes article 16(3) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which states that the betrothal and marriage of a child shall have no legal effect, article 16(1) and (2) of the Universal Declaration of Human Rights, and article 23(3) of the International Covenant on Civil and Political Rights (ICCPR), which says that "[n]o marriage shall be entered into without the free and full consent of the intending spouses."

[91] Government of Sierra Leone, *The Status of Women and Children in Sierra Leone*, p. 63.

Female Genital Cutting

Sierra Leonean girls as well as boys are traditionally initiated into secret societies at adolescence. The secret societies that perform the initiation rites take the adolescents into a sacred place in the bush where they are circumcised and taught about traditional practices. The male and female societies are segregated and males are not supposed to know what happens in female secret societies or vice versa.

Traditionally, initiation for girls entailed spending an extended period (up to two years) in the bush with girls of the same age, being taught various cultural skills (dancing, singing, drama, arts and craft, how to use local herbs, how to respect elders, etc.) and being a good wife (cooking, cleaning, child welfare, hygiene, fishing, etc.) by older women. Girls who undergo initiation through the secret societies are treated with deference after having completed the ritual and are feted by their communities.[92] Today, the duration of the initiation ceremony has been greatly reduced, minimizing the skills transfer aspect, and thus focusing on the cutting itself. Because it was not always possible to hold the ceremonies during the war, initiation rites are now often practiced on adults, girl mothers, and pregnant girls—whereas traditionally it was seen as a rite of passage into adulthood for adolescent girls, who had to be virgins. In recent years, girls and/or adult women who do not wish to be initiated have been abducted and circumcised by force by female members of the community.

Ninety percent of Sierra Leonean women have undergone female genital cutting, which can have major health repercussions, including pain, injury to adjacent tissue of the urethra, hemorrhage, shock, acute urine retention, and infection.[93] Longer-term health effects include recurrent urinary tract infections, pelvic infections, infertility, keloid scar, and problems during childbirth.[94] The high prevalence of conflict-related sexual violence, which causes trauma to the genital area, can only have served to aggravate these health repercussions and both have in turn contributed to the increased spread of sexually transmitted diseases, including Human Immunodeficieny Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS).

This harmful traditional practice, which is contrary to provisions of several international human rights instruments, continues to be practiced due to the significant societal pressure exerted by adults as well as peers.[95] Girls who have not been initiated are seen as less eligible for marriage and many future husbands sponsor the initiation of their bride-to-be.

Societal Attitudes to Sexual Violence against Women and Girls

The low status of women and girls is highlighted by the prevalent societal attitudes towards sexual violence. The notion of sexual violence as a crime is a very recent concept in Sierra Leone. It is still widely believed that only rape of a virgin is rape, which in Krio is called "to virginate." Rape of a non-virgin, on the other hand, is not considered rape, and there is often a belief that the woman must have consented to the act or is a seductress. Marital rape is not recognized under either customary or general law in Sierra Leone.

---

[92] Human Rights Watch interview with Dr. Mariane Ferme, (lecturer, Department of Social Anthropology, Cambridge University, U.K.), Freetown, April 19, 2002.

[93] Dr. Olayinka Koso-Thomas, *The Circumcision of Women: A Strategy for Eradication* (London and New Jersey: Zed Books Ltd., 1992), p. 19. The type of female genital cutting performed in Sierra Leone is clitoridectomy (removal of the prepuce of the clitoris) and excision (removal of the prepuce, the clitoris and all or part of the labia minora). The extreme form of infibulation is not practiced in Sierra Leone.

[94] U.S. Agency for International Development (USAID), *Report on the First Donors Meeting For FGM/FGC Elimination* (Washington D.C.: USAID, 2001), p. 12.

[95] Female genital cutting violates the right to be free from violence (Article 1 of the CEDAW) and the right to bodily integrity (Article 6 of the CRC). Under Article 5 (a) of the CEDAW, states are called upon "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." Article 24 (1) and (3) of the CRC also requires states to abolish traditional practices that are harmful to the health of children. General Recommendation 19 of the CEDAW Committee also links traditional attitudes which subordinate women and violent practices, including female genital cutting, that "... justify gender-based violence as a form of protection or control of women."

Given the lack of statistics about rape cases before the war, it is impossible to establish the historical prevalence of sexual violence, but several doctors reported to Human Rights Watch that, before the war, they only treated a limited number of young girls who generally had been raped by older men.[96] According to the doctors interviewed, many cases of rape before the war occurred within the extended family and were considered family matters. They were rarely discussed or reported, in order to ensure that the victim's chances of marriage and obtaining a good dowry were not destroyed. Rape was also apparently unlikely to occur within a village community, where everyone knew each other and the shame attached to the offender would be too great. Rape outside the extended family was more likely to be committed in environments where there were mixed ethnic groups, such as in mining areas or larger towns. The cultural definition of rape and lack of reporting, however, may have led to the understanding that rape rarely occurred before the war. Sexual exploitation, however, has always been rampant in Sierra Leone, where economic options for women are limited and which has traditionally condoned a high level of promiscuity, despite the high value placed on virginity. With the increased poverty caused by the war, sex has become even more of a commodity.[97]

The societal attitudes to rape and the low status of women have meant that no cases of conflict-related sexual violence and few cases of non-conflict-related sexual violence are prosecuted.[98] (See also below at p. 61 for a discussion on the amnesty included in the Lomé Peace Agreement.)

V. SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS DURING THE CIVIL WAR

Prevalence of Sexual Violence during the War

Throughout the ten-year civil war, thousands of Sierra Leonean women and girls were subjected to widespread and systematic sexual violence, including rape and sexual slavery. A survey of 991 female heads of households in communities of displaced persons carried out by Physicians for Human Rights (PHR) in 2002 found that approximately one of every eight household members (13 percent) had been subjected to one or more incidents of conflict-related sexual violence; among the actual respondents to the survey, the prevalence rate of conflict-related sexual violence was 9 percent (94 out of 991).[99] Based on this prevalence rate, as many as 50,000 to 64,000 internally displaced women may have been subjected to sexual violence as a result of the war.[100] Adding extrapolated data for other types of victim, PHR calculated that as many as 215,000 to 257,000 Sierra

---

[96] Human Rights Watch interview with Dr. Olayinka Koso-Thomas, Freetown, February 25, 2002; Dr. Noah Conteh, Freetown, March 1, 2002 and Dr. Bernard Fraser, Freetown, March 3, 2002. The latter two doctors practiced in the provinces as well as in Freetown.

[97] Sex can be bought for as little as U.S. $0.50. United Nations High Commissioner for Refugees and Save the Children U.K., *Sexual Violence and Exploitation: The Experience of Refugee Children in Liberia, Guinea and Sierra Leone* (Geneva/London: UNHCR/SC-UK: 2002). Human Rights Watch has some concerns about this report as the report does not provide an adequate review of the context, including the status of women and girls within the given countries. Given the low status of women and girls in these countries, the sexual exploitation is much wider than reported: the power dynamic means that men of all walks of life, such as teachers, pastors, police, businessmen as well as aid workers or peacekeepers, exploit girls and women. It would also appear that the short-term solutions proposed do not adequately address the underlying structural issues, such as poverty, lack of education or alternative means of income generation for many women.

[98] It was not possible to obtain reliable statistics as reporting and recording of cases by the police and judiciary are not consistent.

[99] PHR report, p. 2. The PHR report captures some of the different types of sexual violence that women were subjected to. Of the ninety-four internally displaced women reporting their own experience of sexual violence to PHR, interviewees reported among other things: rape (89 percent); being forced to undress/stripped of clothing (37 percent); gang rape (33 percent); abduction (33 percent); molestation (14 percent) and insertion of foreign objects into genital opening or anus (4 percent). It should be noted that the definition of rape used by the PHR report differs from that used throughout this report. The definition used in this report, as mentioned above, is that used by the International Criminal Tribunal for the Former Yugoslavia, in the *Foca* case.

[100] Ibid., p. 3. As PHR points out this figure might be an underestimate due to deliberate non-disclosure of sexual violence and the lack of privacy in some of the interviews, despite efforts made to ensure privacy.

Leonean women and girls may have been subjected to sexual violence in the conflict period.[101] Although these figures are necessarily no more than estimates, they do give an indication of the widespread nature of sexual violence during the war.

Human Rights Watch has primarily documented sexual violence committed during the latter stages of the war when the organization had a full-time presence in the country, beginning April 1999. This does not mean that sexual violence was at its worse during this period. Since that time, Human Rights Watch extensively documented crimes of sexual violence during the January 1999 invasion of Freetown as well as ongoing human rights abuses. Human Rights Watch has also received numerous reports of sexual violence dating from earlier in the war.

Perpetrators

Survivors of sexual violence mostly reported being raped by rebel forces, but were at times not able to identify which rebel faction the perpetrators belonged to or whether—especially given the frequent collaboration between soldiers and rebels—the perpetrators were indeed rebels or rather soldiers from the Sierra Leone Army (SLA). In addition, survivors explained that they often deliberately did not want to look at their rapists out of fear and because they did not want to make eye contact. For example, D.T., a twenty-five-year-old woman raped by four rebels, including one child combatant, said that she would not be able to recognize any of the perpetrators, as she was too afraid to look at them (see below at p. 36).[102] A. B., a thirty-year-old who was raped by two rebels, also said that:

> When you are with these people [rebels], you do not ask questions. I did not even look into their faces. Many of them rubbed black chalk on their face and when you looked at them would say, "What are you staring at?"[103]

Rebel Forces

The RUF committed crimes of sexual violence—often of extreme brutality—from the very beginning of the war when they invaded Sierra Leone from Liberia in March 1991. RUF rebels committed crimes of sexual violence in the course of their military operations, during which thousands of women and girls were abducted and forced to "marry" rebel "husbands." These abducted women and girls were repeatedly raped and subjected to other forms of sexual violence throughout the duration of their captivity, which in many cases lasted years. During captivity, these women and girls were also made to carry out forced labor, including carrying heavy loads, cooking, cleaning, etc. Many women and girls have given birth to children fathered by rebels. Especially during the early years of the war, the RUF were assisted by Liberian forces, who also committed rape and other sexual violence.

The AFRC committed crimes of sexual violence from May 1997, using the same tactics as the RUF. Sexual violence by the RUF and the AFRC continued to be committed after the signing of the Lomé Peace Agreement on July 7, 1999, and they were joined in this by the West Side Boys, a splinter group of the AFRC formed after the signing of the Agreement. An unknown number of abducted girls and women still remain under the control of their rebel "husbands" who did not want or feel able to relinquish the "families" they had founded in the bush; in many cases the abductees' own families would not have welcomed them back.

Sexual violence peaked during the rebels' military operations, which occurred countrywide as the rebels sought to capture more territory. After capturing a town or a village, the combatants rewarded themselves by looting and by raping women and girls, many of whom they later abducted. Crimes of sexual violence committed during and following military operations, such as "Operation No Living Thing" and "Operation Pay Yourself"

---

[101] Ibid., pp. 3-4. PHR's calculation is not inclusive of all categories of victim: to the IDP women reporting conflict-related sexual violence, PHR added non-conflict-related sexual violence among non-displaced women, assuming a prevalence rate of 9 percent.

[102] Human Rights Watch interview, Foriah, March 6, 2002.

[103] Human Rights Watch interview, Bo, February 9, 2000.

that took place in 1998, have been documented by Human Rights Watch.[104] Human Rights Watch has also extensively documented the January 1999 invasion of Freetown by the RUF/AFRC, during which sexual violence was systematically committed against women and girls on a massive scale. The sexual violence committed during January 1999 serves as an illustration of the widespread nature of sexual violence committed by the rebel forces. Among the perpetrators were child combatants, and many of the victims were also children. Members of the Small Boys Units (SBUs) within the rebel forces were known to be particularly cruel and committed egregious human rights abuses.

Although there are no exact figures for the number of women and girls subjected to sexual violence during the January 1999 invasion, Médecins Sans Frontières (MSF) and the Sierra Leone chapter of the Forum for African Women Educationalists (FAWE Sierra Leone), a nongovernmental organization that has been treating survivors of sexual violence since 1999, provided medical treatment and counseling to 1,862 female survivors of sexual violence who had been raped and/or abducted during the invasion. According to MSF, 55 percent of these survivors reported having been gang raped and 200 had become pregnant.[105]

As the RUF/AFRC rebels controlled most of the countryside apart from pockets of government-controlled areas in the south and some key towns, including Bumbuna and Freetown, at different times throughout the war, women and girls living in these rebel-held areas were also subjected to sexual violence when the rebels went on patrol or simply sought to assert their domination over the population. Women and girls in government-controlled areas also lived in fear of rebel hit-and-run attacks, during which many women and girls were subjected to sexual violence and abducted. Women and girls residing in Freetown were "spared" until the January 1999 invasion by the RUF/AFRC.

Pro-Government Forces

Human Rights Watch has not documented any cases of sexual violence by the Sierra Leone Army (SLA) prior to the time of the 1997 AFRC coup. According to the survey conducted by Physicians for Human Rights, of seventy-five women and girls who reported having been raped and identified the rapists' affiliation, only three said they were raped by SLA soldiers.[106] This may in part be due to the fact that survivors would have often found it difficult to distinguish between the rebel factions and the SLA. With the "sobel" phenomenon, the SLA soldiers would disguise themselves as rebels (the rebels were also known to disguise themselves as members of the SLA or the ECOMOG peacekeeping force).

Human Rights Watch has documented only a few cases of sexual violence committed by the pro-government Civil Defence Forces (CDF). The CDF movement consists of groups of traditional hunters and young men organized into militia. They were initially only deployed by the government in their own chiefdoms, in order to ensure their loyalty and discipline and make the best use of their superior bush knowledge.[107] The government provided training, weapons and food to the units. The relatively small number of identified cases of sexual violence perpetrated by the CDF may be related to the CDF's internal rules that stipulate that warriors cannot have sexual intercourse before going to battle, as they would lose some of their protective powers that are bestowed on them during their initiation ceremonies. These powers are meant to make the fighters invincible and immortal. During the initiation ceremonies, the fighters are also instructed not to harm civilians, and required to take an oath to that effect. Thus, it is likely that the pro-government forces did not actually commit sexual violence on a widespread and systematic basis; however, the low number of identified cases may also be partially due to Human Rights Watch's human resource constraints, faced with the overwhelming number of abuses committed by the rebel forces. Research on the CDF was mainly conducted in the south where the Kamajors, the

[104] *See* Human Rights Watch, "Sowing Terror: Atrocities against Civilians in Sierra Leone," *A Human Rights Watch Report*, July 1998.

[105] Human Rights Watch interview with MSF, Freetown, March, 2000.

[106] PHR report, p. 48. and Table 5 on p. 52. *See* also Binta Mansaray, "The Invisible Human Rights Abuses in Sierra Leone: Conflict-related Rape, Sexual Slavery and Other Forms of Sexual Violence," June 2001. On file with UNAMSIL human rights section.

[107] The Kamajors operate predominately in the south and east, the Tamaboros in the far north, the Gbettis in the north and the Donzos in the far east. See also "Background" section.

largest and most powerful group of the CDF, are based. In recent years, as the Kamajors have been moved away from their villages of origin and the influence of their traditional chiefs, they have become increasingly undisciplined and cases of rape by Kamajors have become more common.

Peacekeeping Forces

Human Rights Watch has documented several cases of sexual violence by UNAMSIL peacekeepers, including the rape of a twelve-year-old girl in Bo by a soldier of the Guinean peacekeeping contingent in March 2001 and the gang rape of a woman by two Ukrainian peacekeepers in April 2002 near Kenema (see below). There appears to be reluctance on the part of UNAMSIL to investigate and take disciplinary measures against the perpetrators. Reports of rape by ECOMOG peacekeepers, the majority of whom were Nigerian, were rare.

Both ECOMOG and UNAMSIL peacekeepers have sexually exploited women and solicited child prostitutes.

Sexual Violence Committed by the Rebel Forces

"Virgination"—Targeting Young Girls

The rebel forces subjected women and girls of all ages, ethnic groups, and socioeconomic classes to individual and gang rape. Although the rebel forces raped indiscriminately irrespective of age, the rebels favored girls and young women whom they believed to be virgins. This was evident not only by their actions, but was also explicitly stated by them as they chose their victims. As in many countries, Sierra Leonean society places a high value on virginity. Girls who have been "virginated" and are therefore no longer virgins, are considered less eligible for marriage. M.B., a fifteen-year-old girl from Freetown, described how RUF/AFRC rebels deliberately sought out virgins for violation during the January 1999 invasion of Freetown:

> We were hiding in the mosque when two rebels dressed in civilian [clothing] entered. It was dark but they shone their flashlights looking for girls and said, "We are coming for young girls ... for virgins, even if they tie their heads like old grandmothers, we will find them." They also said that if the people did not hand over the young girls, they would open fire on all of us.[108]

Some victims explained that female rebels physically checked girls to see whether they were virgins.[109] M.W., a thirty-eight-year old nurse who was captured by the RUF/AFRC during the January 1999 invasion of Freetown and forced to treat wounded rebels and civilians, said that the youngest rape victim she treated was "a little nine-year-old from Calaba Town [an area of Freetown]. Her perineum was bleeding and had been badly torn. Every day we gave her sit baths and she eventually recovered."[110] The consequences of sexual violence for virgins can be particularly severe as these testimonies highlight, although mature women also reported experiencing similar consequences.[111]

R.T. was about sixteen when she was brutally raped vaginally and anally by ten RUF rebels in the forest near Koidu in Kono district in January 1997. R.T. developed vasico-vaginal fistula (VVF) and vasico-rectal fistula (VRF) from her brutal gang rape:

> I was hiding in the bush with my parents and two older women when the RUF found our hiding place. I was the only young woman and the RUF accused me of having an SLA husband. I was still a virgin. I had only just started my periods and recently gone through secret society. There were ten rebels, including four child soldiers, armed with two RPGs [rocket propelled grenades] and AK-47s. The rebels did not use their real names and wore ski masks so only their eyes were

[108] Human Rights Watch interview, Freetown, May 1, 1999.

[109] It should be noted that virginity can not be medically proven.

[110] Human Rights Watch interview, Freetown, October 21, 1999. The victim probably suffered from vasico-rectal fistula (a tear or opening in the tissue between the rectum and the vagina, usually resembling an open blood vessel), which would have left her incontinent.

[111] International humanitarian law prohibits all rape and other acts of sexual violence, of course irrespective of whether the victim was a virgin or not.

visible. The rebels said that they wanted to take me away. My mother pleaded with them, saying that I was her only child and to leave me with her. The rebels said that "If we do not take your daughter, we will either rape or kill her." The rebels ordered my parents and the two other women to move away. Then they told me to undress. I was raped by the ten rebels, one after the other. They lined up, waiting for their turn and watched while I was being raped vaginally and in my anus. One of the child combatants was about twelve years. The three other child soldiers were about fifteen. The rebels threatened to kill me if I cried.

My parents, who could hear what was happening, cried but could do nothing to protect me. I was bleeding a lot from my vagina and anus and was in so much pain. My mother washed me in warm water and salt but I bled for three days. I can no longer control my bladder or bowels as I was torn below. We stayed in the bush until ECOMOG took over Koidu. When we came out of the bush, even adults would run away from me and refused to eat with me because I smelled so badly. I had an operation in 2000 but it did not work. Before I got a catheter in 2001, I had no friends, as I smelled too bad. I am still in pain and have a problem with vaginal discharge. I also have nightmares and feel discouraged.[112]

This extreme sexual violence is illustrated also by the following testimony by F.B., who describes the resultant deaths of eight young girls in one Liberian refugee camp alone (no doubt many others died from similar treatment during the war). F.B.'s testimony also illustrates the RUF's connection to Liberia and the role of Liberian mercenaries in the RUF movement. F.B. was a ten-year-old girl living in Mano village in Kailahun district near the Liberian border when the RUF accused civilians in her village of helping the SLA. Her family decided to flee to Liberia in November 1991, but was fired upon by the rebels as they fled. At least fifteen civilians were killed, including her father and several women with babies on their backs:

Only six of my family survived; my mother, one brother, two sisters, one uncle, and me. After hiding and fleeing through the bush for three days, Mohammed, my uncle, found someone with a boat to help us cross over to Liberia. We crossed into Vahun where there was a sort of refugee camp. We were there for two weeks and terrible things happened. We thought we had escaped from the rebels but we found many of them there. They controlled the camp. Even though food was being air dropped, the rebels took it all. They took everything we had, our money, salt, and all our food. The rebels were mixed Sierra Leoneans and Liberians.

About a week after arriving, the rebels came into our house in the evening and took my fifteen-year-old sister away. My mother stayed up the whole night. The next day my uncle went from hut to hut looking for her. He called her name and heard her groaning inside a hut. He picked her up and carried her home. When my mom saw her she burst out crying. I was only ten and didn't know anything about man business. My sister was crying all the time and couldn't walk. She cried, "Oh mother, I'm going to die." My mother just held her and told her it would be O.K. My uncle exchanged five gallons of palm oil so we could get some salt, which my mother later mixed with water and had my sister sit in. She was bleeding a lot. She told me they had tied her mouth and raped her many times, but I didn't know what rape was.

After that my uncle shaved my head, gave me trousers and made me look like a boy. When I was walking around a camp I saw a few girls aged under twelve years old, lying on the ground with their legs spread open and blood coming out between their legs. Some had their dresses pulled up and others had cloth stuffed in their mouths. During the two weeks I was in Vahun I saw eight girls like this. Sometimes their family would come and wrap them in white so I knew they had

[112] Human Rights Watch interview, IDP camp called "Lebanese Camp," March 2, 2002. Women and girls with obstetric fistulae suffer from a constant wetness that results in genital ulcerations, frequent infections and a terrible odor. These fistulae generally require surgery although occasionally they spontaneously heal.

died. Other times no one picked them up and they stayed there for days until someone buried them. There were so many girls who had lost their parents and were there alone, so no one would come for them.

I saw the rebels catching young and even older women. Once they caught an old woman. She said, "No, leave me. I'm too old for this business." But they made fun of her saying, "Oh look, we have caught a young *Bundu* [initiate into secret society] girl here." Other times I heard women screaming in the middle of the night. Everyday people were dying—from hunger, illness, and this rape. After that I had dreams about a dead person coming to hurt me.

The only reason we stayed that long was because people were still moving across the border and we figured things were even worse in Sierra Leone. Besides, the rebels stopped us from going back home, and we did not know anyone in Liberia so we would have died of hunger.[113]

M.M. was only eleven when she was abducted, together with her aunt and her aunt's four children, when Koidu was attacked during the dry season[114] in 1994. M.M. had not yet experienced her first period or been initiated into secret society:

I was raped by seven child combatants, who were aged between fifteen and sixteen years old, on the way to Kailahun. I was raped in my vagina and anally. Other rebels and also civilians saw me being raped but the civilians were too afraid to protect me. My aunt put native herbs on my genital area but I bled for five days. The RUF had medicine but would not give it to us civilians. My aunt carried me on her back, as I could not walk because of the pain. It took us five days to reach Kailahun. A rebel commander wanted my aunt to be his wife but she refused so he killed her. In Kailahun, I was not raped again. Since my rape, I have only experienced irregular periods and my belly is always swollen like I am pregnant.[115]

M.F. was abducted from Koinadugu town in Koinadugu district in September 1998 when the RUF/AFRC attacked the town. She was only thirteen at the time and was brutally raped both vaginally and anally by five RUF rebels. During the same attack, the RUF killed over thirty older women:

I was only thirteen and a virgin. They forced me to go down on my hands and knees with my bottom in the air and raped me both vaginally and anally. Five rebels raped me on that first day. My clothes were bloodied and it hurt to urinate and defecate afterwards. The rebels who raped me promised to take me to Freetown and give me money and dresses. They gave me nothing after they used me. I was given to one of them, Mohammed, as his wife. We stayed in Koinadugu town for four days. I was with my parents but could not tell them about the rapes although my mother heard me being raped.

The RUF said they came to kill civilians who were ungrateful and talked bad about the RUF. The RUF cut my grandmother with a knife and beat her with a pestle. She died. The RUF told the older women to go to the mosque to attend a ceremony. More than thirty women, some of whom had children, went to the mosque. The RUF set fire to the mosque. Another old woman was rolled into a mat and the mat was set on fire.[116]

[113] Human Rights Watch interview, Bo, February 9, 2000. *Bundu* is one of the secret societies that initiate girls and perform female genital cutting.
[114] The dry season in Sierra Leone is approximately between November and May.
[115] Human Rights Watch interview, Lebanese Camp, March 2, 2002.
[116] Human Rights Watch interview, Kabala, March 7, 2002.

Rape Victims Subjected to Multiple Human Rights Abuses

Rapes were often preceded by or followed by other human rights abuses against the victim, her family members and/or her community. Hardly any family was unscathed by abuse during the war. The PHR report highlighted that 94 percent of the 991 female-headed households surveyed had experienced at least one serious human rights abuse during the ten-year period.[117] M.P., who was twenty-four years old when the RUF attacked Jaiweii village in Kailahun district in May 1991, testified:

> I was captured together with my husband, my three young children and other civilians as we were fleeing from the RUF when they entered Jaiweii. Two rebels asked to have sex with me but when I refused, they beat me with the butt of their guns. My legs were bruised and I lost my three front teeth. Then the two rebels raped me in front of my children and other civilians. Many other women were raped in public places. I also heard of a woman from Kalu village near Jaiweii being raped only one week after having given birth. The RUF stayed in Jaiweii village for four months and I was raped by three other wicked rebels throughout this period.
>
> The rebels, who spoke Liberian English, said they were fighting for the SLPP to be in power. When the RUF first entered Jaiweii, they accused my husband of giving information to the SLA, so they tied his hands behind his back and beat him mercilessly. They kept him tied up and continued to beat him. After six days, he died and they threatened to kill me if I cried. The RUF also shot three other men whom they accused of giving information to the SLA. My three children all died because they became sick and there was no medicine. The older one who was five years died one week before the two younger ones who died on the same day. They were only three and seventeen months old.[118]

M.P. added that the RUF had said that they could do whatever they want with women whom they "owned." A.J., a fourteen-year-old student, was abducted by the RUF from Pujehun and was held by them from February to May 1994. She was first tortured, caged, and then brutally raped:

> On February 3, 1994 at around 8:00 p.m., the RUF attacked Pujehun. There was lots of firing because the SLA was deployed here. As we were fleeing, we ran straight into a group of over one hundred RUF. They were dressed in civilian clothes and nearly all had guns. Among those rebels was one named Maliki, who was actually from Pujehun. RUF Commander Bai Bureh started to select several people from our group. As he was doing the selecting, Maliki told him to choose me because if they let me go, I would go back to Pujehun and tell the SLA that he was there. They chose eight of us, four young men and four young women, including three of my cousins. They told the rest of the civilians to go back into the bush and said that if they found them the next day they would be killed. We were taken to their camp.
>
> Two weeks later, the four young men managed to escape. When the rebels found out, they blamed us for what happened. They said the boys were really SLA solders that were there to get information on the RUF. I was then tortured by a Liberian RUF commander named C.O. Rackin. He said I was "bright and bold" and must have known how they escaped. He interrogated me, asking me if the boys were SLA's. During the interrogation he cut me in twenty-one places with a knife including a deep cut on my left breast. He drew a small, small circle in the dirt and told me to step inside and walk around in it. Any part of my body left outside he stabbed with a knife.
>
> Then a commander called Momoh Rogers, who was the battalion commander, ordered that my cousin and I be put in a wooden cage smaller than one square meter. He said that if our brothers

[117] PHR gave the following examples of serious human rights abuses: beating, bodily injury, amputation, torture, killing, forced labor, captured for less than one day, sexual assault without rape, rape, abduction, burned dwelling, looting. PHR report, pp. 45-47.

[118] Human Rights Watch interview, Lebanese IDP Camp, March 2, 2002.

who had gone to tell the SLA came to attack, it would be very easy for them to kill us. The cage was what the village people used to store their husk rice in and it had almost no ventilation. We were only let out to defecate. They told me I had to pee on myself in the box. They poured water into the cracks but it was never enough and was dirty. Sometimes they dropped cassava and boiled bananas into the cage, feeding us like we were animals. The stab wounds I had got infected and I got sores all over my body. They were painful and smelled very badly.

After about two weeks in the cage, one of Patrick's bodyguards took me to C.O. Patrick's house. When I saw him, I told him about the sores on my feet and breasts. I told him I was in pain and asked for treatment. C.O. Patrick told me to shut up and ordered me to go into the house. He turned to his bodyguard and said that if I refused, I was to be taken behind the house and executed. When we got inside, Patrick told me to lie down on the floor. Then he forced himself upon me. I was a virgin. He was violent and rough. Then he told me to turn over and give him my behind. But I told him I could not lie down because my breast was so swollen. So he brought a chair and told me to stand up and lean onto the chair. Then he stood behind me and tried to shove his penis into my vagina. The first time he did this I fell over onto my chest, which was so painful. I started bleeding from my chest wound. Then he told me to get up and said if I did not hold the chair firmly he was going to kill me. He took a long time doing that thing to me. I was crying from the pain of my breast and because it was painful, being the first time. He told me to shut up. As he was sexing me he accused my brothers of being spies and said he was going to kill me and that he was only waiting for the others to come from the frontline to do it.

C.O. Patrick asked if I had done sex before and I told him "No, I am a school-going girl." Then he said, "Well, tonight you are going to have sex, because you are going to be killed and you should do it before you die." I was terrified. I started crying. All I could think of was my death and all that guy could do was do that thing to me. After he was satisfied, I was taken back to the cage.[119]

A.M. was eighteen when she fled Freetown with her two children, two sisters, and brother after the 1997 AFRC coup. Not only was she first forced to watch the execution of three male civilians by Nigerian ECOMOG soldiers in Fadugu, Koinadugu district, but also the rebel execution of her brother and sister. The RUF tried to get her to eat her brother's liver and heart. Her sister's head was also placed on her legs:

After the rebels were driven out of Kabala by ECOMOG, the rebels spread to different towns, including Mongo, Badela, and Dankawali. One day I went with my brother to wash in the stream, as I was afraid to go by myself. We heard shots, which my brother thought must have come from ECOMOG soldiers. I was afraid. We met three rebels with guns who accused my brother of being a SLA soldier. "Superman" was the commander. They beat my brother with their gun butts and took off his clothes. "Superman" forced my brother to go down on his hands and knees and made me sit beside him. They cut his neck from the back and then took an axe and cut his back. They removed his heart and liver and put them on my hands. The heart had more shape and the liver was flat. They tried to force me to eat them but I refused to. Another rebel, Colonel Titus, a mercenary who spoke Liberian English, arrived and told the others not to force me to eat my brother's heart and liver. He said he would show me how they will deal with me. He said they should abduct me. They took me back into the village of Dankawali where we met my grandmother on her veranda. She was tied up and she said that another rebel commander, Hakim, had carried my two children and small sister away in the first group.

The rebels had abducted another group of twenty-five persons and held them by the cotton tree. My big sister was under the cotton tree. I told her that the rebels killed our brother. Colonel Titus slapped my sister and told her not to cry. They killed my sister and two other women and placed

[119] Human Rights Watch interview, Pujehun, February 12, 2002.

their cut off heads on my legs. The rebels also locked some villagers in the houses and set all houses on fire.[120]

H.K., a sixteen-year-old student, was abducted from Freetown during the January 1999 invasion. She was taken to Makeni where she was "virginated" and forced to be the wife of Colonel "Jaja," a twenty-two-year-old half-Liberian who threatened to kill her entire family if she escaped. H.K. was brutally tortured after Colonel "Jaja" accused her of stealing his money, which was in fact taken at gunpoint from her by "Superman," a notorious rebel commander and his bodyguard called "Yellowman." She described what happened afterwards:

> Then the rebels took me into a stream and tied me to a tree in the water. They told people to beat me. I was in water up to my head. "Jaja" said the boys should cut down the tree and let me drown. I was there for several days, maybe up to a week or so. Once a water snake swam by and ate my foot in the water. When I was tied there, Jaja cut my neck and put cocaine into my body. He also gave me marijuana cigarettes to smoke. Finally he untied me and put me in an old container where I stayed for several days. While in the guardroom Jaja and Alhaji "Cold Boots" came several times to give me drugs.[121]

The rebels often used psychological torture against civilians by, for example, making them clap or sing in praise while watching family and friends being killed, raped or mutilated. They further exerted their domination over civilians by not allowing them to show any emotion, and threatening to kill anyone who did. In 1997, when K.M. was abducted by the RUF from Kabala in Koinadugu district, her brother was shot in front of her. The RUF accused him of planning to escape. She was not allowed to show any emotion and was forced to throw his body in the river. In 1999, K.M.'s husband was killed in front of her by RUF Captain Solvelar in Yomandu in Tonkolili district, when a child combatant accused her husband of not doing his job properly. As Captain Solvelar shot K.M.'s husband, he warned her not to cry otherwise she would be killed. Later in the same year, K.M.'s baby was killed in front of her in Kambia district by a rebel captain who wanted to rape her:

> Captain "Danger" pulled my baby from my back and before I could do anything, he sliced my child in two. I was told not to cry as otherwise I would be killed as well.[122]

Rape with Objects and Other Sexual Torture, including Sexual Mutilation

The rebels frequently used objects, including weapons, burning wood, and hot oil, to rape or otherwise torture (including sexually torture) women and girls, sometimes resulting in their death. In 1994, J.M., an elderly man from Giehun village in Kailahun district, witnessed the killing of nine civilians accused of plotting to set Foday Sankoh up for a government ambush. One of those civilians, a woman named Janneh, was alleged to have been one of Sankoh's "wives." J.M. described how rebels brought her into the village square, forced her to lie down and then poured boiling palm oil into her vagina and ears:

> The RUF rounded up about seventy of us civilians, including Abi and Janneh, and accused us of making a plot to arrest Sankoh. The commmander said we were to be killed but that first he would do an investigation. First he called upon Abi who accused Janneh of calling people in Freetown to arrange something against Sankoh. So Janneh was the first to be killed. The rebels grabbed her, stripped her and threw her down in front of the whole village. Several of them pulled her legs apart and held her tightly. They poured a pan of boiling palm oil into her vagina and then into her ears. This terrified us. She started shaking all over and was bleeding from the nostrils and mouth. While on the ground they struck her with a gun and danced around her saying, "When you were loving with the old man [Sankoh], you didn't show us any respect, but now your time for punishment has come." She died about an hour later. The rebels said they were sent by Sankoh who was living in Kailahun about seven miles. Nothing small or big happened without his

[120] Human Rights Watch interview, Kabala, March 9, 2002.
[121] Human Rights Watch interview, Freetown, October 12, 1999.
[122] Human Rights Watch interview, Kabala, March 7 and 9, 2002.

knowledge. After killing Janneh they poured hot oil in the mouths, eyes and noses of three other villagers, and then shot five others. I guess Janneh must have known all of Sankoh's secrets.[123]

M.F., the thirteen-year-old who was raped by five rebels (see above, p. 30), witnessed how her stepmother's mother was beaten by the RUF with a long pestle in Momoria village in Koinadugu district in 1998. The rebels then shoved the pestle into her anus. M.F. said that her stepmother's mother was still alive when they left her with the pestle in her anus, which was bleeding.[124] One woman also reportedly had pepper put in her vagina as the RUF suspected her of being the wife of a SLA soldier. Rebels inserted burning firewood into the vagina of twenty-five-year-old F.T. and another woman during the January 1999 invasion of Freetown:

> On 21 January 1999, I went to a neighbor's house to buy rice, as I had not eaten for over two days. The rebels had been in the area and as I bought two cups from my neighbor, we heard the rebels coming again. My neighbor told me to leave quickly so that he could lock up his house. When I left with another woman and a man, we met a group of ten rebels who surrounded us. They were dressed in full combat [uniform] and asked us where we were going in Krio.
>
> The rebels asked us what we could give them, so the man took out all his money and gave it to them. He was then allowed to go. As the other woman and I did not have any money, they told us to take off our clothes at gunpoint. We begged them not to harm us. The rebels then told us to lie on the dirt ground and open our legs. They put their guns to our throats and stomachs to make sure that we followed their order. Once we were on the ground all the rebels surrounded us, and a tall rebel well over six feet went to the kitchen of Parliament House and took a piece of burning firewood from the fire. He then squatted down and with his two hands inserted it into my vagina. Then he returned to the fire and got another piece and then a third. I felt like I was being stabbed inside.
>
> He did the same to the other woman. While they did this to us, I heard them say "This is the way we are going to fuck you. We are not able to do to you half of the things we do to people in the provinces. You bastard civilians, you hypocrites; as soon as you see ECOMOG, you start to point fingers at us."
>
> They left shortly afterwards and I managed to drag myself to a nearby house with blood gushing from my vagina. I went to a clinic where the doctor removed bits of firewood from my vagina. I feel so unhappy and fear my husband will find another wife to satisfy his sexual desire. The treatment is very slow and I do not have money for treatment. There are sores inside me. I can not sleep at night or walk more than one hundred yards.[125]

H.K., the sixteen-year-old Freetown student forced to be the wife of Colonel "Jaja," had an umbrella shoved up her vagina as part of the torture that followed her being accused by "Jaja" of stealing his money:

> When Jaja came home, I told him what happened and instead of believing me, he blamed me and accused me of having stolen the money. He dragged me out of the house into the street and started beating me. He caused a great scene. He stripped me, tied me up and hit me again and again with a stick. He also beat with the butt of his gun. Then he took an umbrella and pushed it up inside me two times—he shoved it up into my privates—hard. Many people were standing around watching and even some of the other rebels told him to leave me. He went crazy. He started shooting up in the air. I lay there for a few days, naked and bleeding. I was three months pregnant but after this I aborted. I bled for over a month. Once a boy named Junior came by and put his hand inside my vagina. He brought out his hand, which was all bloody and said, "Look at

[123] Human Rights Watch interview, Freetown, November 11, 1999.
[124] Human Rights Watch interview, Kabala, March 7, 2002.
[125] Human Rights Watch interview, Freetown, May 21, 1999.

your blood, you're sick." All the civilians seeing this felt sorry for me, but of course they couldn't say anything.

Rebel forces were known for mutilating pregnant mothers to find cut the sex of the unborn child. According to witnesses, they would bet large sums of money, and the rebel who had rightly guessed the sex of the unborn child after the women's belly had been cut open would keep the money. Some women were cut open alive, but sometimes the women were killed before the rebels cut their abdomens open. K.M. who was abducted during the 1997 attack on Kabala, witnessed the killing and sexual mutilation of a pregnant woman near Kono in Kono district (see above):

> They captured a Koranko woman who was pregnant. Two RUF, Captain "Danger" and C.O. "Cut Hand" argued about the sex of the child. They bet 100,000 leones [approximately U.S.$50] on the sex of the child. Then they shot the woman dead and opened her belly. The RUF held up the baby with the placenta, which they shook in the air. The baby cried and then died. I wanted to run away but my husband said that the civilians would think that I was a rebel and that they would kill me.[126]

Fifteen-year-old F.K. was raped by the RUF in Lunsar in Port Loko district in May 2000 and witnessed the sexual mutilation of a pregnant woman as well as the killing of her three male relatives, and six amputations:

> I was raped when the RUF attacked Lunsar in May 2000 by four rebels including one man called "Put Fire," who had made me his rebel wife from 1997 to 2000. One of the other rebels was called "Kill Man No Blood." While I was being raped, the rebels found my three male relatives who were hiding under their beds. They stabbed them with their bayonets and then shot them. They raped me in my bedroom and then brought me into the living room. Three men and three women were also brought into the room. They were put in line and then the rebels gave them the choice between their life or their money. The rebels strip searched each one and then killed them on the spot. The group was forced to watch as each was killed.
>
> One of the women was six months pregnant and slightly disabled. She was last in the row. When it was her turn, she was stabbed in the neck and fell down. The rebels started to discuss whether she was carrying a boy or a girl. They bet on the sex of the baby so they decided to check it. Kill Man No Blood split open her belly. It was a boy. One of the other rebels took the baby out and showed everyone that it was a boy. The baby was still alive when he threw it on the ground next to the woman but died shortly after. As the rebels took me away, I saw six men who had just been amputated. Some had an arm cut off below the elbow, others above the elbow. They were screaming, "Please kill us, don't leave us this way."[127]

Sexual Violence with the Added Element of Violating Cultural Norms

The rebel forces have used sexual violence as a weapon to terrorize, humiliate and punish, and to force the civilian population into submission. The rebels sought complete domination by doing whatever they wanted with women, including sexual acts that, by having the additional element of assailing cultural norms, violated not only the victim but also her family or the wider society. The rebels have forced civilians to commit incest, one of the biggest taboos in any society. One survivor witnessed the RUF trying to force a brother to rape his sister in Sambanya village in Koinadugu district. When the brother refused to do so, the rebels shot him.[128] Fathers were forced to rape their daughters. Fathers were forced to dance naked in front of their daughters and vice versa. In Sierra Leone, postmenopausal and breastfeeding women are presumed not to be sexually active, but rebels violated this cultural norm by raping old women and breastfeeding mothers. Child combatants also raped women who could have been their mothers or in some instances even their grandmothers. Many rapes were committed in

[126] Human Rights Watch interview, March 7 and 9, 2002.
[127] Human Rights Watch interview, Freetown, May 25, 2000.
[128] Human Rights Watch interview, Kabala, March 9, 2002.

full view of other rebels and civilians. Victims were also raped in mosques, churches, and sacred places of initiation.

During the January 1999 invasion of Freetown, A.C. was forced to watch the rape of his daughter by RUF/AFRC rebels:

> The rebel in charge was a thirty-year-old ex-SLA known as "Amos." I knew him from before. He had plasters on his face. The others were called "Junior" and "Blood," who did most of the talking. They gathered five young girls together, including my fifteen-year-old daughter, and put them in the back room. They asked us for five million leones [approximately U.S. $2,500] otherwise they threatened our girls would be killed. We managed to collect 350,000 leones [approximately U.S. $175], which we gave to them.
>
> Then they brought out the girls. They pushed my daughter and a seventeen-year-old on the bed in the parlor and started tearing off their clothes. I peeked through a crack in the door and could see them fighting with my daughter. They put clothes in her mouth so she would not scream. The rebels punched, slapped her and knocked her head with the butt of their rifle. Then one of them opened the door and asked who the fathers of the girls were. One of them took us and lined us up right in front of the bed and said, "Don't you want to see what we do to your daughters?" We begged them to leave them alone but they said, "If you continue to talk, we will burn this house and kill everyone of you." A rebel had his gun pointed at us the whole time and there were two more at the door. Amos raped my daughter and Blood raped another girl. Then the rebel with the gun and the one guarding took their turns. My daughter was crying but they covered her mouth and told her to shut up. Blood then told the girls to get dressed and they took them away.[129]

S.G., a fifty-year-old widow, was raped by a teenage rebel called Commander "Don't Blame God" and subsequently had both arms amputated in Mattru village in Bo district prior to the 1996 elections:

> I pleaded but Commander Don't Blame God said he was going to kill me if I didn't lie down. I told him it had been such a long, long time since I had sex. During the rape I was pleading with him saying, "Don't kill me, please don't kill me." He was so rough with me. Then he took me up a big dune above Mattru village. As we were walking, he said he was going to kill me. I pleaded with him and he then said, "I've changed my mind, I'm going to give you a letter." Once we got there I saw many more rebels, about twenty. I was stripped naked down to my underwear. It was humiliating. Then they asked me to sit down and wait. Commander Don't Blame God said: "I have a letter for you but wait for the cutlass man to come." Then the one with the machete came and told me to put out my left arm. It took them three chops with the cutlass to cut off my arm. After this I begged them not to cut my other arm but they struggled with me and a rebel held it down and cut it off. The cutlass man said, "We belong to Foday Sankoh's group." Then one of them took my left arm and put it under my vagina and kicked me twice in the vagina ... very, very hard.[130]

D.T. was gang raped by a child combatant and three other RUF rebels in the rainy season in 2000 near Foriah village in Koinadugu district:

> I was hiding in the bush from the rebels with about fifteen other villagers when the rebels found us. The rebels separated me from the others because my nine-month-old son was crying. A child combatant ordered me at gunpoint to put my son down. He then raped me. I do not know how young he was but he had not yet been circumcised. He was maybe as young as twelve. Then three other rebel men raped me. When I was being raped, I made no movement as they might think that

[129] Human Rights Watch interview, Freetown, May 3, 1999.
[130] Human Rights Watch interview, Bo, March 2, 2000.

> I was trying to resist. I was bleeding after being raped by four males. After being raped, the rebels forced me to carry a heavy load and walk to Kania town. I escaped the same day and returned to the farm. I explained to my husband that I had been raped but he was happy to accept me back.[131]

R.F., a thirty-three-year-old farmer, explained how she felt after she was gang raped by West Side Boys, including four child combatants, at Petifu village in Port Loko district in November 1999:

> Four children between ten and twelve years used me. They were so small I could barely feel them inside me. The small ones tried to imitate the older ones and one of them kept saying, "I'm trying it, I'm trying it." It was the war that brought that humiliation. I kept comparing them to my own children; my first-born son is ten. I forgave them because they are children. It was not of their own making. They must have been drugged.[132]

In December 1994, thirty-year-old A.B. was abducted with six other women from Yonibani in Tonkolili district by the RUF when they launched a surprise attack with the collusion of the SLA. The RUF made the women carry looted items to their camp, where A.B. stayed for a week before escaping. She herself was repeatedly raped by two rebels, including one Liberian, and witnessed the rape of an old woman with gray hair:

> At least four of the women I had been abducted with were raped. Before they raped me, the rebels went for an old woman with white hair. When she realized what they wanted, she took off her headscarf to show her white hair and said, "I'm old, I have stopped having sex." At first the commander said the rebels should not touch her because she was old. But the other rebels got annoyed and started insulting the commander saying, "Fine, you can fuck any woman you want, anytime you want, but now that we have one we want, you say no." The commander finally said that they could go ahead so all five rebels, including a small boy of fifteen years raped her. One was on his knees with his trousers down while the others stood around watching.
>
> When I saw that I felt sick. When I saw a young boy and that old woman, I realized they could do anything and that they were going to do the same thing to me. But I guess I was lucky as only two did it to me.[133]

S.J., a wealthy forty-five-year-old woman, was raped by RUF rebels, including a child combatant, and then burnt in late January 1999 in Manjoro village in Bombali district:

> Thirty rebels attacked our village. The rebels said that we, the civilians don't want peace. I saw them kill three people and were it not for God, I would have been the fourth. Then they burned thirteen houses and looted all our things. I ran with my four children to the house in the bush where we tend to the cows. We slept there with the cows for a few days but then seven rebels surprised us there. The commander of this group was called C.O. Caca Scatter. He was a Mende. Others were speaking Mandingo and Temne.
>
> They started stealing what few possessions I had and then C.O. Caca Scatter said that I should be raped. When I heard that order I pleaded, "Please, don't do that one to me." But they said they would do whatever they wanted. Four raped me and the last one to rape me was a fifteen-year-old. I could have given birth to him, he was so young. He put a knife to my throat and said he was going to kill me but the C.O. said I shouldn't be killed.
>
> Then they tied my hands behind me and C.O. Caca Scatter burnt me. He scooped up hot charcoal from the fire we had been cooking with and tried to burn my face with it. I struggled and turned

[131] Human Rights Watch interview, Foriah, March 6, 2002. The rainy season starts in May and ends in October.
[132] Human Rights Watch interview, Port Loko, November 27, 1999.
[133] Human Rights Watch interview, Bo, February 9, 2000.

> my face so he burned my chest instead. He did this four times on my front and seven times on my back. Each time they picked up the charcoal and held it on my body until it burned deep into my skin. They left me with my skin burning but I could not roll on the ground for fear it would catch fire and burn me even more. When they started to burn me I pleaded for them to kill me. I started screaming and my children came around to try and save me. They took two of my children, gave them looted property to carry and took them away. That is the last I have heard of them.[134]

T.B., a fifty-year-old woman was abducted from Freetown during the January 1999 invasion and made to walk to Magburaka in Bombali district. There, a RUF/AFRC rebel raped her until she developed an abscess in her vagina:

> In Magburaka, I was first raped by three rebels. While doing it they called me a bastard child and that civilians wanted to burn them all alive. After that I was taken as a wife by a commander called "Bird Bod" who was in his thirties. He raped me every day. They were always on drugs. He said he didn't have a wife so I cooked and washed for him. He roughed and beat me and used to put his fingers violently up inside me. He would get an erection while he was doing this and would sometimes rape me afterwards. I think this is how I started to get boils—I had five or six of them. It started to create an ulcer. Over the two months I was with them it got worse and worse. It was terribly painful but Commander Bird still raped me and put his fingers up me even though I had this problem. I don't know why the RUF would treat an old woman like me in such a way.
>
> The abscess got very swollen and started to hang down between my thighs. I could barely walk. It started to smell very bad and it was then that the commander finally drove me away. I walked for two to three weeks through the bush going from village to village until I got to Masiaka. In every village I went, the women felt for me and would give me food and make a bath of herbs and salt for me to soak in. Then when I felt strong enough, I would walk to the next village. When I reached Freetown, I received medical treatment. My husband has accepted me back and feels sorry for me.[135]

Breastfeeding mothers were also not spared by the rebel factions even though in Sierra Leonean culture, women are not supposed to have sexual intercourse until their children have been weaned and can walk, which can take up to three years.[136] Sierra Leoneans believe that doing so will weaken the breast milk and the ability of the child to fend off infection. Women whose infants died from malnutrition after they—the mothers—had been raped frequently attributed the death of their child to the fact that they had been raped. It is also a specific crime for a man to commit adultery with another man's wife while she is breastfeeding. Traditionally, the guilty spouses are thought to be under a curse and will suffer misfortune.[137] A.B , who was raped by two rebels and witnessed the rape of an old woman, tried at first to dissuade the first rebel from raping her by telling him that she was a breastfeeding mother with full breasts, but the rebel said he did not care.[138] M.C. was breastfeeding her two-week-old baby when she was brutally gang raped by RUF/AFRC rebels in early January 1999 near Mabang in Tonkolili district; she breastfed her baby while being raped. She suffered a prolapsed uterus[139] as a consequence of the rape:

> At the time of the January 1999 offensive, my husband who is a policeman was based in Mile 91. I became very worried about him and decided to travel to find him. I left Bo on January 8. I had just given birth to a baby girl two weeks before so was still feeling very weak but I desperately wanted to find my man.

---

[134] Human Rights Watch interview, Freetown, September 17, 1999.
[135] Human Rights Watch interview, Freetown, July 8, 1999.
[136] Mariane C. Ferme, *The Underneath of Things: Violence, History, and the Everyday in Sierra Leone* (Berkeley: The University of California Press, 2001), p. 131.
[137] Joko Smart, *Sierra Leone Customary Law*, pp. 127-8 and 131.
[138] Human Rights Watch interview, Bo, March 2, 2000.
[139] A prolapsed uterus is a condition in which the uterus drops from its normal position. In severe cases, such as those that may be associated with injury from sexual violence, the cervix and uterus may protrude beyond the vaginal opening.

I arrived late in the evening. Then all of a sudden we heard firing. There was confusion and armed rebels captured me. They took me to their bush camp in a place called Mabang. They started sexing me two days later. I tried to fight and told them to leave me, but several times they put a pistol into my vagina. I gave myself up to God and asked that he save me. The first day, about ten sexed me. After the first day there were fewer men, between three and six a day. Every day they came and stood in line waiting to rape me. All together there were over thirty different men. They were aged between seventeen and twenty-five years old. The younger ones were rough and most of them seemed to be on drugs. I think these were RUF people. Most of them seemed to be Mendes. I saw many young girls in their camp. I guess the lucky ones only had one rebel. But I'm from Bo and wouldn't allow myself to be together with one of them. I told them I wasn't a Kamajor and that my husband was a policeman and they said, "Oh policemen are our enemies ... we've killed them all. Forget about your husband."

Sometimes they tied my legs to my arms with my legs spread and raped me one after the other. They said since I was from Bo and I was a Kamajor's wife that they were going to rape me to death. [Sometimes] I held my baby Hawanatu in my arms while they were raping me. When she cried they said they wanted to shoot her so I gave her the breast.

They raped me for two or three weeks and then in early February, my vagina came out [i.e. she suffered a prolapsed uterus]. It was so, so painful. I can't tell you how much it hurt. When this happened, I thought I was going to die. In order to get it to go back in I had to lie down and push it back in. To urinate, I had to lie down. They provoked me and made fun of me. They said now my Kamajor husband will not be able to have sex with me. A wife of one of the commanders told a villager to help me escape which they did. He took me to a nice woman in another village away from the rebel area and after explaining my problem, she helped me so much. She gave me herbs and tried to cure me and my baby who by that time was vomiting and very sick. It's only God that helped keep my little Hawanatu alive. He decided that this little child is mine to keep. Later, when I was stronger, I made it to Freetown and had an operation for my prolapsed uterus. I feel much better now.[140]

Rebels also raped pregnant women. In polygynous marriages, pregnant women generally stop having sexual intercourse with their husbands once their pregnancy has been confirmed, to protect the fetus. R.F, the thirty-three-year-old farmer gang raped by West Side Boys at Petifu, Port Loko, in November 1999 (see above, p. 39), was six months pregnant at the time. As the result of the gang rape she delivered prematurely, causing the baby's death:

I went with Isatu, her husband and my five-year-old son to harvest rice in Isatu's village, Petifu. We traveled by boat and at night to avoid the rebels. When we were resting having worked all the next day, we heard the rebels. They were all over the village and told us to give them our rice and palm oil. Several of them started hitting me on the head with their guns. Three were wearing uniform, the others wore civilian clothes. They spoke all different languages.

One of them tied a rope around my waist like a goat and pushed me out of the door screaming, "Show me where your people are." My little boy was left sleeping on the bed. Seven of the rebels then led me about a mile out of the village, screaming at me to tell them where we had hidden the rice and palm oil. I told them I was a stranger there but they did not believe me. They took me into a small farmhouse where they all used me. This went on for a few hours until the cloth I was lying on was soaked. I could barely walk. Then they ordered me to get up and dragged me like a sheep back to the village.

[140] Human Rights Watch interview, Freetown, September 5, 1999.

Once back in the village, they put me in a house and more of them started raping me. I was used by at least twenty rebels. I think the whole unit raped me throughout the night. The only one who did not use me was the commander. He kept coming in and saying, "Have you had your turn?" He was the one they kept calling "Commander."

When one of the Temne speaking rebels was raping me I said, "Please brother, talk to these people and ask them to leave me." But he said he could not do anything. Another rebel pulled out a knife when he was on top of me and said if I said anything he would kill me. I told them I was pregnant and said, "Can't you see? I have a six month belly." But they said, "We do not care. We see your belly but so what." Two of them told me to stoop down, but I couldn't and they just pushed me down and used me. After many had used me one of them said, "Oh, there is no more sweetness there," so they turned me over and did it to me from behind. Three of them did it to me like that, and now when I go to the toilet it is so painful; I am still bleeding and it feels like my insides are coming out. One rebel had sex with me several times. He said he was punishing me for not having shown him where the rice and palm oil was hidden. I yelled for the commander and complained, saying, "He wants to kill me, tell him to leave me!" but he said, "We have killed others that are better than you." I did not complain after that. They kept saying they were about to stop fighting—that they really want peace and that after peace comes, they won't do these things any more.

In the early hours of the morning, they finally left. They wanted me to carry their looted items but I could not walk. They took other people whom they used to carry the looted goods. At one point I tried to get up but could not, I slipped and fell down to earth. By this time I had started bleeding. I felt my baby trembling in my belly. A few hours later the water broke and then I started to have contractions. I have five children and had never even had a miscarriage. I had about three hours of labor before giving birth. The little thing shook for a minute or so and then it died. It was so beautiful; it had fine hair and the face was so pretty. I wrapped it with a cloth. I could not bear to look whether it was a boy or a girl. I was gushing out blood and shortly after I delivered the placenta. I felt dizzy. I was barely able to walk.

Later when I had a little more strength I covered my baby and threw it in a pit latrine. I felt so bad for throwing it away like that but I did not have the strength to bury it properly. After thinking everything over, I am only angry at this war and thankful that I still have my life and that the life of my child [her five-year-old] was spared. It's only God that saved him. He was lying on the bed the whole time.[141]

Forced Pregnancies

Many women and girls became pregnant as the result of the rape(s) they were subjected to. Although some women were reportedly able to abort without the knowledge of the rebels using traditional herbal treatments, the majority had no choice but to carry the child to full term. M.W., the abducted nurse already quoted above (see p. 28), said that many girls who had been raped had miscarriages that might have been self-induced with herbs. I.S., a twenty-seven-year-old student who was abducted by the AFRC during the January 1999 invasion, tried to abort, but was unsuccessful:

When I got pregnant I didn't tell my rebel husband for months. I asked a woman who knows about medicine to give me herbs to abort the baby, but it never worked and after my belly started to swell, he found out. He warned me that if I tried to flush the baby out, he'd kill me. He said he wanted the baby and that he hoped it would be a boy.[142]

M.W., the abducted nurse, also mentioned that medical personnel were instructed by a rebel doctor, Dr.

[141] Human Rights Watch interview, Port Loko, November 27, 1999.
[142] Human Rights Watch interview, Freetown, September 17, 1999.

Lahai, not to perform abortions, give birth control, or advise that traditional herbal treatments be taken, as the rebels felt that too many people had died and they needed to increase the population.[143] Many women did have miscarriages because of the brutal rapes and trauma they were subjected to by the rebels, as well as the difficult conditions in the bush.

Forced Abortion by West Side Boys

Human Rights Watch has documented one case of forced abortion by the West Side Boys, the splinter group of the AFRC that took power in the 1997 coup. Twenty-year-old M.K. was abducted from Magbele village in Port Loko district in July 2000, when she was four months pregnant. She was raped by four West Side Boys and was made the wife of a rebel who forced her to abort:

> I was abducted with two other civilians, including my brother-in-law, by the West Side Boys. They were all wearing uniforms; some uniforms were new, and others wore old ones. We were taken to their base in Magbele Junction where there were many other abductees. At nighttime one of the rebels called Umaro Kamara came to me and said he wanted to have sex with me. He spoke nicely with me and said that he wanted to take me to Makeni and make me his wife. He raped me that day. The rebels saw that I was pregnant and said to Umaro, "We are not going to work along with any pregnant woman, we should kill her." Umaro said that he wanted to take me as his wife and that I should be given an injection instead. Umaro called me and tried to convince me to get rid of the baby. He said, "They will kill you if you do not agree so you better have the injection." I was taken to the doctor who gave me an injection and some pills. Two days later I started bleeding. I felt weak and had pain all over my body. Then I lost the baby.
>
> When Umaro was on patrol, three other rebels raped me. When we moved out to go to another base, I saw the body of my brother-in-law. After one day I started bleeding again so Umaro took me to the doctor who gave me another injection. When we reached Lunsar, Umaro wanted to make me his wife. Even while I was bleeding, Umaro used me. He told me to wash myself before raping me.[144]

Rape by Female Combatant

Human Rights Watch has documented a case of a female rebel manually raping female abductees. The virginity checks performed by female rebels on abductees prior to their "virgination" by male rebels, noted above, also constitute rape given that penetration occurred without the consent of the victim. More of such abuses may have been committed but not reported due to shame, as expressed in the testimony below. The rebels captured sixteen-year-old F.P. on January 7, 1999 when—as she was fleeing the fighting in central Freetown with two other girls—she ran into a patrol of five heavily armed rebels, including one female rebel. They knew the female rebel from before as Aminata; she had lived in their neighborhood before the 1997 AFRC coup. She had joined the rebels at that time and had not been seen since the AFRC was driven out of Freetown in February 1998. F.P. remembered having had an argument with her several years ago. The rebels called her "C.O. Sally." F.P. was taken with her sister and another girl whom she did not know to a rebel base. Her friend was raped by five men, which she was made to watch. F.P.was also "virginated" by male rebels and sexually molested by "C.O. Sally," along with another girl, also called Sally:

> C.O. Sally came into the room where we were kept and said, "Why are you hollering? These are my boys, why are you refusing them?" Since we knew C.O. Sally, we asked her to help us get away, so finally on January 10 she took us at gunpoint to another house. She made us cook and wash for her. Once she told us to go into a room and take off our clothes. She had an RPG [rocket propelled grenade] on the ground as well as a gun. We took off our clothes and then she took two long sticks and tied our hands to them straight out from our shoulders. She stood us in front of her and asked if we remembered her to which I answered, "No." Then she said that she remembered

[143] Human Rights Watch interview, Freetown, October 21, 1999.
[144] Human Rights Watch interview, Port Loko IDP camp, July 13, 2000.

me and that we had fought last time we had met each other. She made me put one leg up on a drum and then she fingered me with two fingers. I was so embarrassed and ashamed. I asked her why she was doing this but she screamed at me to shut up. She did not touch herself or say anything, but kept on fingering me. Then she called Sally and did the same thing to her. When she was finished, she left us standing there with our arms tied. A little later she fingered us again. It did not seem sexual to me and I do not know why she did it. An hour later a young rebel came and said he thought he was hearing gunshots from ECOMOG. C.O. Sally ordered the boy to untie us as "I have punished these people already."[145]

Rape and Other Sexual Violence against Boys and Men by Male and Female Rebels

According to FAWE Sierra Leone, boys and men were also raped by male rebels. FAWE Sierra Leone treated fourteen boys aged between nine and fifteen years old who had been raped, but suspects that there are more cases. Due to the stigma attached to homosexuality in Sierra Leone, male victims of rape feared they would be perceived as homosexuals and therefore few boys were willing to report it. Human Rights Watch has not documented any of these crimes of sexual violence, which were apparently committed on a much smaller scale than sexual violence committed against women and girls. FAWE Sierra Leone did not want Human Rights Watch to interview the boys they had treated as they feared that interviewing them would re-traumatize them.[146]

Human Rights Watch documented two cases in which female rebels forced men to have sexual intercourse at gunpoint. One case involved a female rebel forcing a male civilian to have sex during the January 1999 invasion of Freetown, and the second involved a RUF female training commander and male conscripts in Kono. Cases of these crimes of sexual violence were also reported by FAWE Sierra Leone. It is impossible to determine the prevalence of this type of sexual violence, but—given the general level of violence within the rebel forces and the power that female combatants had over civilians—Human Rights Watch believes that such incidents did happen more often than has been reported, albeit again on a much reduced scale compared to male combatants raping female civilians.

Abduction, Sexual Slavery, Forced Labor, and Conscription

Abduction

The rebel forces used abduction as their primary method for recruitment. During an attack on a town or village, rebels typically rounded up civilians as they tried to flee or were found hiding. Men were abducted to carry the looted items as well as being forcibly conscripted. The abducted children were also given military training and forcibly conscripted.

In thousands of cases, women and girls were abducted after being subjected to sexual violence. The rebels often killed family members who tried to protect their women and girls. Abducted women and girls described being "given" to a combatant who then took them as their "wives" (see also "Sexual slavery" section, below).[147] Abduction of civilians continued for the duration of the armed conflict. In the early years of the conflict, the RUF went on hit-and-run raids, returning to their base camps with looted items and abducted civilians. As the RUF took over more territory, an increasing number of civilians were abducted. As their ranks increased with more men and boys being forcibly conscripted, so did their abduction of women and girls. The AFRC and West Side Boys used the same tactics. Some women had the extreme misfortune of escaping from one rebel faction, or unit, only to be abducted by another. One such victim, thirteen-year-old M.F. (see above, p. 34), who was first

[145] Human Rights Watch interview, Freetown, May 18, 1999.

[146] Human Rights Watch interview with Christiana Thorpe (founding Chairperson of FAWE Sierra Leone Chapter), Freetown, March 22, 2002.

[147] The PHR report found that 9 percent of women reporting having themselves experienced sexual violence had been forced to "marry" their rebel "husband." PHR report, p. 2. These types of marriage are similar to marriages by capture, which were common at the turn of the nineteenth to twentieth centuries. In tribal wars, the conquerors would kill the male inhabitants of the vanquished village and capture the women who subsequently became the wives of the conquerors. The "marriage" was validated by the captor's public declaration of his intention to cohabit with his captive. Such a wife was regarded as a slave and her children could not inherit from their father. Joko Smart, *Sierra Leone Customary Family Law*, p. 29.

abducted from Koinadugu by the RUF/AFRC and gang raped, was driven out of Makeni in October 1999 when it came under attack by the RUF. She was subsequently abducted by the West Side Boys and raped by two child combatants.[148]

Sexual Slavery and Forced Labor

Women and girls were primarily abducted to be the sex slaves of the rebels and to perform slave labor. The survey conducted by Physicians for Human Rights found that 33 percent of the interviewees reporting war-related sexual violence had been abducted and 15 percent had been subjected to sexual slavery. Consistent with fairly common practice among the Sierra Leonean male population at large, many rebels had polygynous "marriages," including with abducted women whom they had forced to "marry" them. Rebels also changed "wives" frequently when they tired of them or when their "wives" were too ill to perform their tasks (a consequence of the brutality that they were often subjected to). Victims interviewed by Human Rights Watch reported attaching themselves to one rebel to avoid gang rape and be given a degree of protection. The more highly ranked the commander, the more protection a woman had. Women and girls, however, remained vulnerable to sexual violence by other rebels. M.F., the thirteen-year-old who was gang raped by the RUF/AFRC in Koinadugu was raped by two other commanders when her "husband" Mohammed was out on patrol.

Women who were "married" to high-ranking rebels benefited not only from "protection" but also were able to exert power over others. The women and girls often benefited from the looted items that their rebel "husbands" gave them, and took part themselves in looting raids to steal clothes, shoes, and jewelry. Not all were abductees: some women and girls voluntarily joined the rebel forces and sought to benefit from their relationship with the rebels, i.e. from the looted goods or escaping from their parents (some girls would use a relationship with a rebel boyfriend to gain freedom from parental control, by threatening to involve the boyfriend in their dispute over parental restrictions). Such women consenting to marry a rebel were probably still vulnerable to sexual violence from other rebels.

Numerous victims described being subjected to abuse or forced to work by commanders' wives. FAWE Sierra Leone also reported that female combatants "married" to rebels killed new abductees if their "husbands" showed a preference for them. A.J., the fourteen-year-old student who was abducted in Pujehun and tortured by the RUF from February to May 1994 (see above, p. 31) is an example of how some "wives" were treated by other female abductees or combatants:

> I was put under the control of Commander Patrick, a Liberian. He was married to a woman called Neneh who was very jealous of me. Once, after the commanders had gone to the war front, Neneh told one of our guards to open up the cage where I was being held and take me out. She said, "My husband is interested in you. If you accept him to have sex with you, I'll kill you, so be forewarned." Neneh and Patrick have one child. She told me she'd joined the rebels voluntarily. She said, "You are just a captive. Do you think I was abducted? I was not abducted. I joined voluntarily. So you have no right to fall in love with my husband."[149]

A few victims also described how some of these women, usually the wives of commanders, used their power to try and protect, and at times facilitate the escape, of other abductees. For example, M.C., who was brutally raped by rebels in early 1999 in Mabang and suffered a prolapsed uterus (see above, p. 38) was helped to escape by a commander's wife who felt sorry for her.[150]

Abducted women were made to carry out forced labor during their captivity, including cooking, cleaning, washing clothes, and carrying heavy loads of ammunition and looted items. In many instances, women—intimidated by their captors and the situation they were in—felt powerless to escape their lives of sexual slavery, and were advised by other female captives to tolerate the abuses, "as it was war." The rebels often deliberately

[148] Human Rights Watch interview, Kabala, 7 March 2002.
[149] Human Rights Watch interview, Pujehun, February 12, 2000.
[150] Human Rights Watch interview, Freetown, September 5, 1999.

marked abducted civilians with the letters "RUF" or "AFRC" carved mainly onto their chests. This made escape more difficult because, were they to be caught by government forces, they would likely be suspected of being rebels and killed. Some women used traditional herbal remedies to remove their markings, and international organizations have also performed surgery on these victims to remove the scars.

Relationships between Rebels and Abductees

The relationships that developed between the abductees and rebels were very complex and varied. Most relationships were obviously very volatile, as described by I.S., the twenty-seven-year-old student who was abducted by the AFRC in the January 1999 invasion (see above, p. 40). She stayed with the AFRC/West Side Boys until August 1999 when she was able to escape:

> We stayed there for months and they were always going on attacks in the Port Loko area. Occasionally C.O. Blood was nice to me and I had to kiss him and play love with him. But I could never tell him what was really in my heart; that I missed my family and wanted to escape. Other days he would beat me for nothing. He did the same thing to his other "wife." Neither of us could complain.[151]

H.K. was assigned as the wife of "Jaja" and was so badly treated by him that even the other rebels sometimes tried to prevail on him to be less violent:

> Jaja was already "married" to another abductee, and when she saw what he had done to me, she escaped. He always beat both of us. He used to sex me twice every night. He made me take his penis in my mouth. I tried to refuse him but he always threatened to kill me. He was actually an SLA soldier but had joined the RUF. His C.O. was Colonel Stagger, who used to criticize him for how he treated us. Colonel Stagger used to say, "Look, when we take these kids, we should take care of them and now you beat her for nothing." Jaja used to say it was not Stagger's business. Stagger's own abductees were treated pretty well. He never beat them.[152]

Some women fled at the first opportunity. Other women, especially those who had children with the rebels, found it difficult to leave these abusive relationships. Many women and girls experienced their first sexual relationship with their rebel "husband" and may have developed aspects of the "Stockholm Syndrome," whereby the hostage identifies with the hostage-taker. They adjusted to the level of violence with the rebels, which over time became "normal," in order to survive.[153] Others feared that their "husband" might seek revenge if they escaped and returned to their family. The rebels instilled fear in their "wives" by telling them that their families would not accept them back. The abductees also feared to some extent that they would be blamed for what happened to them. For some women who had lost their families, the rebels became a surrogate family. As many rebels had themselves lost their families or could not return to their villages of origin, given that they had in some cases committed human rights abuses in their communities, they did not want to relinquish their surrogate families or their slave labor.

As the women and girls were never registered in the Disarmament, Demobilization and Reintegration (DDR) program and there was insufficient documentation of this large category of victims throughout the armed conflict, it is unclear how many girls and women were abducted. It is now impossible to establish how many remain under the control of their rebel "husband" or have returned to their village of origin.

The ones who have remained involuntarily will only re-examine their situation when alternatives become available. Women who wish to sever links with ex-combatants have few alternative economic or social options. They are a very vulnerable group that has little or no means of support. They are often not able to return to their

[151] Human Rights Watch interview, Freetown, September 17, 1999.
[152] Human Rights Watch interview, Freetown, October 12, 1999.
[153] A group of female ex-combatants and abducted women, for example, defined to Human Rights Watch domestic violence as "wounding or losing consciousness."

villages out of fear, lack of funds and social stigma, especially if they have given birth to children fathered by rebels. The women are therefore often forced to remain in situations in which they are vulnerable to continuing abuse. Numerous victims end up being commercial sex workers, selling their body for as little as U.S.50¢ Exploited girls and women can end up abandoned with several children to raise by themselves by the time they are in their early twenties.

Rebel Control over Abductees

Life with the rebels was very tough. Civilian abductees, in particular, were treated ruthlessly. The RUF established a military police system and courthouses to administer a form of justice to those who contravened RUF rules of behavior. Some of the RUF rules were written, but the rules, trial and punishment were to a large extent arbitrary, dependent on the particular commander. Interviewees reported that severe punishment was meted out for small incidents such as spilling water on a commander's shoes (one week in a cell with daily beatings) or not lodging complaints through the official channels (imprisonment in a dungeon). "Courthouses" were established to try both combatants and the civilians.[154] A rebel was expected to provide for his "wives" and children during their captivity even if he had taken on another "wife" or "wives." If a rebel reneged on his responsibility, then he could be put in a cell and beaten to death. Civilian women who were tried by the court were raped and beaten if they did not have a commander to stand up for them. According to K.M., who was abducted by the RUF from Kabala, Koinadugu, the three male rebels who presided over the courthouse in Burkina, a training camp in Kailahun, would arrange amongst themselves who could rape the women. She also said that one woman was raped to death by six rebels.[155]

Forced Conscription: Female Combatants

Women and girls were also forcibly conscripted into the rebel fighting forces. The RUF established military training camps for women. During active fighting, female combatants were sent into battle after the men and the Small Boys Units (SBUs). There were only very few high-ranking female commanders in the rebel forces and a much smaller number of female combatants than adult men or boys. Female combatants had more power than female civilians: combatants, including female combatants, who had received military training, had substantial power to do whatever they wanted to civilians. Within the rebel forces, however, women still held much lower status: female combatants were assigned "husbands."

Forcibly conscripted female combatants were in many ways as vulnerable as civilian abductees, and may have decided to stay with their rebel "husbands" for the same reasons as their civilian counterparts i.e. shame, lack of alternative options, and economic dependence on their "husbands."

RUF Officers' Responsibility for Sexual Violence

In addition to their individual criminal responsibility, rebel commanders can bear direct command responsibility for crimes of sexual violence and sexual slavery, for ordering the rape and abduction of women and girls (see below, p. 60, for a discussion of the principle of command responsibility in international law). C.O. Caca Scatter, for example, ordered the gang rape of S.J., the wealthy forty-five-year-old woman (see above, p. 37). A.J., the fourteen-year-old student, was tortured, caged and brutally raped by C.O. Patrick (see above, p. 43). S.G., the fifty-year-old widow was raped and had both arms amputated by Commander "Don't Blame God" (see above, p. 36).[156] Indeed, the organized way in which victims frequently describe being rounded up and taken, as well as the number of rebels involved in these abductions and the number of victims abducted, suggests an element of premeditation and planning on the part of the RUF, AFRC and West Side Boys command. Victims also frequently described being specifically selected to be given to a commander or being sexually abused in the presence of commanders, which again suggest that sexual violence was committed under the direction of and with the consent of members of the rebels' hierarchy. I.S., the twenty-seven-year-old student who was abducted and

[154] Abdullah and Muana, "The Revolutionary United Front of Sierra Leone," p. 189.

[155] Human Rights Watch interview, Kabala, March 7 and 9, 2002.

[156] Human Rights Watch interview, Freetown, May 3, 1999. Under Article 6 (1), persons are held individually responsible for the planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the statute.

gang raped by the West Side Boys from January to August 1999 explained how Commander "Blood" had initiated the "wife" selection process:

> One of the commanders said he was going to amputate all of us too. But another commander, C.O. Blood, said, "Don't kill them, let's chose them as wives." Then we were divided up. The one who seemed to be in charge, C.O. Blood, chose me. When he looked at me I was frightened. His pupils were huge—he was high on drugs. He took me to a house and told me to lie down on the ground. He said if I did not allow him to have sex, he would kill me. He took out a knife and said he would not even waste his ammunition on me. He would just chop me to pieces. I knew he meant what he said. He forced my clothes off and used me twice. He was rough and after the second time I begged him to leave me, but he said he did not care. My insides hurt so much. Then he used me from behind. Other women were being raped in the same room. They [the West Side Boys] did not care.[157]

According to the survey conducted by Physicians for Human Rights, thirty-four of the ninety-four survivors directly reporting sexual violence believed that their attackers' commander was aware of the attack.[158] While it is difficult to generalize from this figure, it does tend to confirm the findings of Human Rights Watch that sexual violence and slavery, which were committed on a widespread and systematic nature, were part of the rebel forces' military strategy to dominate, humiliate and punish the civilian population.

The RUF has made occasional efforts to declare rape a crime within certain areas under their control and disciplined ordinary soldiers accused of raping. The disciplinary measures included summary trials followed by execution. These efforts failed to prevent sexual violence in practice. One commander, for example, prevented at least temporarily the rape of an eight-year-old girl who was abducted by a ten-year-old child combatant by ordering the child combatant to only use the young girl "for cleaning and cooking for now."[159] A.B. witnessed the gang rape of an old woman, which the commander had originally tried to stop but then allowed to happen (see above, p. 37).

Senior male and female figures in the RUF interviewed by Human Rights Watch mainly denied that sexual violence had happened, explaining that the women joined the RUF movement voluntarily and fell in love with their rebel "husbands."[160] A key figure in the AFRC admitted that he had heard of cases of sexual violence and blamed it on the breakdown of law and order.[161] He also said that none of his men had expressed any remorse for the human rights abuses they committed. In the vast majority of the cases documented by Human Rights Watch, those who committed rape were not disciplined or punished in any way

Sexual Violence Committed by the CDF

As already noted, there are relatively few reported cases of rape committed by the CDF. The CDF were reasonably disciplined during the war, although their discipline deteriorated when they were deployed in chiefdoms outside their own native areas. Sexual intercourse is believed to act against the protection bestowed on the fighters during their initiation ceremonies. However, Human Rights Watch has documented several crimes of sexual violence by the Kamajors, the CDF based in the Southern Province.

In March 1998, a forty-five-year-old Temne man, M.B., witnessed the rape of a young Temne woman called Jeneba by the Kamajors in Kenema town. The Kamajors also mutilated and killed Jeneba. M.B. explained that during the ECOMOG intervention to restore the democratically elected government in 1998, Kamajors accused members of the Temne and Limba ethnic groups of being RUF/AFRC supporters and persecuted them. According to M.B., the Kamajors identified Temnes and Limbas as such by their last names and publicly beheaded or

[157] Human Rights Watch interview, Freetown, September 17, 1999.
[158] PHR report, p. 54.
[159] Human Rights Watch interview, Freetown, June 16, 1999.
[160] Human Rights Watch interviews, Freetown and Makeni, April 1999 to May 2002.
[161] Human Rights Watch interview, Freetown, April 26, 2002.

stabbed to death numerous alleged rebels. The Kamajors also ate some of their victims, believing that this would bestow additional powers to them. The accused had no means to defend themselves, as ECOMOG initially backed the Kamajors and did not realize until later that the killings were carried out along tribal lines. After receiving death threats, M.B. sought refuge in the house of a chief who was Temne and the father of Jeneba. A group of about eight Kamajors came to the house, looking for Jeneba, and accused her of having a sexual relationship with an AFRC fighter:

> I saw Jeneba being raped by one Kamajor, while the others were standing around watching. Then the Kamajors threatened to kill us if we did not stop looking at them, so we went into other houses to hide. From there we could not see what was going on but heard Jeneba screaming at the top of her voice, and when the Kamajors had gone we came outside and found Jeneba dead. She was naked and her hands and feet had been mutilated by a machete.[162]

On February 17, 1999, J.K., a thirty-one-year-old woman was raped by two Kamajors in a small village in Bonthe district. A group of Kamajors entered J.K.'s house looking for her brother, who had not been home for the past three years:

> One of the Kamajors called Kinie said that they had been told that my brother was in the village and was planning to attack them. I assured them no one knew where he was. During this argument, the other civilians in village became afraid and fled into the bush. As soon as the Kamajors forced their way into my bedroom, I followed them to check up on what they were doing. Kinie and another Kamajor whose name I did not know pushed me to the ground, tearing off my clothes. I screamed for help but no one came to my rescue. Even my father who was in the house was unable to help me. They both raped me while the others stood around laughing. When they left the village, they looted some goats and chickens. There was no one to report the incident to and I had no money to pay for a hospital visit. I decided to leave everything to the Almighty God.[163]

In another incident, at least three female civilians were raped, including by a Kamajor commander. In July 2000, M.S. and twenty-five other passengers were taken off a bus at Bauya in Moyamba district, beaten, and accused of being RUF rebels. All their possessions were taken off the bus and inspected by the Kamajors but they did not find any incriminating goods. Their possessions were stolen by the CDF. In the evening, M.S. was locked in the guardroom at the CDF office with nine other women and her young child:

> Twenty CDF came to the guardroom and told us, the women that we could choose between [being] raped or killed. I was raped by a young CDF on the ground of the guardroom. I told him that I was a suckling mother but he did not care. My baby was in the room when he raped me. He made me stoop like an animal. He said, "I am a government man so no one will ask me anything about this." My breast milk has gone bad now. I could hear another woman who initially refused to be raped being beaten with the torch. She was raped by two CDF called Mohammed and Ahmed.[164]

In the same incident, an older high-ranking CDF commander raped a thirty-five-year-old trader, R.K.:

> Mr. S. raped me all night. He raped me five times. I cried as I was not used to doing that even with my husband. He was rough and did it from behind like an animal in a bad way. He accused me of being a RUF commander's wife. I told him my husband is a Gbetti [part of the CDF].[165]

[162] Human Rights Watch interview, Kenema, August 12, 2002.
[163] Human Rights Watch interview, Bonthe district, July 8, 2002.
[164] Human Rights Watch interview, Freetown, August 21, 2000.
[165] Human Rights Watch interview, Freetown, August 21, 2000.

Human Rights Watch also interviewed B.R., a Kamajor fighter who reported witnessing the rape of two civilians that took place in 1997 and 1998. He also witnessed the killing of a captured RUF female combatant, who died after being raped with a stick. B.R. explained that the rape that took place in 1997 happened when a patrol of six Kamajors, including B.R., met a group of female civilians in the bush:

> Some of the women started talking bad things about the Kamajors and said that we were taking food off people. Then one Kamajors went for this woman. I saw him raping her. He had stripped her naked and she was screaming. I did not want to see it or be a witness but I had to rush there. At one point I thought he was killing her.[166]

The incident was reported to the high priest, one of the main Kamajor initiators who decided that the offender had to be punished. B.R. explained that the punishment was called "walking the highway," which entailed the offender being made to walk slowly through fifty Kamajors lined up on two sides, with the Kamajors flogging him with canes. B.R. said that the victim would have reported the rape to the Kamajor high priest, but that he and the others on patrol decided to report it first, otherwise it would have made them equally guilty of the crime. The rape committed in 1998 involved a young Kamajor raping a twenty-year-old woman. B.R. explained that the offender was given a trial, during which he admitted to having committed the crime. He was subsequently locked up in prison (probably a local prison).

In another instance, B.R. explained how a twenty-five-year-old female RUF combatant captured in Tongo in Kono district was brutally killed by the insertion of a long stick in her vagina after the Kamajors had cut off her ears and nose and gouged her eyes out with a machete. The Kamajor commander allegedly wanted to teach the woman a lesson and said that: "This stick is your husband and is screwing you. Are you enjoying it? Just say your last prayers, as you are going to die bit by bit."[167]

Sexual Violence Committed by International Peacekeeping Forces

Human Rights Watch has documented several cases of rape by the international peacekeeping forces. Human Rights Watch was informed of a rape committed by a Guinean peacekeeper, Sgt. Ballah, by two reliable sources, including the Sierra Leone Police (SLP), who had interviewed the twelve-year-old victim. The victim was raped on March 26, 2001 when she asked for Sgt. Ballah's assistance in securing a ride to Freetown at the checkpoint that he was manning. The rape was perpetrated in Bo, the area of deployment of the Guinean peacekeeping contingent. Sgt. Ballah was charged to court on the same day. Unfortunately, the SLP dropped the case and the offender was sent back to Guinea. Human Rights Watch was not able to locate the victim.

In February 2001, a Nigerian peacekeeper reportedly raped a sixteen-year-old girl in Freetown. When Human Rights Watch investigated the case, the SLP claimed they had not been able to trace the perpetrator for questioning. UNAMSIL claimed that the Nigerian contingent and UNAMSIL Civilian Police Section had investigated the matter and that the plaintiff had subsequently dropped the charge.

Human Rights Watch interviewed a witness to an alleged rape by two Ukrainian peacekeepers that took place on April 3, 2002 in the village of Joru in Kenema district. K.S., a fifty-five-year-old female farmer testified that she as well as others in her village had witnessed the gang rape

> Late at night I came out of my house to ease myself [urinate]. Maybe I had been woken up by a big white truck that had stopped about fifty meters away from my house. I hid and watched what was happening; there were people inside. I noticed two white men and one black lady inside the truck. Clearly there was a struggle going on. I could hear her yelling at them to "leave me alone" in what sounded like a Liberian accent, but I can not be sure. The door was open and one of them was on top of her. The lady was really struggling. I saw that one of them was holding her down while the other was raping her. I was able to see because in the process the men had opened the

[166] Human Rights Watch interview, Freetown, July 31, 2000.
[167] Human Rights Watch interview, July 31, 2000. The CDF generally killed any RUF that they had captured.

> door to the car and the light had come on. I am sure they were raping her and she was fighting with them to stop it. I stayed and watched this go on for several minutes. I later learned a few more people were also watching what was going on. In fact we talked about it the next morning.
>
> Then, perhaps afraid of being watched, the two whites moved their truck further down the road ... past my house, further down the road going out of town. Maybe they thought that because there were no houses around, we would not see what they were up to. They stayed another thirty or so minutes in this second location. I saw both of them have their turn on her, but I did not see any guns. After they were finished, I saw one of them drag her out of the cabin and put her in the back of the big truck. I can not remember if one of them got in the back with her but I think so. Then they drove off.
>
> The next morning when I went out to go to the mosque, we found one of her black shoes that she must have kicked off while struggling with those men. The shoe was near the first place they had stopped. We took it to the police but they never came to ask us any questions. We are all a bit frightened of those UNAMSIL people now. We tell our girls never to get in a truck with them or the same thing might happen to them.[168]

Neither the SLP in Joru or UNAMSIL in Kenema conducted a proper investigation into this alleged gang rape, both claiming that the absence of the victim prevented them from conducting their investigation. The UNAMSIL human rights section was not aware of this alleged gang rape until Human Rights Watch informed them, and to date has also not conducted a thorough investigation.

On June 22, 2002, a fourteen-year-old boy was allegedly raped by a Bangladeshi peacekeeper near the Jui transit camp for Sierra Leonean returnees located outside of Freetown in the Western Area. The rape occurred when the victim and his friends were fishing with several Bangladeshi peacekeepers near the camp. The offender was reported to have taken the boy away from the others in the group before raping him. The victim's friends reported that the boy looked disheveled after rejoining the group and immediately told them what had happened. The offender gave the victim the equivalent of U.S $0.25 to silence him. The boy reported the rape to the SLP on June 24 and a medical exam carried out on the same day confirmed penetration had taken place.

The SLP were involved in the case for ten days, until the UNAMSIL provost marshal took it over. The provost marshal concluded that there was no conclusive evidence to link the crime to the perpetrator. After reviewing the case, the UNAMSIL force commander concluded that while the evidence was inconclusive, the circumstantial evidence was strong enough to conclude that the peacekeeper had violated military discipline, and as such issued an order of repatriation. It is not clear to Human Rights Watch whether this violation will be recorded on the offender's file. According to a reliable source, the investigation by the police and UNAMSIL was conducted in an insensitive manner and members of the Bangladeshi contingent spoke with the victim while the UNAMSIL investigation was ongoing, even though they should not have had access to him. Nor did UNAMSIL follow up with the victim or his family to apologize, provide compensation, and explain the outcome of the investigation.[169]

UNAMSIL investigations into allegations of sexual violence by peacekeepers indicate a lack of appreciation for the seriousness of the problem of sexual violence. Human Rights Watch urges UNAMSIL to fully investigate any allegations of sexual violence committed by UNAMSIL military or civilian personnel. The human rights section should systematically monitor and report on sexual violence, including cases involving UNAMSIL personnel. UNAMSIL should establish a mechanism with the SLP whereby allegations of sexual violence by persons employed or affiliated with UNAMSIL reported to the police are immediately reported to the relevant UNAMSIL staff members, including the provost marshal and the gender specialist in the human rights section. UNAMSIL should reciprocate by reporting cases known to it to the SLP. UNAMSIL should ensure that states

[168] Human Rights Watch interview, Joru, May 28, 2002. Other villagers did not want to be interviewed.
[169] Human Rights Watch interview, Freetown, September 15, 2002

report within the prescribed six months on follow up to cases involving military personnel that have resulted in the alleged perpetrator being repatriated to his country of origin, in order to ensure that states prosecute the accused. This will serve to actually enforce a stated "zero tolerance" for sexual exploitation by UNAMSIL staff and persons affiliated with UNAMSIL, which to date has had no teeth and therefore no impact on changing behavior. Civilian staff who commit sexual violence should be fired and their misconduct properly recorded in their personnel file to ensure that they are not rehired in another U.N. mission.

The UNAMSIL human rights section should also provide in-depth gender sensitization training to military and civilian staff. The training should ensure that the peacekeepers understand the code of conduct and the consequences if they do not adhere to it. The U.N. Code of Conduct for peacekeepers and the Military Observer Handbook need to be revised to ensure that the zero tolerance policy for sexual exploitation by persons employed or affiliated with U.N. missions and the consequences of such acts are clearly stated in these guidelines. Similar guidelines for civilian staff need to be widely disseminated to all U.N. missions.

Both ECOMOG and UNAMSIL peacekeepers have sexually exploited women and solicited child prostitutes.

VI. EFFECTS OF SEXUAL VIOLENCE

Health

Sexual violence often continues to impact the physical and mental well-being of survivors long after the abuses were committed. In addition to the reluctance of some survivors to seek medical treatment, the lack of health facilities, especially in the provinces, as well as the survivors' lack of money for transport, medical treatment and drugs has meant that the health status of survivors is poor.[170] Survivors also were often only able to seek medical treatment months after the abuse had happened, for example when they managed to escape rebel captors and make their way to a health center.

The probability of transmission of HIV and certain other sexually transmitted diseases (STDs) is greatly increased in violent sex and any sex where a woman or girl is injured. Doctors and other health personnel interviewed by Human Rights Watch reported a high prevalence of STDs amongst victims, as the armed conflict in Sierra Leone, like other armed conflicts, served as a vector for sexually transmitted diseases.[171]

A World Health Organization (WHO) report found an alarmingly high prevalence rate of HIV/AIDS amongst Sierra Leone Army soldiers. According to the report, the SLA tested 176 soldiers and eighty-two civilians working for the army who had prolonged diarrhea, tuberculosis, weight loss or pneumonia, and found a HIV-positive rate of 41.9 percent (or 108 persons). Among the group tested were eighty female soldiers of whom thirty tested positive (37.5 percent). As many SLA soldiers defected to the rebel factions, it is likely that victims of sexual violence by them have been infected with the virus.[172] A U.N. report on the impact of conflict on children states that rates of sexually transmitted diseases among soldiers are two to five times higher than those of civilian populations, and that during armed conflict the rate of infection can be up to fifty times higher.[173] Commercial sexual exploitation of women by soldiers, including peacekeepers, also contributes to the spread of

[170] PHR report, p. 45.

[171] Human Rights Watch interviews with Dr. Olayinka Koso-Thomas, Freetown, February 25, 2002; Dr. Noah Conteh, Freetown, March 1, 2002 and Dr. Bernard Fraser, Freetown, March 3, 2002.

[172] World Health Organization, *HIV/AIDS in Sierra Leone: The Future at Stake—The Strategic and Organizational Context and Recommendations for Action* (Freetown, 2000), p. 3.

[173] *See* United Nations Security Council resolution 1308 on the responsibility of the Security Council in the maintenance of international peace and security: HIV/AIDS and international peacekeeping operations, July 17, 2000; and Graça Machel, "The Impact of Armed Conflict on Children: A critical review of progress made and obstacles encountered in increasing protection for war-affected children," report prepared for and presented at the International Conference on War-Affected Children, September 2000, Winnipeg, Canada, p. 12, at http://www.waraffectedchildren.gc.ca/machel-e.asp.

STDs, including HIV/AIDS.[174] In 1997, tests showed that 70.6 percent of commercial sex workers in Freetown were HIV positive compared to 26.7 percent in 1995.[175]

The 2002 report by the Joint United Nations Programme on HIV/AIDS (UNAIDS) on the global AIDS epidemic estimated that by the end of 2001 there were 170,000 persons aged between fifteen and forty-nine living with HIV/AIDS in Sierra Leone. UNAIDS estimates that more than 50 percent of this figure (90,000) are women and girls.[176] More accurate figures on HIV/AIDS prevalence in Sierra Leone, as opposed to estimates, should be known when the U.S. Centers for Disease Control and Prevention (CDC) publish their report based on a nationwide HIV/AIDS prevalence survey conducted in May 2002.[177] The government of Sierra Leone should ensure that future information campaigns on HIV/AIDS are designed both to impart basic information and to help reduce stigma, especially in light of the large number of survivors of sexual violence who may have been infected with HIV.

Other health problems are vasico-vaginal and vasico-rectal fistulas (VVFs and VRFs), as a result of the rape(s) especially of young girls but also of mature women; complications when giving birth; prolapsed uterus; trauma; and unwanted pregnancies. Health professionals have noted high rates of pregnancies amongst young girls with likely resultant illness, injury, and even death, due to pregnancy-related complications. These girls are likely to experience future complications including uterine problems and scarring, reducing their ability to have a normal sex life or to conceive or carry a child to full term in the future. The health of children born to abducted girls is also likely to suffer as the girls often have no one to teach them motherhood skills, contributing to high rates of infant mortality. The health risks are further exacerbated by various factors that impede safe sex, including lack of information about HIV/AIDS, as well as cultural practices and beliefs that undermine the use of reproductive health services and contraception.[178] The lack of attention paid until recently to conflict-related sexual violence has meant that the health needs of women and girls have not received as much attention or funding as required to adequately address the scale of the problem. In general the Sierra Leonean health services lack trained and motivated personnel, medical equipment and supplies, drugs, and blood for transfusion. The reproductive health infrastructure, which was poor before 1991, virtually collapsed during the war.[179] There are only six specialist obstetricians and gynecologists in Sierra Leone.[180] Treatment for sexually transmitted diseases is limited to the main towns and outreach by mobile clinics in some chiefdoms.

Mental health services for survivors of sexual violence are inadequate and as of 2002 there was only one qualified psychiatrist in the country. FAWE Sierra Leone, which has substantial expertise in treating survivors of

---

[174] Human Rights Watch interview, UNAMSIL medical personnel, Freetown, April 30, 2002.

[175] Ministry of Health and Sanitation, *National AIDS/STD Control Programme Annual Report for 1998* (Freetown, Ministry of Health and Sanitation, 1998), p. 3.

[176] UNAIDS, *Report on the Global HIV/AIDS Epidemic 2002* at http://www.unaids.org/, p. 190. This figure is based on a total population of 4,587,000.

[177] Human Rights Watch interview with Dr. Joaquim Saweka (WHO Sierra Leone Representative), Freetown, May 3, 2002. The preliminary results of the CDC showed a prevalence rate of 4.9 percent.

[178] Only 297 of 4,923 women (or 6 percent) surveyed by the government in 2000 reported that they used contraceptives. This low prevalence of contraception use is due to lack of access to family planning services within the communities, inadequate health facilities, especially in the provinces, lack of disposable income to pay for these services, and the low education of women. Only 3 percent of women with no education used contraception compared to 8 percent of women with primary education and 14 percent of women with secondary or higher education. Another worrying factor is the unwillingness of partners to use condoms, which does not bode well given the high prevalence of HIV/AIDS and other STDs. *See* Government of Sierra Leone, *The Status of Women and Children in Sierra Leone*, pp. 55-58.

[179] UNDP, *Human Development Report 2001*, p. 198.

[180] WHO and the Ministry of Health and Sanitation, *Assessment of District Hospitals in Sierra Leone for the Delivery of Safe Motherhood and Reproductive Health Services* (Freetown: 2002), p. 10. The Assessment also found that physicians attended only 3 percent of births whereas traditional birth attendants assisted in 38 percent of births nationally. Ibid. pp. 56-57. Only 10 percent of 4,923 women surveyed by the government in 2000 reported that they received antenatal care from a physician. *See* Government of Sierra Leone, *The Status of Women and Children in Sierra Leone*, p. 10.

sexual violence, believes that counseling on a massive scale is needed to ensure that the women and girls can face the future.[181]

Stigmatization and Shame of Survivors

The rebels frequently committed crimes of sexual violence in public places. A.M., a twenty-year-old male, reported that when he was held in captivity in State House in Freetown from January 8, 1999 for three days, he saw from his cell window RUF/AFRC combatants raping about twenty to twenty-five girls each night on the grounds.[182] Given that rape has been committed on such a systematic and widespread scale and was witnessed by many people, it seems that rape survivors, particularly in urban centers, are generally not stigmatized by society. Survivors interviewed have expressed fear of rejection by their families and communities, but in practice it seems that their fears are unfounded. Most survivors are accepted back into their communities, with their families simply overjoyed to find that they are still alive.

Nevertheless, some women, like R.K. who was raped by the CDF (see above, p. 48), have been rejected by their husbands:

> I told my husband what happened. He cried and rejected me. He said he will find another wife. My family has begged him to accept me as it was not my fault. He does not love me anymore. I am annoyed because I was the senior wife and now he does not treat me well.[183]

Girls and women who voluntarily joined the rebel forces are less likely to be welcomed back.

The survey conducted by Physicians for Human Rights gives an indication of survival strategies employed by women who had been raped: of the ninety-four interviewees reporting having themselves experienced sexual violence, sixty-one (or 65 percent) told someone about their case(s) of sexual violence. The majority of these survivors (fifty women and girls or 53 percent) reported their experience to a health care provider in a hospital, health care center or to a traditional healer, albeit on average five months after the incident(s) occurred. Among those not reporting these incidents and who stated a reason (twenty-eight out of thirty-three), the reasons given were feelings of shame or social stigma (eighteen women and girls or 64 percent), fear of being stigmatized or rejected (eight women and girls or 28 percent) and not having trust in anyone (six women and girls or 21 percent). Eighteen women and girls (19 percent) reported that discussions with family members helped them to try to forget about the incident(s). Other survivors reported that what helped most was to try and forget about the incident (46 percent), support of family (35 percent), a health care provider (33 percent) and traditional medicine (32 percent).[184]

Human Rights Watch also found that many survivors feel intense personal shame that the rebels have defiled them, and therefore often do not report the crime or seek medical attention. S.G., the fifty-year-old widow who had both arms amputated after being raped (see above p. 36), described the shame and anger she felt after her ordeal:

> I didn't even tell my people about the rape. It's such a shameful act. Not just because of the rebel's age, but also because never in my life have I had sex with someone besides my husband. I was a good woman. Can you imagine how I felt when this young boy raped me, kicked me and then told me to get out of his sight after doing this to me? And without my arms, how can I as a woman even clean myself, let alone take care of my affairs. We're farmers and how am I to farm now? Both the rape and amputation are awful ... but later when thinking about what happened, I was even angrier about the rape than the amputation because for him to have done that to me was

[181] Human Rights Watch interview with Christiana Thorpe (founding chairperson of FAWE Sierra Leone Chapter), Freetown, March 22, 2002.
[182] Human Rights Watch interview, Freetown, April 12, 1999.
[183] Human Rights Watch interview, Freetown, August 21, 2000.
[184] PHR report, p. 51 and Table 6 on p. 54. Women could select more than one of the choices given.

> like killing me inside because of the shame. Sex is something you should enjoy together with your man. But to do it like that, to handle me like that, to torture me like that and then kick me and leave me like that ... it's too much. But I guess I was somehow lucky. There could have been ten people doing that to me.[185]

P.S. twenty-five, who was abducted and gang raped by the West Side Boys in January 2000, explained why she had not reported her rapes:

> I didn't want to tell anyone what happened. I was ashamed because it is bad enough being done like this, but having a rebel do it is even worse. I felt so bad because I wanted to save myself for someone special. I went to secret society and they instructed us not to be involved in sex until we were ready to marry. And now I'm afraid because of AIDS. When I think of them I feel so angry.[186]

VII. INTERNATIONAL LEGAL PROTECTIONS AGAINST GENDER-BASED VIOLENCE

Introduction[187]

Women and girls have, since time immemorial, been subjected to sexual and gender-based violence, including rape and sexual slavery, during armed conflict. Mass rape of women and girls was documented during the Second World War as well as in more recent conflicts in such diverse countries as the former Yugoslavia, Rwanda and the Democratic Republic of Congo.[188] Sexual violence has traditionally been considered as the inevitable by-product of armed conflict and has been mischaracterized by military and political leaders as a private crime or the unfortunate behavior of renegade soldiers. The use of rape as a weapon of war, however, means that rape is not a private or incidental crime. Rape as a weapon of war serves a strategic function and acts as an integral tool for achieving military objectives.

Conflict-related rape is an act of violence that targets sexuality, but it is also a military and political tool. It functions to subjugate and humiliate both the women and men within the targeted community. Furthermore, rape is generally not committed in isolation and victims are often subjected to multiple human rights abuses, which serve to further traumatize the survivor. In conflicts in which civilians are the principal targets, sexual violence has become an even more deliberate and insidious weapon of war. In the former Yugoslavia, for example, rape and other grave abuses committed by Serb forces were with the intent to drive the non-Serb population from their homes and communities.

---

[185] Human Rights Watch interview, Bo, March 2, 2000.

[186] Human Rights Watch interview, Freetown, February 8, 2000.

[187] Some of the information in this section was published previously in Human Rights Watch Women's Rights Project, *The Global Report on Women's Human Rights* (New York: Human Rights Watch, 1995); and Dorothy Q. Thomas and Regan E. Ralph, "Rape in War: Challenging The Tradition of Impunity," *SAIS Review* (Washington D.C.: John Hopkins University Press, Winter-Spring 1994).

[188] *See* for example Human Rights Watch, *War Crimes in Bosnia-Hercegovina: U.N. Cease-Fire Won't Help Banja Luka* Volume 6, Issue 8, June 1994, http://www.hrw.org/reports/1994/bosnia2/; Human Rights Watch, *Bosnia-Hercegovina: The Fall of Srebrenica and the Failure of U.N. Peacekeeping*, Vol. 7, No. 13, October 1995, http://www.hrw.org/summaries/s.bosnia9510.html; Human Rights Watch, *Bosnia and Hercegovina, A Closed, Dark Place: Past and Present Human Rights Abuses in Foca*, Vol. 10, No. 6 (D), July 1998, http://www.hrw.org/reports98/foca/; Human Rights Watch/Africa, Human Rights Watch Women's Rights Project, Fédération Internationale des Ligues des Droits de l'Homme, Human Rights Watch, *Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath*, September 1996, http://www.hrw.org/reports/1996/Rwanda.htm; Human Rights Watch, *The War Within the War: Sexual Violence Against Women and Girls in Eastern Congo*, June 2002, http://www.hrw.org/reports/2002/drc/; Human Rights Watch, *Democratic Republic of Congo, War Crimes in Kisangani: The Response of Rwandan-backed Rebels to the May 2002 Mutiny*, Vol. 14, No 6 (A), August 2002, http://hrw.org/reports/2002/drc2/; United Nations, *Preliminary report submitted by the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 1994/45*, E/CN.4/1995/42 (United Nations, 1994), p. 64.

The ten-year internal armed conflict in Sierra Leone has been characterized by egregious human rights abuses against the civilian population, including the use of sexual violence to achieve military aims.[189] From the testimonies in this report, it is clear that the rebels waged a war through attacking civilians. Sexual violence was therefore used as part of the rebels' military and political strategy, with victims often being used to bring messages to their enemies, including President Kabbah, ECOMOG, the SLA or the CDF. RUF rebels told an older woman whom they first raped and then subjected to amputation that: "There should be peace before the elections. Now you can go and vote. You have got to take a letter to Bo and those hands are the letters."[190] The testimonies also reveal how the rebels sought complete domination over girls and women by doing whatever they wanted to, including breaking numerous cultural taboos, such as raping lactating mothers or elderly women.

Despite being commonplace during armed conflict, rape "remains the least condemned war crime," according to the U.N. special rapporteur on violence against women.[191] It is only in recent years that it has been exposed and condemned alongside other human rights abuses and international humanitarian law violations. Sexual violence remains insufficiently reported, condemned, and prosecuted as war crimes or crimes against humanity. This differential treatment of sexual violence highlights the international community's willingness to tolerate sexual violence against women notwithstanding its obligations under international law.

International law has prohibited rape and other forms of sexual violence against women during armed conflict for over a century.[192] Perpetrators can be held accountable for rape and other forms of sexual violence as war crimes, crimes against humanity, and as acts of genocide.[193] International human rights law, which remains applicable in times of armed conflict, also prohibits sexual violence and sexual slavery.

International Humanitarian Law

International humanitarian law, also known as the laws of war, sets out protections for civilians, prisoners of war and other non-combatants during international and internal armed conflicts.[194] The four Geneva Conventions[195] and their two Additional Protocols[196] implicitly and explicitly condemn rape and other forms of

[189] United Nations, *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2001/49*, Addendum, Mission to Sierra Leone, E/CN.4/2002/83/Add.2 (United Nations, 2002).

[190] Human Rights Watch interview, Bo, March 2, 2000.

[191] United Nations, *Preliminary report submitted by the Special Rapporteur on violence against women*, E/CN.4/1995/42, p. 64.

[192] Some examples of how the law prohibiting war-related rape developed include the Italian lawyer Lucas de Penna advocating in the thirteenth century for the punishment of wartime rape just as severely as rape committed in peacetime, and Hugo Grotius stating in the sixteenth century that sexual violence committed in wartime was a punishable crime. Articles 44 and 47 of the 1863 Lieber Code, which served as the basis for subsequent war codes, also lists rape by a belligerent as a war crime punishable by death. *See* the Lieber Code of 1863, Correspondence, Orders, Reports, and Returns of the Union Authorities, From January 1 to December 31, 1863.--#7, O.R.--Series III—Volume III [S# 124], General Orders No. 100., War Dept., *Adjt. General's Office, Washington*, April 24, 1863. Article 4 of the Hague Convention (1907) provides a general prohibition of torture and abuses against combatants and non-combatants. Article 46 of the same convention prescribes that "[f]amily honour and rights...must be respected," which can be interpreted to cover rape. *See* Convention Respecting the Laws and Customs of War on Land, with annexed Regulations (Hague Convention IV) of October 18, 1907, 36 Stat. 2277, T.S. No. 539 (entered into force January 26, 1910). Kelly D. Askin and Dorean M. Koenig (eds.), *Women and International Human Rights Law* (Ardsley, NY: Transnational Publishers, Inc., 1999), Volume 1, p. 50. *See* also Kelly D. Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals* (Dordrecht: Kluwer Law International, 1997), pp. 18-36.

[193] Although genocide did not occur in Sierra Leone, rape and other forms of sexual violence can be defined as constituent elements of genocide. Genocide is defined under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide as "acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group." Genocide has attained *jus cogens* status (a norm that preempts other norms) and is prohibited both in its own right and as a crime against humanity.

[194] *See* the four Geneva Conventions of 1949 and the two 1977 Protocols Additional to the Geneva Conventions. Other sources of international humanitarian law are the 1907 Hague Convention and Regulations, decisions of international tribunals and customary law.

[195] Sierra Leone became a party to the four Geneva Conventions on June 10, 1965.

sexual violence as serious violations of humanitarian law in both international and internal conflicts. In international armed conflicts, such crimes are grave breaches of the Geneva Conventions and are considered war crimes. Violations involving direct attacks on civilians during interna. armed conflicts are increasingly recognized as war crimes.

Under international humanitarian law, the civil war in Sierra Leone was an internal armed conflict.[197] Common Article 3 to the Geneva Conventions applies to all parties in an internal armed conflict, including armed opposition groups. Through its prohibition of "outrages upon personal dignity, in particular humiliating and degrading treatment," Common Article 3 implicitly condemns sexual violence.

The Fourth Geneva Convention on the protection of civilians in international armed conflicts provides a basis for defining the protections provided under Common Article 3. Article 27 on the treatment of protected persons states that "women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault."[198] Article 147 specifies that "torture or inhuman treatment" and "willfully causing great suffering or serious injury to body or health" are grave breaches of the conventions.[199] According to the International Committee of the Red Cross (ICRC), rape and other forms of sexual violence are considered to be grave breaches and even a single act of sexual violence can constitute a war crime.[200]

Article 4 of Protocol II, which governs internal armed conflicts and applied to the conflict in Sierra Leone, expressly forbids "violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment, such as torture, mutilation or any form of corporal punishment" and "outrages upon personal dignity, in particular humiliating and degrading treatment, rape and enforced prostitution and any form of indecent assault" as well as "slavery and the slave trade in all their forms."[201] According to the ICRC Commentary, this provision "reaffirms and supplements Common Article 3 ... [because] it became clear that it was necessary to strengthen ... the protection of women ... who may also be the victims of rape, enforced prostitution or indecent assault."[202]

As the above language highlights, crimes of sexual violence under international humanitarian law have been mischaracterized as attacks against the honor of women or an outrage on personal dignity—as opposed to attacks on physical integrity. This mischaracterization diminishes the serious nature of the crime and contributes to the widespread misperception of rape as an attack on honor that is an "incidental" or "lesser" crime relative to crimes such as torture or enslavement.[203] Whilst it is true that rape is an assault on human dignity, rape should primarily be viewed as a violent assault on bodily integrity as well as one that dishonors the perpetrator and not the victim.

Sexual Violence as a Crime against Humanity

Acts of sexual violence committed as part of a widespread or systematic attack against civilians in Sierra Leone can be classified as crimes against humanity and prosecuted as such. There is no single international treaty that provides an authoritative definition of crimes against humanity, but such crimes are generally considered to

---

[196] Sierra Leone ratified the Additional Protocols on October 21, 1986.

[197] The fighting in 1997-98 between West African ECOWAS forces and the RUF/AFRC government may have met the criteria for an international armed conflict.

[198] Geneva Convention IV, Article 27 (2). Article 76 of Protocol I extends this protection of protected persons to all women. Protocol I, Article 76.

[199] Geneva Convention IV, Article 147.

[200] Theodor Meron, "Rape as a Crime Under International Humanitarian Law," *American Journal of International Law* (Washington D.C.: American Society of International Law, 1993), vol. 87, p. 426, citing the International Committee of the Red Cross, Aide Mémoire, December 3, 1992.

[201] Protocol II, Article 4 (2) (a), (e) and (f).

[202] Yves Sandoz, Christophe Swinarski, Bruno Zimmerman (eds.), *ICRC Commentary on the Additional Protocols of June 1977 to the Geneva Conventions of 12 August 1949* (Geneva: Martinus Nijhoff, 1987), p. 1375, para. 4539.

[203] *See* Catherine N. Niarchos, "Women, War and Rape: Challenges facing the International Criminal Tribunal for the former Yugoslavia," *Human Rights Quarterly* (Baltimore: The John Hopkins University Press, 1995), vol. 17, pp. 672, 674.

be serious and inhumane acts committed as part of a widespread or systematic attack against the civilian population, during peacetime or war, and that result from the persecution of a specific group.[204]

The charter establishing the Nuremberg tribunal after the Second World War did not specify rape under crimes against humanity or list gender as one of the grounds of persecution; the inclusion of rape could however be derived from the charter's general prohibition against "other inhumane acts."[205] Resolving this ambiguity, rape (as well as torture) was included in the specific list of crimes constituting crimes against humanity in the statutes of the International Criminal Tribunal for the former Yugoslavia (ICTY)[206] and the International Criminal Tribunal for Rwanda (ICTR).[207]

The statute of the International Criminal Court (ICC) expands on this by including gender as one of the grounds of persecution, as well as adding rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity.[208] This definition of gender-based crimes against humanity, which appropriately makes no reference to the outdated notion of "crimes against honor," has been taken up in the Statute of the Special Court for Sierra Leone (see below for a discussion of the Special Court).

Under the evolving case law on crimes against humanity, formal proof of policy, plan or design is no longer an essential element for the prosecution of crimes against humanity. Both the ICTY and the ICTR have found that the existence of a plan or policy is sufficient: the policy need not be formalized and may be deduced from the way in which the acts occur.[209] The failure to take action to address widespread or systematic attacks against the civilian population can also be considered sufficient to determine the requisite element of policy, plan or design. Both state and non-state actors can be held accountable for crimes against humanity.

An individual case of serious sexual violence can be prosecuted as a crime against humanity if the prosecution can make the link between the single violation and other violations of basic human rights or international humanitarian law that have been committed as a widespread or systematic attack against the civilian population.[210] Each enumerated type of act, such as murder, torture, or rape, does not need to be committed on a

---

[204] *See*, e.g. "Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808," 32 I.L.M. at 1159 (1993), para. 48.

[205] The Nuremberg Charter, as amended by the Berlin Protocol, 59 Stat. 1546, 1547 (1945), E.A.S. NO. 472, 82 U.N.T.S. 284. Under article 6(c) of the Nuremberg Charter, crimes against humanity included, but were not limited to the following atrocities: "[m]urder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during war, or persecutions on political, racial or religious grounds."

[206] Article 5 of the Statute of the ICTY names rape as a crime against humanity. *See* Statute of the ICTY (adopted 25/5/93) at http://www.un.org/icty/basic/statut/statute-con.htm.

[207] Article 3 of the Statute of the ICTR names rape as a crime against humanity. *See* Statute of the ICTR (adopted 8/11/94) at http://www.ictr.org.

[208] Article 7 of the Statute of the ICC enumerates crimes against humanity as "any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health." Rome Statute of the International Criminal Court, opened for signature July 17, 1998, Article 7, reprinted in 37 I.L.M. 999 (1998). Sierra Leone signed and ratified the Rome Statute on October 17, 1998 and September 15, 2000 respectively.

[209] *Kunarac* Trial Chamber Judgement, para. 432.

[210] "It is sufficient to show that the act took place in the context of an accumulation of acts of violence which, individually, may vary greatly in nature and gravity." *Kunarac* Trial Chamber Judgement, para. 419.

widespread or systematic basis—it is the attack that must be widespread or systematic.[211]

Human Rights Law

Sierra Leone is party to international human rights instruments that provide safeguards for women and girls at all times, including during armed conflict. These include protection from rape as torture and other mistreatment; slavery and forced prostitution; and discrimination based on sex. Armed opposition groups, particularly those in control of territory, have increasingly been under an obligation to respect international human rights standards.[212]

The International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)[213] prohibit torture and other cruel, inhuman or degrading treatment by officials or persons acting in an official capacity. The Convention on the Rights of the Child (CRC) provides for the right to freedom from torture, sexual exploitation and abuse as well as liberty and security of person.[214] The 1991 constitution of Sierra Leone also prohibits "any form of torture or any punishment or other treatment which is inhuman or degrading."[215]

The United Nations special rapporteur on torture has recognized that rape can constitute torture: "[R]ape is a traumatic form of torture for the victim."[216] The ICTY in the *Furundzija* case noted that "[i]n certain circumstances ... rape can amount to torture and has been found by international judicial bodies to constitute a violation of the norm prohibiting torture."[217] The ICTR in the *Akayesu* case stated that "Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or destruction of a person. Like torture, rape is a violation of personal dignity, and rape in fact constitutes torture when it is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."[218]

Sexual violence generally violates women's rights to be free from discrimination based on sex as provided for under the ICCPR.[219] Under Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),[220] the definition of discrimination is considered to include "gender-based violence precisely because gender-based violence has the effect or purpose of impairing or nullifying the enjoyment by women of human rights" on a basis of equality with men.[221] The CEDAW Committee enumerated a wide range of obligations for states related to ending sexual violence, including ensuring appropriate treatment for victims in the justice system, counseling and support services, and medical and psychological assistance to victims.[222] In a 1993

---

[211] *Prosecutor v. Kupreškic*, Judgement, IT-95-16-T, 14 January 2000 (*Kupreškic* Trial Chamber Judgement), para. 550.

[212] Nigel S. Rodley, "Can Armed Opposition Groups Violate Human Rights?" in P. Mahoney and K. Mahoney (eds.) *Human Rights in the 21st Century: A Global Challenge* (Dordrecht: Martinus Nijhoff, 1993), pp. 297-318, and International Council on Human Rights Policy, "Hard Cases: Bringing Human Rights Violators to Justice Abroad—A Guide to Universal Jurisdiction," (Geneva: International Council on Human Rights Policy, 1999), p. 6.

[213] Sierra Leone ratified the CAT on March 1, 2001.

[214] Sierra Leone ratified the CRC on June 18, 1990. Article 34 protects the child from sexual exploitation and sexual abuse. Article 37 provides for the freedom from torture or other cruel, inhuman or degrading treatment or punishment as well as liberty and security of person.

[215] Constitution of Sierra Leone (1991), Chapter III – The Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual, s. 20(1).

[216] United Nations, *Report of the U.N. Special Rapporteur on Torture, Mr. Nigel S. Rodley, submitted pursuant to the Commission on Human Rights Resolution 1992/32*, E/CN.4/1995/34, Paragraph 19, January 12, 1995.

[217] *Prosecutor v. Anto Furundžija*, Judgement, IT-95-17/1-T, December 10, 1998, para. 171.

[218] *Prosecutor v. Jean-Paul Akayesu*, Judgement, ICTR-96-4-T, September 2, 1998 (the *Akayesu* Trial Chamber Judgement), para. 687.

[219] *See* ICCPR, Articles 2 (1) and 26.

[220] Sierra Leone ratified this treaty on November 11, 1988.

[221] Women, Law and Development International, *Gender Violence: The Hidden War Crimes* (Washington D.C.: Women, Law and Development International, 1998), p. 37.

[222] Committee on the Elimination of All Forms of Discrimination Against Women, "Violence Against Women," General Recommendation no. 19 (eleventh session, 1992), U.N. Document CEDAW/C/1992/L.1/Add.15.

resolution, the U.N. General Assembly declared that prohibiting gender discrimination includes eliminating gender-based violence and that states "should pursue by all appropriate means and without delay a policy of eliminating violence against women."[223]

The CRC also provides for freedom from discrimination on the basis of gender (Article 2), and the right to enjoyment of the highest attainable standard of health (Article 24). Under Article 39, states shall take all appropriate measures to promote physical and psychological recovery and social integration of a child victim of any form of neglect, exploitation, or abuse; torture of any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. The CRC also calls upon states to provide special protection and assistance to a child "temporarily or permanently deprived of his or her family environment."[224] A child's right to "such measures of protection as are required by his status as a minor" is also guaranteed by the ICCPR.[225]

Under both the ICCPR and CEDAW, slavery and forced prostitution in times of armed conflict constitute a basic violation of the right to liberty and security of person.[226] Furthermore, slavery, which is a *jus cogens* norm from which no derogation is permitted, is prohibited under Article 8 of the ICCPR, which also prohibits forced labor, and by the 1926 Slavery Convention.[227] The right to freedom from slavery is also provided under the constitution of Sierra Leone.[228]

The African Charter on Human and Peoples' Rights, to which Sierra Leone is a party, guarantees the "[e]limination of every discrimination against women ... and protection of the rights of the woman and the child"[229] as well as the right to integrity of one's person, and the right to be free of "... [a]ll forms of exploitation and degradation ..., particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment."[230]

Gender Jurisprudence for Crimes of Sexual Violence

Despite the widespread practice of sexual violence during the Second World War, rape did not figure prominently in the prosecutions brought by the two major tribunals established after the war. Rape was not prosecuted at any of the Nuremberg trials notwithstanding the evidence of sexual violence presented. Rape charges were brought in a few cases before the International Military Tribunal in the Far East (the Tokyo Tribunal),[231] and several accused were convicted of crimes including sexual violence. The Tokyo tribunal was responsible for bringing international attention to atrocities, including sexual violence, committed during the

---

[223] United Nations General Assembly, "Declaration on the Elimination of Violence against Women," A/RES/48/104, December 20, 1993 (issued on February 23, 1994). *See* Article 4, in particular.

[224] Article 20 (1) of the CRC.

[225] Although the masculine pronoun is used, the ICCPR is applicable without any discrimination to sex as stated in Article 24 (1).

[226] Article 9 of the ICCPR provides for the freedom from arbitrary arrest, detention or exile, whilst Article 23 prohibits forced marriage. Under Article 6 of CEDAW, states are required to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

[227] Slavery Convention, United Nations, *Treaty Series*, vol. 212, p. 17., July 7, 1955.

[228] Constitution of Sierra Leone (1991), Chapter III – The Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual, s. 19 (1).

[229] Article 3 of the African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, Organization of African Unity Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58, 1982. Sierra Leone signed and ratified this treaty on August 27, 1981 and September 21, 1993 respectively.

[230] Articles 4 and 5 of the African Charter on Human and Peoples' Rights.

[231] The Indictment for the International Military Tribunal for the Far East (IMTFE) included rape within the crimes charged generally. IMTFE Indictment, p. 31, reproduced in the IMTFE Docs., vol. 20, Annex A-6; *See* also Appendix D, attached to the Indictment, which provides more detail on the charges. The Indictment stated that the accused were responsible for "mass murder, rape, pillage, brigandage, torture, and other barbaric cruelties upon the helpless civilian population of the overrun countries." Appendix D alleged responsibility for "inhumane treatment" and "mistreatment" when "civilian internees were murdered, beaten, tortured, and otherwise ill-treated, and female prisoners were raped by members of the Japanese forces" and "female nurses were raped, murdered and ill-treated," and "large numbers of the inhabitants" were also murdered, tortured, raped, and otherwise mistreated.

"Rape of Nanking." The Tokyo tribunal failed, however, to prosecute members of the Japanese government and military for the 200,000 "comfort women" forced into sexual slavery during the war.[232]

Widespread reports of sexual violence in the conflicts in the former Yugoslavia and Rwanda were instrumental in the U.N. Security Council decisions authorizing the establishment of the ICTY and the ICTR. As noted, the statutes of both the ICTY and ICTR make explicit mention of rape as a crime against humanity.[233] The ICTY also has implicit jurisdiction to prosecute crimes of sexual violence as grave breaches of international humanitarian law, as violations of the laws and customs of war and genocide.[234] The ICTR is explicitly empowered to prosecute rape as a serious violation of Common Article 3 of the Geneva Conventions and can prosecute crimes of sexual violence when they constitute torture or genocide.[235]

Both tribunals have played a critical role in setting precedents in the prosecution of conflict-related sexual violence, including articulating definitions and elements of many gender-related crimes.[236] As noted at this report's opening (see "Definition of Sexual Violence, Rape and Sexual Slavery," p. 2), both the ICTR (in the 1998 *Akayesu* judgment) and the ICTY (in the 2002 *Foca* judgment) defined rape, of which there is no commonly accepted definition in international law, albeit the definition from the Akayesu judgment has been criticized as too broad. The *Akayesu* judgment also provided a legal definition of sexual violence: any act of a sexual nature, including rape, committed on a person under coercive circumstances, but which need not include a physical invasion of the body or even contact.[237] The ICTY has found that sexual violence not only constitutes crimes against humanity, war crimes and grave breaches, but can also constitute torture, enslavement, serious bodily injury and other relevant acts as long as the elements constituting these crimes are present in the act of sexual violence.

In general, however, both tribunals have had an inconsistent record on investigating and prosecuting crimes of sexual violence. The ICTR continues to lack a comprehensive approach to the inclusion of sexual violence charges and has failed to include these charges or seek amendments in the original indictments where the Office of the Prosecutor has witness testimony or evidence of sexual violence.[238]

---

[232] *See* the Appendix entitled "An Analysis of the Legal Liability of the Government of Japan for "Comfort Women Stations" Established During the Second World War" to the United Nations, *Contemporary Forms of Slavery: Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict*, pp. 38-55.

[233] Article 5 of the Statute of the ICTY names rape as a crime against humanity. *See* Statute of the ICTY (adopted 25/5/93) at http://www.un.org/icty/basic/statut/statute-con.htm. Article 3 of the Statute of the ICTR names rape as a crime against humanity. *See* Statute of the ICTR (adopted 8/11/94) at http://www.ictr.org.

[234] Articles 2, 3 and 4 of the Statute of the ICTY respectively.

[235] Articles 4, Article 3 (f) and Article 2 respectively of the ICTR Statute.

[236] *Akayesu* Trial Chamber Judgment; *Prosecutor v. Tadic*; *Prosecutor v. Delalic, et al.*, IT-96-21-A, November 16, 1998; *Prosecutor v. Anto Furundžija* Judgment, December 10, 1998; *Prosecutor v. Blaskic*, IT-95-14, Judgement, March 3, 2000; *Prosecutor v. Kvocka et al.*, Judgement, IT-98-30-T, November 2, 2001. *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic* (Foca case), Appeals Chamber Judgement, June 12, 2002, IT-96-23 and IT-96-23/1.

[237] *Akayesu* Trial Chamber Judgement, para. 688. The ICTR stated: "The Tribunal defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. The Tribunal considers sexual violence, which includes rape, as any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact. The incident described by Witness KK in which the Accused ordered the Interahamwe [Hutu militia] to undress a student and force her to do gymnastics naked in the public courtyard of the bureau communal, in front of a crowd, constitutes sexual violence. The Tribunal notes in this context that coercive circumstances need not be evidenced by a show of physical force. Threats, intimidation, extortion and other forms of duress which prey on fear or desperation may constitute coercion, and coercion may be inherent in certain circumstances, such as armed conflict or the military presence of Interahamwe among refugee Tutsi women at the bureau communal."

[238] *See* Human Rights Watch press release "Bosnia: Landmark Verdicts for Rape, Torture, and Sexual Enslavement," February 22, 2001, at http://www.hrw.org/press/2001/02/serbia0222.htm. These facts were reconfirmed from a reliable source from the ICTR, Human Rights Watch interview, Freetown, November 8, 2002.

Command Responsibility[239]

The culpability of superior officers for atrocities that their subordinates commit is commonly known as command responsibility. Although the concept originated in military law, it now also embraces the responsibility of civil authorities for the abuses committed by persons under their direct authority.[240]

Commanders of armed rebel groups, such as in Sierra Leone, are subject to command responsibility. While Common Article 3 of the Geneva Conventions and Protocol II on internal armed conflicts do not explicitly mention command responsibility, the application of Protocol II depends on there being organized armed groups "under responsible command."[241] Command responsibility is now part of customary international law, that is, a universally recognized precept of international criminal law. It is also an explicit feature of many treaties, including the statutes of the ICC, the ad hoc tribunals for the former Yugoslavia and Rwanda, and of the Special Court for Sierra Leone (see below, p. 63).

There are two forms of command responsibility. The first is direct responsibility for orders that are unlawful. When an official authorizes or orders rapes, massacres, or other grave abuses, that individual is criminally responsible for these acts, whether the superior who initiated or conveyed the order also carries out the atrocity or has subordinates perform it. The other form of command responsibility is an imputed responsibility for the crimes of subordinates where those crimes are not based on direct orders. In this case, responsibility is determined on the basis of whether the superior knew or should have known of the abuses committed by subordinates.

Knowledge of the abuses may be actual, either by the army officer or rebel commander witnessing the crimes or being informed of them shortly thereafter. It may also be constructive, where the abuses were so numerous or notorious that a reasonable person could come to no other conclusion than that the superior must have known of their commission or of the existence of an understood and acknowledged routine for their commission. Another basis of constructive notice is that the officer should have known of the offenses, but displayed such serious personal dereliction as to constitute willful and wanton disregard of the possible consequences, which is an extreme form of negligence. The failure of the commander to take appropriate measures to control the subordinates under his or her command and prevent atrocities, and the failure to punish offenders, are further elements in showing command responsibility.

An individual found to have command responsibility for the crime committed by a subordinate is deemed culpable to the same degree as the subordinate. A commander will therefore be found guilty of murder if he or she stood by while the subordinate committed murder.

With regard to the crime of rape, some courts have been reluctant to impute command responsibility for what is seen as random and a private crime.[242] However, the requirements of command responsibility do not vary according to the particular crime; the commander is no more permitted to stand by while rape is committed than to stand by while murder is. If a superior had reason to know that subordinates under his or her command committed rape (such as news reports, or widespread commission of this abuse), and failed to use all feasible means under his or her command to prevent and punish this abuse, he or she may also be found guilty of rape.

---

[239] The legal analysis in this section was previously published in Human Rights Watch, *Milosevic and the Chain of Command in Kosovo,* July 7, 2001, http://www.hrw.org/press/2001/07/chain-of-command.htm.

[240] Geoffrey Robertson, *Crimes against Humanity: The Struggle for Global Justice* (London: Penguin Books Ltd., 1999), p. 206-7.

[241] Article 1 (1), Protocol II.

[242] *See* generally Patricia Viseur Sellers and Kaoru Okuizumi, "Prosecuting International Crimes: An Inside View: Intentional Prosecution of Sexual Assaults," *Transnational Law & Contemporary Problems* Volume 7, Number 1 (Spring 1997), p. 45.

VIII. TRANSITIONAL JUSTICE MECHANISMS FOR SIERRA LEONE

Two transitional justice mechanisms are currently underway to address the cycle of impunity in Sierra Leone: a Truth and Reconciliation Commission (TRC) and a Special Court for Sierra Leone (SCSL). Both bodies became operational in the third quarter of 2002.

The Lomé Amnesty

The Lomé Peace Agreement of July 7, 1999, controversially provided for amnesty for combatants in the civil war. Under Article 9 (1), Sankoh was granted an absolute and free pardon (he had been convicted and sentenced to death for his involvement in the 1997 coup); and under Article 9 (3) the government was required to ensure that "no official or judicial action is taken against any member of the RUF/SL, ex-AFRC, ex-SLA or CDF in respect to anything done by them in pursuit of their objectives as members of those organizations, since March 1991, up to the time of signing of the present Agreement...."[243] At the last minute, the U.N. secretary-general's special representative attending the talks added a hand-written caveat that the U.N. held the understanding that the amnesty and pardon provided for in Article 9 did not apply to international crimes of genocide, crimes against humanity, war crimes, and other serious violations of international humanitarian law.

Under international law, states have an *erga omnes* obligation—in other words a duty owed to the whole international community—to investigate and prosecute crimes against humanity, genocide and torture even if this means that amnesty laws are in effect annulled. This means that Sierra Leone therefore has an obligation under international law to prosecute those who committed crimes against humanity and torture, irrespective of the Lomé Amnesty and the setting up of the SCSL. Other states also have an obligation to prosecute these crimes based on the principle of universal jurisdiction (see below at p. 66 for a discussion on this principle). Crimes committed in the post-Lomé period fall outside the amnesty and can be prosecuted under domestic law.

The granting of an amnesty may also be challenged under the Sierra Leonean constitution and international law, as being against the fundamental legal principle of the state's duty to provide an effective remedy against official violation of guaranteed rights. The U.N. Human Rights Commission has ruled that "States may not deprive individuals of the right to an effective remedy, including compensation and such rehabilitation as may be possible."[244] A duty to revoke the amnesty retroactively may even arise under international law. Several Sierra Leonean lawyers have discussed the issue of the amnesty's constitutionality and whether to challenge it in court.

Truth and Reconciliation Commission

The 1999 Lomé Peace Agreement provides for the establishment of a Truth and Reconciliation Commission, which was conceived by nongovernmental organizations attending the peace talks as a counterbalance to the amnesty granted to all parties. Under the peace agreement, the TRC was to be established to "address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, [and] get a clear picture of the past in order to facilitate genuine healing and reconciliation...."[245]

The commission should have been established within ninety days after the signing of the peace agreement, but the Sierra Leonean Parliament did not pass the Truth and Reconciliation Act establishing the TRC until February 2000. Its establishment was further delayed due to the renewed outbreak of fighting in May 2000, and lack of political will of both the government and the international community. As the selection process for the commissioners took longer than planned, the government also decided to delay the commencement of the TRC until after the May 2002 elections to ensure that the TRC would not be politicized by the elections. The activities of the TRC may well be further hampered by funding shortfalls. Only U.S. $1.5 million had been pledged as of June 2002, partially because the Office of the U.N. High Commissioner for Human Rights (OHCHR) did not

[243] Article 9 of the 1999 Lomé Peace Agreement.
[244] Robertson, *Crimes against Humanity: The Struggle for Global Justice*, p. 260.
[245] Article 26 (1) of the 1999 Lomé Peace Agreement.

launch the funding appeal until January 25, 2002. Its total planned budget was reduced from almost U.S. $10 million to U.S. $6,276,440 in August 2002 and has remained unchanged since then.[246]

On May 13, 2002, President Kabbah announced the seven commissioners. The four Sierra Leoneans are: Rt. Rev. Dr. Joseph C. Humper; Justice Laura A. E. Marcus-Jones; Prof. John A. Kamara; and Mr. Sylvanus Torto. The three international commissioners are: Madam Ajaaratai Satang Jow (Gambia); Ms. Yasmin L. Sooka (South Africa); and Professor William Schabas (Canada). The commission had a three-month preparatory phase, which started in July 2002, and must wrap up its activities and submit a report within twelve months of the start of hearings, which as of this writing have not yet begun.[247] An interim executive secretariat headed by the Sierra Leonean lawyer Yasmin Jusu-Sheriff and staffed with eight other members was established to support the work of the commissioners. The budget will be used to establish the secretariat of the commission in Freetown, which will support the seven commissioners and the office of the executive secretary. In addition, it is likely that six operational units will be established to provide support to the commissioners and the executive secretary.[248] The establishment of regional offices is also provided for under the Act and should encourage Sierra Leonean participation and ownership of the process. These offices are expected to begin functioning in early 2003.[249]

The TRC's mandate is "to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the armed conflict in 1991 to the signing of the Lomé Peace Agreement; to address impunity; to respond to the needs of the victims; to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered."[250] The commission is called upon to give special attention to the subject of sexual abuse and may also implement "special procedures to address the needs of such particular victims as children or those who have suffered sexual abuse ..."[251] Any committees formed by the commission to assist it in the performance of its functions should also take into account gender representation.[252]

Both the UNAMSIL human rights unit and NGOs have conducted sensitization activities, mainly in the key urban centers, to ensure Sierra Leonean awareness of the process, but at the time of writing, there was still considerable confusion about the role of the TRC, especially in relation to the Special Court for Sierra Leone (SCSL).

Human Rights Watch believes that the work of the TRC would be greatly enhanced were the staff of the TRC to be gender-balanced with women represented at all levels and to include persons with expertise in sexual and gender-based violence. The gender adviser, expected to take up the post in January 2003, should provide gender sensitization training and ensure that the work of the TRC, including investigations and hearings, are carried out in a sensitive manner. Human Rights Watch recommends that the TRC explore the relationship between the widespread and systematic nature of conflict-related sexual violence and the low status of and discrimination against women. The final report on the findings of the TRC should highlight gender-specific abuses committed throughout the country during the armed conflict. The TRC should also make recommendations on improvements to the law and judicial system toward eliminating the discriminatory nature of customary and general law, and on legal reform and human rights training for government authorities, including members of the criminal justice system. The report should highlight the need for increased assistance (shelter, medical care, education, skills training, mental health programs, etc.) for women, as well as for strengthening existing women's groups through capacity building.

---

[246] Human Rights Watch telephone interview with TRC staff, November 14, 2002.

[247] The TRC can extend its operations for another six months provided that good cause is shown. TRC Act 2000, Section 5 (1). *See* http://www.sierra-leone.org/trcact2000.html.

[248] The six operational units will probably be: Administration and Programming; Public Information and Education; Legal; Investigation; Research; Reconciliation and Protection.

[249] Human Rights Watch telephone interview with TRC staff, November 14, 2002.

[250] TRC Act 2000, Section 6 (1). *See* http://www.sierra-leone.org/trcact2000.html.

[251] Ibid., Section 6 (2) (b) and 7 (4) respectively.

[252] Ibid., Section 10 (2).

Special Court for Sierra Leone

Following the hostage taking of over 500 U.N. peacekeepers and the renewed outbreak of fighting between the RUF and government forces in May 2000, the government of Sierra Leone requested that the U.N. assist in establishing a court "to try and bring to credible justice those members of the Revolutionary United Front (RUF) and their accomplices responsible for committing crimes against the people of Sierra Leone and for the taking of U.N. peacekeepers as hostages."[253] The government expressly mentioned that the RUF, in reneging on their obligations under the Lomé Peace Agreement, continued to subject many women and children to human rights abuses, including sexual slavery. On August 14, 2000, the U.N. Security Council passed Resolution 1315 requesting the secretary-general to negotiate with the Sierra Leonean government an agreement for the establishment of a special court.

Due to delays in funding contributions and agreement on key substantive matters, the agreement between the government and the U.N. to establish the Special Court for Sierra Leone was not signed until January 16, 2002.[254] The total budget for the SCSL is U.S. $56.8 million. The first year of the court has been fully funded and pledges have been received for the second year.[255] The secretary-general appointed the prosecutor and registrar on April 19, 2002, and it is hoped that the first trials will commence in the second quarter of 2003.[256] Given budgetary constraints, it is likely that only a limited number of persons will be tried, perhaps as few as twenty.

The SCSL differs in notable ways from the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. Firstly, it is based on an agreement between the government and the U.N. and was not established by a Security Council resolution under Chapter VII of the U.N. Charter. This means that the Special Court does not have the power to require international cooperation.[257] Secondly, the SCSL is a hybrid court relying on both international and domestic laws. The professional and support staff of the court will be a mix of Sierra Leonean and foreign nationals.

Article 1 of the SCSL provides that the court has the competence to try "persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996."[258]

Other crimes that the court has the jurisdiction to prosecute are provided under Article 2 to Article 6. Under Article 2, which defines the crimes against humanity that the SCSL has the power to prosecute, the following crimes of sexual violence are specified: "rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence."[259] Rape, enforced prostitution and any form of indecent assault can also be prosecuted as violations of Common Article 3 to the Geneva Conventions and Additional Protocol II as stated under Article 3 of the statute. Under Article 4, specific serious violations of international humanitarian law are enumerated, including intentionally attacking civilians and the recruitment of children under fifteen years old into

---

[253] Letter dated June 12, 2000 and addressed by the president of Sierra Leone to the U.N. secretary-general. Letter and annexed Suggested Framework for the Special Court.

[254] Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone at http://www.un.org/Docs/sc/reports/2000/915e.pdf.

[255] Human Rights Watch telephone interview with Robin Vincent (registrar of the SCSL), U.K., July 4, 2002.

[256] S/2002/246, Letter dated March 6, 2002 from the secretary-general addressed to the president of the Security Council. David Crane, a prosecutor for the U.S. Department of Defence, was appointed as prosecutor and Robin Vincent of the U.K. was appointed as the registrar.

[257] See also letter from Human Rights Watch to members of the Security Council and other interested states dated September 27, 2001. Under Chapter VII, which is entitled "Action with respect to threats to the peace, breaches of the peace, and acts of aggression," the Security Council can decide to take non-military and/or military action against states that threaten international peace and security. Decisions taken by the Security Council under Chapter VII—which should be read in conjunction with Article 24, which confers primary responsibility for the maintenance of international peace and security to the Security Council, and Article 25, under which U.N. member states agree to accept and carry out the decisions of the Security Council—are binding on member states.

[258] Statute of the Special Court for Sierra Leone at http://www.sierra-leone.org/documents-specialcourt.html.

[259] The other crimes against humanity are: murder; enslavement; deportation; imprisonment; torture; persecution on political, racial, ethnic or religious grounds; and other inhuman acts.

the armed forces. With the unanimous adoption by the U.N. General Assembly of the Optional Protocol to the Convention on the Rights of the Child (CRC) in May 2000,[260] however, the minimum age for any conscription or forced recruitment has been raised to eighteen.[261] Under Article 5, gender-based crimes can also be prosecuted under domestic law provisions. However, as these provisions do not meet international standards in terms of definition of crimes and punishment, they should not be applied.[262]

In accordance with the U.N.'s statement that it did not recognize the Lomé amnesty as it purported to apply to genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law, Article 10 of the court's statute states:

> An amnesty granted to any person falling within the jurisdiction of the Special Court in respect of the crimes referred to in articles 2 to 4 of the present Statute shall not be a bar to prosecution.[263]

This means that those bearing the greatest responsibility for crimes against humanity (Article 2); violations of Article 3 common to the Geneva Conventions and Additional Protocol II (Article 3); and other serious violations of international humanitarian law (Article 4) can be prosecuted for their crimes.

The issue of command responsibility is of crucial import to the SCSL given that its mandate is to try "persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996, including those leaders, who in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone."[264] The court therefore will only prosecute the so-called "big fish" and not the "small fry" or those persons who in many instances actually committed the violations. Article 6 of the statute of the SCSL provides that:

> 3. The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior had failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.
> 4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the Special Court determines that justice so requires.[265]

The failure by rebel commanders and army officers to punish combatants involved in abuses, despite documentation of and international attention to crimes of sexual violence perpetrated by rebels and pro-government forces, indicates that such persons of authority knowingly tolerated and even condoned these abuses. Commanders may also bear individual criminal responsibility for crimes of sexual violence in addition to command responsibility, as the testimonies in this report highlight.

It is highly regrettable that the court's temporal jurisdiction does not extend to the beginning of the conflict (March 23, 1991). Instead November 30, 1996, the date of the Abidjan Peace Accord, was chosen as it was felt that including the whole war would impose too great a burden on the court. The U.N. also felt that this date corresponded to a new phase in the conflict without necessarily having any political connotations, and that this

---

[260] General Assembly resolution A/RES/54/263 on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, adopted May 25, 2000.

[261] Sierra Leone signed and ratified the Optional Protocol of the CRC on September 8, 2000 and on August 24, 2001 respectively. The Optional Protocol entered into force on February 12, 2002.

[262] Article 5 refers to the sections (6, 7 and 12) of the 1926 Prevention of Cruelty to Children Act that relate to abuses committed against girls under the age of fourteen. See above, "Rape as a crime under general law," et seq., for a discussion of these provisions.

[263] Article 10 of the statute of the SCSL.

[264] Article 1 of the statute of the SCSL.

[265] Article 6 (3) and (4) of the statute of the SCSL.

temporal jurisdiction encompassed the most serious crimes committed by persons of all political and military groups and in all geographical areas of the country.[266] The temporal jurisdiction is, however, open-ended as the war was still ongoing at the time of the discussions on the court's establishment. The U.N. states that the lifespan of the court will be determined by "a subsequent agreement between the parties upon completion of its judicial activities, an indication of the capacity acquired by the local courts to assume the prosecution of remaining cases, or the unavailability of funds."[267]

In terms of prosecuting crimes of sexual violence, the statute specifies that "given the nature of the crimes committed and the particular sensitivities of girls, young women and children victims of rape, sexual assault, abduction and slavery of all kinds, due consideration should be given in the appointment of staff to the employment of prosecutors and investigators experienced in gender-related crimes and juvenile justice."[268] Likewise, Article 16 (4) specifies that personnel of the Victims and Witnesses Unit should include experts in trauma, including trauma related to crimes of sexual violence and violence against children.

As the TRC and Special Court will be functioning simultaneously, the interaction between the two bodies, whose subject matter as well as personal and temporal jurisdiction intersect, must urgently be clarified. This is crucial in terms of sharing of information, especially confidential information, but also for the sensitization efforts underway. Enabling legislation enacted in March 2002 contains a provision, criticized by many nongovernmental organizations, that establishes the primacy of the SCSL, apparently including over the TRC.[269]

Given that the SCSL will only try a limited number of alleged perpetrators, it needs to establish a clear and comprehensive prosecutorial strategy from the onset. Within the court's mandate, the prosecutor should ensure that gender-related crimes are thoroughly and sensitively investigated and rigorously prosecuted as crimes against humanity or war crimes. The two gender crimes investigators should conduct compulsory gender sensitization training for all staff, and provide more in-depth training for staff members dealing most directly with survivors of sexual violence. The gender crimes investigators should also have access to all cases under investigation, even the ones not previously identified as gender cases, to provide guidance and expertise.

Principle of Universal Jurisdiction

Given the limited number of persons that the Special Court can prosecute due to funding constraints, it is important to note that the principle of universal jurisdiction applies to war crimes, crimes against humanity, slavery,[270] and torture.[271] A resolution passed by the U.N. Commission on Human Rights in April 1999, specifically reminded all factions and forces in Sierra Leone of this principle, stating that "in any armed conflict including an armed conflict of a non-international character, the taking of hostages, willful killing and torture or inhuman treatment of persons taking no active part in the hostilities constitute grave breaches of international humanitarian law, and that all countries are under the obligation to search for such persons alleged to have committed, or to have ordered to be committed, such grave breaches and to bring such persons, regardless of their

[266] United Nations, *Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone*, S/2000/915, October 4, 2000, para. 25-28. Other dates considered were May 25, 1997, and January 6, 1999, but the U.N. considered that these would be perceived as offering only selective justice.

[267] Ibid., para. 28.

[268] Article 15 (4) of the statute of the SCSL. A Woman's Task Force for the Special Court and TRC was established with the support of the International Human Rights Law Group to advocate that gender-based crimes be properly investigated by both bodies and—in terms of the Special Court—prosecuted. The Women's Task Force has also advocated for the appointment of staff who are experienced in and sensitive to cases of sexual violence, as well as for gender balance i.e. women should be well represented in positions of authority as well as in positions of support (statement takers, investigators, counselors and interpreters, etc.).

[269] Special Court Agreement 2002 (ratification) Act 2002 (March 7, 2002). Article 21 (2) of the Act provides that: "Notwithstanding any other law, every natural person, corporation, or other body created by or under Sierra Leone law shall comply with any direction specified in an order of the Special Court."

[270] Slavery can be prosecuted as a war crime and a crime against humanity, but also on an independent basis against both state and non-state actors during wartime and peace given its status as a peremptory norm of customary law.

[271] Draft Code of Crimes Against the Peace and Security of Mankind, Articles 8, 9, 17, 19 and 20, *Report of the International Law Commission on the Work of its Forty-eighth Session*, U.N. Doc. A/51/10, para.50 (United Nations, 1996).

nationality, before their own courts."[272]

The special rapporteur for violence against women also stressed the principle of universal jurisdiction in her report on her mission to Sierra Leone:

> Thus, crimes of gender based violence must be investigated and documented for possible criminal prosecution in the domestic courts of other States which may have jurisdiction ...[273]

IX. THE NATIONAL AND INTERNATIONAL RESPONSE

National Response

Climate of Impunity

Human Rights Watch is not aware of any prosecutions in the Sierra Leonean courts of any cases of conflict-related sexual violence or other human rights abuses. The lack of both categories of prosecutions is due to a number of factors. Firstly, many survivors simply want to try to forget about the sexual violence and other human rights abuses they have been subjected to and just get on with their lives in post-conflict Sierra Leone, which for many is a daily struggle. Secondly, some women and girls fear reprisals. According to the survey conducted by Physicians for Human Rights, thirteen (or 25 percent) of the fifty-one respondents indicating that their perpetrator should not be punished, expressed this fear.[274] Thirdly, women and girls are often ashamed of what happened to them and are therefore reluctant to present themselves in court. Fourthly, women and girls have little faith in the criminal justice system or the customary law system, which were never equipped to deal with crimes of such widespread and systematic nature. If a survivor of sexual violence does decide to prosecute, she is likely to be retraumatized by the whole experience given the very poor track record of the Sierra Leonean criminal justice system. Fifthly, many women and girls lack the financial means to access the court system. As women are generally economically dependent on men, many women who have initiated prosecution of non-conflict-related sexual violence, have dropped their cases once they realize that their husband may be sentenced to prison (dependency means that a previously abducted woman or girl who is still with her rebel "husband" is even more unlikely to bring any charges against him). Sixthly, victims are often not even aware of their rights, given high illiteracy rates, prevalent societal attitudes towards sexual violence, and women's low status in Sierra Leonean society. Many rural women and girls, in particular, see little value in the formal court system as there is often no financial or material benefit from bringing a case. Attitudes towards sexual violence, and the subordinate status of women and girls, mean that there is considerable societal pressure for women not to bring cases before the courts that could bring shame to the extended family, such as sexual violence cases.

The climate of impunity means that violence against women and girls remains a serious problem in post-conflict Sierra Leone. Rape continues to be committed by former rebels, members of the CDF and by civilians who are used to doing what they want with women by force and with impunity. A lawyer who practices in the Eastern Province reported to Human Rights Watch that of the rape victims he was currently representing at least 50 percent had been raped by civilians and the remainder by former combatants.[275] Girls continue to suffer the greatest number of sexual assaults: a lawyer who practices in the Freetown area reported to Human Rights Watch that of the at least fifty rape victims she represented at the time of writing, 98 percent are under fourteen years old.[276] Although there are no reliable statistics on the incidence of sexual or domestic violence, the police doctor in Connaught Hospital in Freetown, which is the largest government-run hospital in the country, sees about thirty victims of recent rape and sexual assault per month.[277] For the reasons enumerated above, this figure is likely to

[272] UN Commission on Human Rights resolution 1999/1, April 6, 1999.
[273] United Nations, *Report of the Special Rapporteur on violence against women* E/CN.4/2002/83/Add. 2, 2002, para. 78.
[274] PHR report, pp. 53-55 and Table 7 at p. 56. Women could select more than one option.
[275] Human Rights Watch interview with Abdulai Bangurah (lawyer), Freetown, March 15, 2002.
[276] Human Rights Watch interview with Claire Fatu Hanciles (lawyer), Freetown, August 9, 2002.
[277] Human Rights Watch interview with Bill Roberts and Anne Hewlett (respectively crime adviser and criminal investigation trainer with the Commonwealth Community Safety and Security Project), Freetown, May 1, 2002.

be the tip of the iceberg. Physicians for Human Rights found that 39 percent of respondents expressed concern ("quite a bit" or "extremely worried") about future sexual violence by family members, friends or civilian strangers. Ninety-one women (or 9 percent of all respondents) had experienced sexual abuse, occurring at an average age of fifteen, from family, friends or civilians during their lifetime.[278]

Despite all these problems, seventeen out of a total of ninety-four respondents (or 18 percent) reporting sexual violence to Physicians for Human Rights supported punishment for "all those involved," thirty women (or 32 percent) supported punishment for the perpetrators, and seventeen women (or 18 percent) supported punishment for the commanders. Thirty-three women believed that punishment of perpetrators would prevent sexual violence from happening to others.[279]

Corrupt and Ineffective Judiciary

Lack of faith in the system, as the few women who have decided to prosecute non-conflict-related rape have experienced, is fully justified. The judiciary—which, prior to the conflict, barely existed in the provinces, and in Freetown was only accessible to those who had sufficient funds—completely collapsed during the war. Many lawyers fled the conflict, and much of the infrastructure, including the law courts in Freetown, was destroyed. The low salaries of personnel working in the judiciary have meant that magistrates, lawyers, and judges are easy targets for bribery and/or intimidation. In addition to these problems, women who seek justice for crimes of sexual violence have to contend with more gender-specific problems. The judiciary is dominated by men and some of its older members, in particular, do not think rape is a serious crime and that the victims are generally to blame. The legal processes are very cumbersome and open to corruption, factors which favor the perpetrator. At the magistrates court level, it is up to the magistrate to determine whether there is sufficient evidence to submit a case to the High Court and whether to grant bail. As the court system is so overburdened this phase can take weeks or months, and it is not unusual for victims to have to appear over ten times before the case is handed on to the High Court. Magistrates have also been known to grant bail even if the offender and victim live in the same compound, which means that the victim is at risk at least of intimidation and even physical violence.[280] Many cases die in the magistrates courts, as victims run out of money, patience, and/or time. Cases at this stage are also frequently dismissed, if, for example, the witnesses do not show in court (after three no shows, the case can be dismissed): witnesses often decide against appearing in court for reasons including intimidation, ignorance of the law, lack of transportation money, and the slow pace at which court cases proceed, or because they simply do not care. The requirement for corroborating evidence is often an obstacle to prosecution and violates international norms.

If the magistrate decides that there is sufficient evidence, the case is handed up to the High Court. Cases in the High Court can also take months especially as there are also continuous indefinite adjournments to contend with. There have been no High Court sittings in the provinces for the past six years, and cases in the provinces have therefore been on indefinite hold. One offender who sexually assaulted two young girls spent five years in pre-trail detention before being sentenced to two years for indecent assault—the five years already served in pre-trial detention were ignored by the court, thus putting the offender in detention for a total of seven years rather than two.[281]

Need for Law Reform

Both general and customary law offer little protection for women and girls (see above, "Women and Girls Under Sierra Leonean Law"). The misinterpretation of the general law provisions pertaining to rape by members of the criminal justice system means that girls are offered even less protection than adults. There is an urgent need for the laws to be revised: the discriminatory provisions in both general and customary law should be removed and brought into line with international standards of human rights, including in relation to the protection of women and girls from violence. The law relating to rape, in particular, should be simplified as well as

[278] PHR report, p. 49.
[279] Ibid., p. 54.
[280] Human Rights Watch interview with John Bosco Alieu (lawyer), Freetown, February 26, 2002.
[281] Human Rights Watch interview with Abdulai Bangurah (lawyer), Freetown, March 15, 2002.

strengthened. Specific legislation on domestic violence, which currently does not exist, should be introduced as women seeking legal redress for domestic violence generally face even more difficulty in convincing the police and members of the judiciary that their rights have been violated.[282] The constitution should also be amended to remove the exemption for customary law and personal law from the prohibition on discrimination. Ending discrimination under customary law in practice will require a major public education exercise, but, as a start, staff of local courts, especially those presiding over them, should be trained in relation to issues of discrimination and the rights of women under the (revised) constitution and international human rights law. The judiciary and the police force need to be trained on the new laws to ensure that they are properly applied.

The Sierra Leone Police

Prior to the civil war, the Sierra Leone Police had been used by politicians for their own purposes and had not received any substantive training for decades. The attitude of the police force to sexual and domestic violence remains insensitive. Police officers, for example, often do not take reports of rape seriously and chastise women who report domestic violence. There are many problems with police investigations of rape cases. Firstly, the police lack basic investigation skills. Secondly, victims must be examined by state-employed doctors, including police doctors, as only a state-employed doctor can present medical evidence in court. Both the police and other state-employed doctors often charge money for these examinations even though they should be free of charge. Thirdly, both the doctors and the police may be intimidated and/or bribed to drop the cases, or police may demand money from plaintiffs before interviewing witnesses and arranging their transport to court. A nationwide system of Family Support Units (FSUs) is in the process of being established with the support of the British-funded Commonwealth Community Safety and Security Project (CCSSP) to deal with cases of sexual and domestic violence.[283] To date, however, only a small number of police officers (approximately sixteen) have received some training and much work remains to be done before the FSUs can deal with victims of sexual and domestic violence in an appropriate manner.

The International Response

In addition to funding UNAMSIL, the international donor community pours approximately U.S. $70 million a year into Sierra Leone for humanitarian assistance. Within the overall humanitarian assistance program to Sierra Leone, only a small percentage of funding is targeted to gender-related programs, notwithstanding the large number of girls and women who have been affected by gender-specific abuses. This funding has also come very late: there were no services specifically for survivors of sexual violence before 1999. After the January 1999 invasion of Freetown, the international community finally took note of the scale of sexual and gender-based abuses and started funding small-scale programs in accessible areas. The Disarmament, Demobilization and Reintegration (DDR) program consistently overlooked the assistance as well as protection needs of abducted women and girls (see below).

Donor funding has contributed to education, adult literacy, health care, trauma counseling, and skills training programs as well as credit and income-generating schemes for a limited number of survivors of sexual violence. These programs need to be expanded into all parts of Sierra Leone so that more survivors can benefit from these programs. Long-term sexual and gender-based violence programs that aim to educate communities about sexual and domestic violence as well as provide women with health care and some legal aid on a limited scale have been established in camps for internally displaced persons (IDPs) in the east and south. These programs have been quite successful in changing the attitudes towards sexual and domestic violence of the IDP communities these programs serviced. They have also empowered rural women to stand up for their rights.

---

[282] Charges of physical assault can be made under the 1861 Offenses Against the Person Act under sections 18 (wounding with intent to maim; causing grievous bodily harm with intent; shooting with intent to maim), 20 (unlawful wounding) and 47 (assault, battery, actual bodily harm).

[283] Human Rights Watch interview with Bill Roberts and Anne Hewlett (respectively crime adviser and criminal investigation trainer with the Commonwealth Community Safety and Security Project), Freetown, May 1, 2002.

To date, funding for the judiciary has focused on the rehabilitation of the infrastructure of the judiciary, but as the peace in Sierra Leone takes hold, donors, including the British government and the World Bank, are considering funding desperately needed judicial reform programs.

The Disarmament, Demobilization, and Reintegration program

The extent to which sexual violence, including sexual slavery, has been ignored throughout the war and in the post-conflict phase is most evident by the lack of attention paid to the thousands of abducted women and girls and their children. The Disarmament, Demobilization, and Reintegration (DDR) process has completely overlooked the protection needs of these women and children. The lack of clear policy and procedural guidelines on these abductees has meant that the responsibility for these women and girls fell between governmental institutions and implementing agencies, resulting in an *ad hoc*, inappropriate and inadequate humanitarian response. Little to no funding was allocated to the protection needs of abducted women and children and only a small number of programs that provide education, skills training and counseling were established for them. This important human rights issue was raised on numerous occasions at different levels with the relevant government institutions, donor governments and the World Bank by UNAMSIL and nongovernmental organizations as well as by World Bank consultants in confidential reports, but did not succeed in bringing about any concrete policy decisions.

The needs of abducted girls and women should, however, be considered an inextricable part of the DDR process and a priority issue that should have been addressed during meetings between the U.N. and government officials or rebel leaders prior to the commencement of disarmament. The abducted girls and women should have been registered and interviewed at the same time that their "husbands" entered the DDR program, with the interviews conducted separately from the "husbands." Information on alternative options could have been disseminated at the DDR camps through social workers and orientation sessions. Alternatively, if it had been possible to gain access to the abducted women and children in rebel-held areas before or during the DDR process then contact should have been established to determine total numbers and inform them of the reintegration support and alternative options available to them. Female social workers in the DDR camps could also have counseled the abductees to help them understand the implications of their decisions, and that the decision is theirs. Basic reproductive health services, including testing and treatment for sexually transmitted diseases, should also be provided at DDR camps.

Donors and the government of Sierra Leone must redress their neglect of survivors' protection needs by drastically increasing funding for women's programs and providing women with desperately needed assistance in terms of health, education, trauma counseling, adult literacy and skills training to promote their rehabilitation into society. In addition, donors should fund legal reform and training programs for the judiciary and police, which will contribute to increase the protection of women's human rights. Donors should also learn from their failure in Sierra Leone and ensure that DDR programs in other countries where large numbers of women and girls have been abducted by the fighting forces, such as the Democratic Republic of Congo, do integrate the protection needs of these abducted women and girls.[284]

United Kingdom

The U.K. has played a key role in restoring peace to Sierra Leone. During the May 2000 crisis, British troops deployed to Sierra Leone, and a standby force was deployed offshore ready to provide additional support to UNAMSIL and the Sierra Leone Army, if required. Since the May 2000 crisis, it has provided technical assistance to most government departments and military training to the new SLA, and has publicly committed itself to remain closely involved in Sierra Leone.

The U.K. is the biggest donor in Sierra Leone, and in 2002 contributed £100 million (approximately U.S. $145 million) of which about £50 million (approximately U.S. $73 million) was disbursed through its development agency, the Department for International Development (DFID). DFID-funded programs aim at

[284] Human Rights Watch, *The War within the War: Sexual Violence against Women and Girls in Eastern Congo* (New York: Human Rights Watch, 2002).

strengthening the protection and promotion of women's human rights. Since September 2001, the Commonwealth Community Safety and Security Project (CCSSP), which is funded by DFID and staffed only by British nationals, has been working to establish a nationwide system of Family Support Units (FSUs) to deal with cases of sexual and domestic violence. Under this system, only female police officers are supposed to interview female victims, while both male and female police officers are responsible for interviewing suspects and witnesses. More officers need to be trained in addition to the sixteen who have received training. As the force has few women, more females need to be recruited so only female police officers interview victims of sexual and domestic violence. The police officers in the FSUs lack strong leadership and require more training and close supervision to ensure that victims are dealt with in a professional and sensitive manner.

DFID also funds a program to promote the participation of women in politics, especially in Parliament, as well as university research into conflict-related sexual violence committed in January 1999.[285] DFID has provided £2.5 million (about U.S. $3.5 million) for a three year Law Development Program which aims at rehabilitating the physical infrastructure of the court system, as well as providing training to administrative staff to ensure proper record-keeping of cases. The Law Development Program is under review to determine its future strategy, in particular with relation to legal reform, including customary law. DFID is currently considering funding a three-year program that will establish sexual and physical assault referral centers across the country.

The U.K. has contributed a total of over U.S. $500,000 to the operations of the TRC and its Interim Secretariat. The U.K. has also pledged U.S. $9,110,000 over three years to the Special Court.

United States

In 1999, the U.S. put considerable pressure on the warring parties to seek a negotiated settlement. However, following the breakdown of the peace process in 2000, U.S. policy revolved around ending external support for the RUF, supporting British military actions and transitional justice mechanisms as well as providing humanitarian aid. From 2000 to 2002, the United States contributed a total of U.S. $170 million to Sierra Leone, which was primarily disbursed on food-for-peace programs, the resettlement of displaced persons, and reintegration of former combatants. The U.S. has funded several women's programs, notably in the field of health, including the provision of obstetric surgery and HIV/AIDS education, a sexual and gender-based violence program, a program aimed at promoting women in politics, and micro-finance schemes for women. The Senate's Foreign Relations Committee recommended that the U.S. Agency for International Development (USAID) expand services to rape victims and fund a public education program on women's rights. The U.S., which is a strong supporter of the Special Court, has contributed U.S. $5 million to this body, and pledged an additional $10 million. The U.S. has contributed $500,000 to the TRC.

After the May 2000 crisis, the U.S. initiated a program called Operation Focus Relief (OFR) to train and equip seven battalions of West African troops for peacekeeping with UNAMSIL. In July 2002, the U.S. pledged to help ECOWAS set up military bases for the rapid deployment of troops in conflict areas. The first steps in this assistance program include the installation of a U.S. $5.3 million early-warning satellite communications system, which will link the ECOWAS secretariat with observation centers in four ECOWAS countries.

European Union

The E.U. did not play a key role in responding to the armed conflict and to date has not been a major donor. Since May 2000, the European Community Humanitarian Office (ECHO) has disbursed approximately €30 million (roughly the same in U.S. dollars) in Sierra Leone. Few ECHO-funded programs have directly targeted women. ECHO has funded child protection programs, which have assisted child-mothers who became pregnant as the result of conflict-related sexual violence.

[285] A survey of 226 victims, conducted by the University of Sierra Leone Gender Research and Documentation Centre in collaboration with the Sierra Leone Association of University Women (SLAUW), Médecins Sans Frontières, UNICEF and FAWE Sierra Leone.

As the situation in Sierra Leone stabilizes, the E.U. will increase its funding to Sierra Leone through the European Development Fund (EDF), which from 2000 to 2002 disbursed €38 million on activities that supported the return to democracy, rehabilitation of infrastructure and resettlement. From 2002 to 2007, a total of €144 million will be made available for disbursement through the EDF on activities that focus on the rehabilitation of rural infrastructure, good governance and institutional capacity building. An additional €76 million can be spent on activities outside of these two focal areas.

In 2002, the European Commission funded a two-year program that supports the reintegration of rape victims and other war-affected persons through the European Initiative for Democracy and Human Rights (EIDHR). Human rights-related programs funded through the EIDHR, which has €6 million for disbursement over the next three years (2002-5), should include women's rights issues, which the EIDHR seeks to mainstream in all its programs.[286]

In addition to the U.K., other member states of the E.U. have bilaterally contributed to Sierra Leone. The Netherlands, in particular, has since 1999 funded sexual and gender-based violence programs. The Dutch government has also been a strong supporter of the Special Court and has contributed U.S. $11.4 million, which is approximately 20 percent of the total budget. A donation for the TRC is being prepared at the time of writing, but has not yet been formalized. A small budget for human rights programs was made available for 2002.

United Nations

Security Council, Secretary-General, and UNAMSIL

Secretary-General Kofi Annan and the members of the Security Council have devoted much attention to the conflict in Sierra Leone. Kofi Annan visited the country in July 1999 and December 2000. The Security Council has frequently denounced the egregious human rights abuses committed during the conflict, in particular by the rebel factions, and has stressed the importance of protecting women in armed conflict.[287]

Following the failure of the U.N. peacekeeping missions in Somalia and Rwanda, there was substantial pressure on the U.N. to ensure that the UNAMSIL peacekeeping mission would succeed when it was established in October 1999.[288] After the slow initial deployment of peacekeepers, which led to the May 2000 crisis, the U.N. committed itself to deploy 17,500 peacekeepers in Sierra Leone: UNAMSIL is the world's largest and most expensive peacekeeping mission, costing the international community over U.S. $700 million annually.[289] As of March 31, 2002, there were 17,455 peacekeepers, 259 military observers, 87 civilian police officers as well as 322 international and 552 local civilian staff in Sierra Leone. The mission is now being hailed as a great success, although Human Rights Watch has criticized UNAMSIL on numerous occasions for failing to fulfill its mandate to protect the civilian population.[290] In a June 19 report to the Security Council on UNAMSIL, the secretary-general stated that the government security apparatus was not yet capable of protecting Sierra Leone from both internal and external threats and warned that the international community must protect the major investments that had made possible the progress achieved so far.[291] On September 24, the Security Council extended UNAMSIL's mandate for a further six months, but envisaged a reduction of 4,500 troops in the peacekeeping mission within eight months. The resolution was based on the recommendation of a further report on UNAMSIL which laid out benchmarks to govern the withdrawal of the U.N. from Sierra Leone, including the ability of the police and army

[286] Human Rights Watch interview with EIDHR representatives Andrew Kelly and Irene Corcillo and the Economic Adviser to the E.U., René Mally, Freetown, April 10, 2002.

[287] In resolution 1370, the Security Council expressed "... its continued deep concern at the reports of human rights abuses and attacks by the RUF and the Civil Defence Forces (CDF) ... against the civilian population, in particular the widespread violation of the human rights of women and children, including sexual violence, [and] demands that these acts cease immediately..." U.N. Security Council resolution 1370, S/RES/1370 (2001), September 18, 2001, para. 4.

[288] U.N. Security Council resolution 1270, S/RES/1270 (1999), October 22, 1999.

[289] U.N. Security Council resolution 1346, S/RES/1346 (2001), March 30, 2001.

[290] *See* Human Rights Watch letter addressed to Secretary-General Kofi Annan at http://www.org/press/2001/11/annanltr.htm.

[291] *Fourteenth Report of the Secretary-General on the United Nations Mission in Sierra Leone*, S/2002/679, June 19, 2002.

to maintain security, the successful re-integration of ex-combatants, and the situation in the broader sub-region. The resolution also encouraged the government of Sierra Leone to "pay special attention to the needs of women and children affected by the war," and welcomed "the steps taken by UNAMSIL to prevent sexual abuse and exploitation of women and children," and encouraged the mission to continue to enforce a policy of "zero tolerance" for such acts. The Security Council also called on states to bring to justice their own nationals responsible for such crimes in Sierra Leone.[292]

UNAMSIL was initially authorized to field fourteen human rights officers, but for the first two years of UNAMSIL's existence, the human rights unit remained understaffed, which meant that human rights abuses were not effectively monitored. At various times during the lifespan of UNAMSIL, the gender specialist post was not filled. When UNAMSIL's mandate was expanded to 17,500, the human rights unit was authorized to recruit six additional human rights officers and most positions are currently filled. The Physicians for Human Rights report on conflict-related sexual violence was produced in collaboration with the UNAMSIL human rights section and has contributed to focusing the attention of the international community on the issue of sexual violence.

In October 2000, the Security Council held an Open Session on Women and Armed Conflict and adopted a resolution calling for documenting the impact of armed conflict on women and the role of women in peace-building.[293] Since then the U.N. Development Fund for Women (UNIFEM) has undertaken a major study on the impact of armed conflict on women in more than ten countries around the world, including Sierra Leone. In January 2002, a three-woman UNIFEM team visited Sierra Leone in connection with this study.[294] UNIFEM also recently appointed a gender and AIDS adviser in Sierra Leone, who is tasked with strengthening the gender division of the Ministry of Social Welfare, Gender and Children's Affairs and local women's groups as well as mainstreaming gender in the TRC and Special Court for Sierra Leone. She will also research the relationship between gender, conflict and HIV/AIDS with the aim to increase protection against HIV infection.[295]

In November 2001, a team from the Training and Evaluation Service of the U.N. Department of Peacekeeping Operations (DPKO) conducted a two-week training on gender in peacekeeping. The program involved over 1,000 UNAMSIL peacekeepers and civilian personnel from both Freetown and the provinces. Local human rights activists and women's organizations were invited in order to contribute a domestic perspective on gender issues.

UNAMSIL has funded several women's programs for survivors of sexual violence through various trust funds. These trust funds are normally established for quick impact programs whilst the rehabilitation and reintegration of women who have been abducted and subjected to sexual violence and sexual slavery should be seen as long-term projects.

Office of the High Commissioner for Human Rights

The then U.N. High Commissioner for Human Rights Mary Robinson visited Sierra Leone in June 1999, while the Lomé peace negotiations were taking place. The purpose of the mission was "to support the peace process, to encourage future programmes for the promotion and protection of human rights in the country, and to draw attention to the plight of children, women and civilians bearing the brunt of the excesses in Sierra Leone."[296] OHCHR has provided technical assistance for the establishment of the TRC, but was very slow to issue the funding appeal for the TRC. OHCHR has also assisted in the drafting of the statute for the national human rights commission provided under the Lomé Peace Agreement, but the establishment of this body has not progressed beyond that point.

---

[292] *Fifteenth Report of the Secretary-General on the United Nations Mission in Sierra Leone*, S/2002/987, September 5, 2002; U.N. Security Council resolution 1436, S/RES/1436 (2002), September 24, 2002, paragraphs 14 and 15.

[293] U.N. Security Council resolution 1325, S/RES/1325 (2000), October 31, 2000.

[294] *See* the summary of the assessment's findings at http://www.unifem.org/gov_pax_assessment.pdf.html.

[295] Human Rights Watch interview with Jebbeh Forster (Gender and AIDS advisor to UNIFEM Sierra Leone), Freetown, March 11 and April 15, 2002.

[296] United Nations, *Sixth Report of the U.N. secretary-general on the U.N. Observer Mission in Sierra Leone (UNOMSIL)*, S/1999/645, June 4, 1999, para. 39.

The U.N. Commission on Human Rights has condemned the human rights situation in Sierra Leone on numerous occasions.[297] In August 2001, Radhika Coomaraswamy, the commission's special rapporteur on violence against women, visited Sierra Leone to highlight the gender-specific abuses that thousands of women and girls have been subjected to. She highlighted that "systematic and widespread rape and other sexual violence has been a hallmark of the conflict in Sierra Leone" and noted that "the failure to investigate, prosecute and punish those responsible for rape and other forms of sexual and gender-based violence has contributed to an environment of impunity that perpetuates violence against women in Sierra Leone, including rape and domestic violence."[298] She therefore stressed the need for accountability for these abuses.

World Bank

The World Bank established a multi-donor trust fund for the DDR program, which is now focused on the reintegration of ex-combatants. As discussed above, the protection needs of abducted women and girls were ignored by the DDR program even though World Bank consultants had raised this issue in their confidential reports. In 2002, the World Bank agreed in principle to allocate U.S. $140 million to support reconstruction and development efforts in Sierra Leone and U.S. $15 million to go towards HIV/AIDS prevention projects there.

X. CONCLUSION

The decade-long war in Sierra Leone has been characterized by egregious human rights abuses committed primarily by the rebel forces against the civilian population. Throughout the conflict, thousands of women and girls were raped and subjected to other forms of sexual violence of unimaginable brutality, including sexual slavery. The low status of women and girls in Sierra Leone by law, custom and practice remains a contributing factor to their vulnerability and may have contributed to the widespread and systematic sexual violence. In addition to the combatants' motivation to achieve their strategic military objectives through terrorizing the civilian population, the fact that sexual violence during the Sierra Leone conflict predominantly involved *men* raping *women* reveals that conflict-related rape, like most rape, reflects this dynamic of gender inequality and subordination. This assertion by men of their power over women is deeply imbedded in societal attitudes in Sierra Leone. The international community and the government therefore need to think of creative ways to change these deeply embedded attitudes.

The lack of attention paid until recently, both nationally and internationally, to the widespread and systematic acts of sexual violence, sexual slavery and their consequences means that there are few assistance programs for survivors. The international community and the government of Sierra Leone should drastically increase funding to ensure that desperately needed health care, education, adult literacy, skills training, trauma counseling, and income-generating schemes are provided. Nor have there been any prosecutions. Rape therefore continues with impunity and it is little wonder that women and girls in post-conflict Sierra Leone remain vulnerable to non-conflict-related violence, and are reluctant to seek legal redress in the domestic courts or even report the incident given the country's inefficient and corrupt criminal justice system. Although, the establishment of the Special Court for Sierra Leone and the Truth and Reconciliation Commission should help to address this climate of impunity, the domestic legal system must urgently be revised to ensure that crimes of sexual violence are prosecuted in a sensitive manner. The international community therefore needs to fund legal reform and training

[297] The Commission on Human Rights deplored "... the ongoing atrocities committed by the rebels, including murders, rape, abductions ... calls for an end to all such acts." U.N. Commission on Human Rights resolution 2000/24, April 18, 2000, para. 4. The Commission also expressed its grave concern "...at the targeting and abuse of women and girls that have been committed in Sierra Leone by the Revolutionary United Front and others, including other armed groups, in particular murder, sexual violence, rape, including systematic rape, sexual slavery and forced marriages..." U.N. Commission on Human Rights resolution 2001/20, April 20, 2001, para. 2(b).

[298] United Nations, *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2001/49*, Addendum, Mission to Sierra Leone, E/CN.4/2002/83/Add.2 (United Nations, 2002), p. 2.

programs for the criminal justice system as a whole, which has a key role in promoting and protecting the rights of Sierra Leonean women and girls.

1679

ACKNOWLEDGEMENTS

This report was written by Louise Taylor, a consultant to Human Rights Watch, on the basis of interviews conducted in Sierra Leone from February to June 2002. It is also based on testimonies collected by Corinne Dufka, Human Rights Watch Africa Division researcher based in Sierra Leone, from 1999 to June 2002, and by Ellen Vermeulen, consultant, from February 2000 to April 2001.

The report was edited by Bronwen Manby, deputy director of the Africa Division; James Ross, senior legal adviser; and Ian Gorvin, consultant to the program office. It was also reviewed by Corinne Dufka; Widney Brown, advocacy director in the Women's Rights Division; Zama Coursen-Neff, researcher in the Children's Rights Division; Joanne Csete, director of the program on HIV/AIDS and human rights; and Joanne Weschler, U.N. representative. The final edits were inputted by Max Marcus, consultant. Production and coordination assistance was provided by Jeff Scott, associate in the Africa Division; Patrick Minges, Publications director; and Fitzroy Hepkins, mail manager.

We would like to thank all the organizations and individuals interviewed for this report for their invaluable assistance and insights. We particularly thank the survivors who agreed to recount their experiences. The courage and dignity of these women and girls never ceases to amaze and inspire.

Human Rights Watch recognizes with appreciation funding for work on Sierra Leone from the Oak Foundation, Stichting Doen, and the Rockefeller Foundation.

Human Rights Watch
Africa Division

Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to bring offenders to justice, to prevent discrimination, to uphold political freedom and to protect people from inhumane conduct in wartime.

We investigate and expose human rights violations and hold abusers accountable.

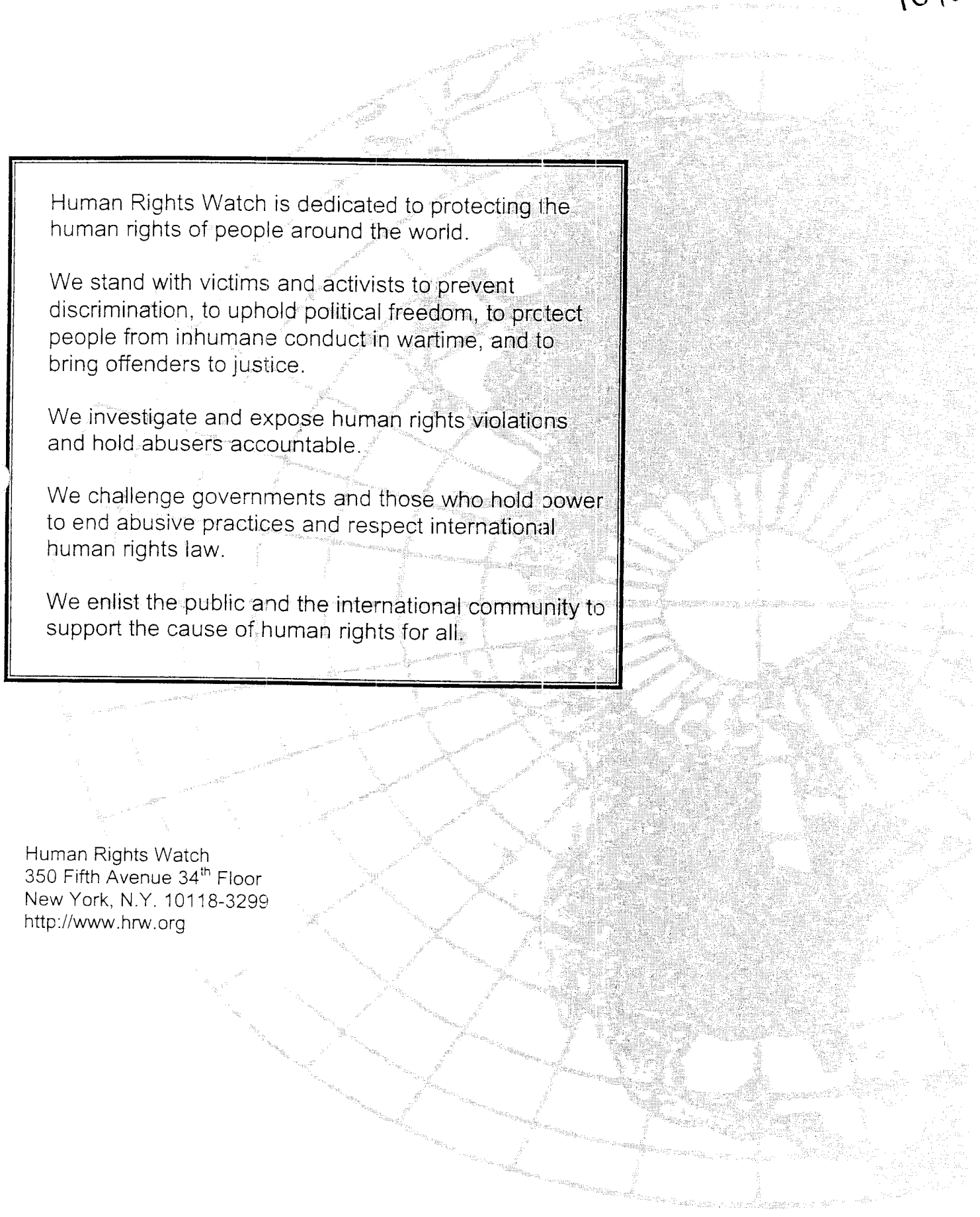
We challenge governments and those holding power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

The staff includes Kenneth Roth, executive director; Michele Alexander, development director; Rory Mungoven, advocacy director; Carroll Bogert, communications director; John T. Green, operations director, Barbara Guglielmo, finance director; Lotte Leicht, Brussels office director; Patrick Minges, publications director; Maria Pignataro Nielsen, human resources director; Joe Saunders, interim program director; Wilder Tayler, legal and policy director; and Joanna Weschler, United Nations representative. Jonathan Fanton is the chair of the board. Robert L. Bernstein is the founding chair.

Its Africa division was established in 1988 to monitor and promote the observance of internationally recognized human rights in sub-Saharan Africa. Peter Takirambudde is the executive director; Bronwen Manby is the deputy director; Janet Fleischman is the Washington director; Alison Des Forges is the senior adviser; Binaifer Nowrojee and Jemera Rone are counsels; Carina Tertsakian and Lars Waldorf are researchers; Juliane Kippenberg is the NGO Liaison; Jeff Scott is the associate. Vincent Mai is the chair of the advisory committee.

Web Site Address: http://www.hrw.org
Listserv address: To subscribe to the list, send an e-mail message to hrw-news-subscribe@topica.email-publisher.com with "subscribe hrw-news" in the body of the message (leave the subject line blank).



Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice.

We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those who hold power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

Human Rights Watch
350 Fifth Avenue 34th Floor
New York, N.Y. 10118-3299
http://www.hrw.org

SIERRA LEONE
1998 - a year of atrocities against civilians

Introduction

During 1998 the scale of atrocities against civilians in Sierra Leone has reached unprecedented levels. Several thousand unarmed civilians, including many women and children, have been deliberately and arbitrarily killed and mutilated by forces of the Armed Forces Revolutionary Council (AFRC) and the armed opposition Revolutionary Front (RUF) since February 1998. These atrocities are continuing.

The AFRC, which seized power in a military coup in May 1997 and which was joined by the RUF, was deposed in February 1998 by West African forces deployed in Sierra Leone. The government of President Ahmad Tejan Kabbah, which had been elected in 1996, returned to Freetown in March 1998. Although security has since returned to the capital, Freetown, and much of the south of the country, the scale of human rights abuses committed by AFRC and RUF forces in the north and east of the country has escalated and taken on grotesque forms. From April 1998 reports emerged of civilians suffering mutilations such as crude amputations of their feet, hands, arms, lips or ears. Women and girls have been systematically raped. Hundreds of civilians, in particular children and young men and women, have been abducted by rebel forces. The violence has resulted in hundreds of thousands of Sierra Leoneans fleeing to neighbouring Guinea and Liberia or becoming internally displaced within Sierra Leone. AFRC and RUF forces must respect international humanitarian law and immediately end the gross human rights abuses which they are perpetrating against unarmed civilians.

The international community, including the United Nations (UN), the Organization of African Unity (OAU), the Economic Community of West African States (ECOWAS), the Commonwealth and the European Union (EU), has devoted considerable attention and effort to resolving the political crisis in Sierra Leone and to restoring the government of President Kabbah. It has since repeatedly condemned the atrocities being committed by AFRC and RUF forces. The international community has committed itself to bringing peace and security to Sierra Leone and also to assisting in its reconstruction and rehabilitation. This commitment must include initiatives to help end the gross human rights abuses being perpetrated by AFRC and RUF forces, to prevent further abuses and also to lay solid foundations for the respect and protection of human rights in the future.

The challenges facing Sierra Leone in confronting the widespread and gross human rights abuses which have continued and worsened since May 1997 are difficult and daunting. Sierra Leone's social and economic infrastructure needs to be rebuilt. Its institutions, such as the legal and judicial systems and the army and police, need to be restructured and reinforced in order to ensure protection of human rights. Civil society, including the human rights community, has a crucial role to play. The government of Sierra Leone has to respond to these challenges in a way that ensures that the fundamental human rights of all those in Sierra Leone are protected.

West African forces and a civilian militia who are fighting rebel forces must also respect international humanitarian and human rights law. Forces of the civilian militia have been responsible for extrajudicial executions, torture and ill-treatment, although on a far lesser scale than rebel forces. West African forces have in some cases illegally detained civilians and tortured and ill-treated captured combatants. Concerns have also been expressed about the protection of non-combatants during military operations.

Accountability for the gross human rights abuses which have occurred in Sierra Leone must be established. National reconciliation within Sierra Leone will not be possible if there is impunity for those who have perpetrated human rights abuses. All those charged in connection with the military coup in May 1997 and the period of AFRC rule must be granted trials which conform to international standards of fairness. Recourse to the death penalty will not contribute to the process of reconciliation.

The international community should continue to assist Sierra Leone to respond effectively to the challenges which it faces in ensuring the long-term protection and respect of human rights in Sierra Leone.

The political context

On 25 May 1997 the government of President Kabbah was overthrown in a military coup and the military formed the AFRC, headed by Major Johnny Paul Koroma. President Kabbah had come to power in March 1996 following parliamentary and presidential elections, ending four years of military rule. The AFRC claimed that they had overthrown the government because it had failed to consolidate peace in Sierra Leone following a peace agreement concluded in Abidjan, Côte d'Ivoire, in November 1996 between the government and the RUF to end the internal armed conflict which began in 1991. It also claimed that the government was undemocratic and that it had promoted tribalism by appointing people mainly from the Mende ethnic group from the south and the east to prominent government positions. A major grievance was the perceived lack of resources accorded by the government to the Sierra Leone armed forces and a favouring of a civilian militia composed of traditional hunters of the Mende ethnic group, known as *kamajors*, which supported the government in the conflict against the RUF. These accusations were strongly denied by President Kabbah, members of his government and their supporters. The AFRC also called for the release and return of the RUF's leader, Foday Sankoh, in detention in Nigeria.

Foday Sankoh remained held, effectively under house arrest, in Abuja, Nigeria. He had been detained by Nigerian authorities on arrival in Nigeria in March 1997, apparently for possession of arms and ammunition. From Nigeria, Foday Sankoh announced his support for the military coup. The AFRC was subsequently joined by RUF forces who arrived in large numbers in Freetown. Foday Sankoh was named as Vice-Chairman of the AFRC and prominent members of the RUF were appointed to the AFRC's ruling council.

The overthrow of President Kabbah was condemned by the international community which demanded the return of constitutional order to Sierra Leone. Negotiations by the

international community with the AFRC faltered, a global economic embargo was imposed and military intervention to restore the government of President Kabbah was seriously considered by countries in the region if dialogue and sanctions failed. Following the military coup the OAU gave a mandate to ECOWAS to take necessary action to restore legality and constitutionality to Sierra Leone and subsequently provided strong support for ECOWAS's initiatives to bring peace, security and stability to Sierra Leone. The UN Security Council also expressed its full support for the efforts of ECOWAS to resolve the political crisis in Sierra Leone.

On 23 October 1997 the AFRC signed an agreement in Conakry, in neighbouring Guinea, with representatives of five other West African governments to return power to President Kabbah by 22 April 1998. Implementation of this agreement, however, which included cessation of hostilities, disarmament and demobilization, encountered serious set-backs. Fighting between AFRC and RUF forces on the one hand and the *kamajors* on the other intensified.

In early February 1998, following attacks on its bases outside Freetown, West African forces deployed in Sierra Leone, the ECOWAS Cease-fire Monitoring Group (ECOMOG) [1], launched an offensive on Freetown. Chaos and violence ensued the following week during which there were many civilian casualties. Civilians were killed by AFRC and RUF forces who also looted and destroyed their homes. Reports described soldiers and RUF forces, also joined by Liberian fighters, going from house to house of those they suspected of opposing them and deliberately and arbitrarily killing them. Others died as a result of shelling both by ECOMOG and also AFRC and RUF forces. While fighting continued in Freetown, civilians in Southern and Eastern Provinces were facing an equally desperate situation as they were caught in fighting between the *kamajors* and AFRC and RUF forces. Thousands of people, including women and children, fled into neighbouring Liberia to escape. The humanitarian situation in Sierra Leone, already critical, deteriorated still further with the increase in hostilities.

Although after the ECOMOG intervention and the return of President Kabbah's government comparative calm and the rule of law returned to Freetown and Southern Province, armed confrontation has continued throughout the following months in Northern and Eastern Provinces as ECOMOG forces have fought to defeat remaining rebel forces. Appalling atrocities have been committed against civilians as conflict has continued. Major Johnny Paul Koroma and other prominent members of the AFRC and the RUF, including Sam Bockarie, known as Mosquito, remained with rebel forces in the north and east of the country.

The government of Sierra Leone has adopted a comprehensive program for disarmament, demobilization and reintegration of former combatants which contains clearly defined roles for ECOMOG and the UN Observer Mission in Sierra Leone (UNOMSIL), which was established by the UN Security Council in July 1998. The program is aimed at some 33,000 former combatants of the disbanded national army, the RUF and the civilian militia, known as the Civil Defence Forces (CDF). The government has expressed a particular commitment to demobilizing some 2,500 child soldiers who have fought in the

internal armed conflict. Funding was expected from international financial institutions, several UN agencies and important donor nations such as the United States and the United Kingdom. As violence has escalated and offensives by ECOMOG and CDF against rebel forces have continued, however, effective implementation of this program has been prevented.

On 25 July 1998 Foday Sankoh was released by the Nigerian government into the custody of the Sierra Leonean authorities. He appeared in a television interview calling on his fighters to end atrocities against civilians and to surrender to either ECOMOG or UNOMSIL. The government subsequently reiterated a deadline of 8 August 1998 for an amnesty for rebel forces but there was no significant response. Members of the RUF were subsequently reported as claiming that Foday Sankoh had made these statements under duress and continued to demand his release. The RUF threatened to continue their campaign of violence against civilians if he remained in detention. The government announced its intention to prosecute Foday Sankoh for crimes, including gross human rights abuses, committed during Sierra Leone's internal armed conflict. He was brought to trial on 24 September 1998 and convicted and sentenced to death the following month. This prompted further attacks by rebel forces against unarmed civilians in retaliation.

Also in September 1998 rebel forces called on the government to begin negotiations for peace through the UN, the OAU and the Commonwealth Secretariat, the moral guarantors of the peace agreement signed in Abidjan. The Commonwealth Ministerial Action Group on the Harare Declaration (CMAG)[2] on 9 October 1998 called on rebel forces to make an immediate statement accepting the following terms: the recognition of the legitimacy and authority of the government; an unconditional and indefinite cessation of all hostilities; and a willingness to enter into talks to bring about an immediate end to the conflict. At the same time CMAG expressed its grave concern about the humanitarian situation in Sierra Leone, in particular the continuing atrocities by rebel forces, which it condemned unreservedly. The government also responded to the call by rebel forces for negotiations by saying that they should lay down their arms and surrender to UNOMSIL military observers.

President Kabbah repeated calls for rebel forces to surrender on 19 October 1998 and renewed an offer of amnesty for those surrendering. It appeared that the amnesty implied that those surrendering who had not been responsible for crimes would be included in the disarmament, demobilization and reintegration process whereas those who were accused of criminal offences would prosecuted with due process of the law. There was, however, no significant increase in the number of those surrendering.

The West Africa sub-region

Liberia was widely reported to be providing combatants, arms and ammunition to AFRC and RUF forces in Sierra Leone. Liberian fighters were present in Freetown at the time of the ECOMOG intervention and survivors of the gross human rights abuses which followed stated that the armed groups which had attacked them had included Liberians.

In the Vahun and Kolahun areas of Lofa Country in northwestern Liberia, where tens of thousands of Sierra Leonean refugees had fled escalating fighting in eastern Sierra Leone, cooperation between rebel forces and the Liberian military was reported to be witnessed regularly. The RUF second-in-command, Sam Bockarie, was reported to have been in direct contact with Liberian military forces and to have regularly crossed the border into Liberia.

On 12 May 1998 a statement by the United States Department of State referred to "*distressing rumours that RUF and AFRC forces were being assisted in their campaign of terror by other governments. Although we cannot confirm these rumours, it should be clear that any government or other party which is found to be helping the rebels to prolong the tragedy in Sierra Leone will face the strongest condemnation of the United States and the international community.*"

On 20 May 1998 the President of the UN Security Council condemned as gross violations of international humanitarian law the atrocities carried out against the civilian population, particularly women and children, by the deposed AFRC and RUF, including widespread rape, mutilation and killings, and called for an immediate end to continuing violence against civilians. The Security Council also expressed grave concern about reports of military support being provided to the AFRC and RUF by other countries and called on all states to observe strictly the provisions of Security Council Resolution 1132 (1997) of 8 October 1997, which had imposed an arms embargo on Sierra Leone, and to avoid any action which might further destabilize the situation in Sierra Leone. Security Council Resolution 1171 (1998) of 5 June 1998 lifted the arms embargo on the government of Sierra Leone. The same resolution prohibited the sale and supply of arms and related *matériel* to non-governmental forces in Sierra Leone. The Security Council subsequently praised the efforts of the UN Secretary-General to stop the flow of arms across the border from Liberia to rebels forces in Kailahun District, Eastern Province. All states were urged to comply strictly with the terms of the UN embargo on sales of arms to rebel forces still fighting in the interior of the country.

In his Fifth Report on the Situation in Sierra Leone to the UN Security Council of 9 June 1998, the UN Secretary-General stated that the deployment of ECOMOG troops at the border with Liberia could help dispel allegations of the influx of arms or the provision of armed assistance to the AFRC and RUF by foreign forces. While welcoming a commitment by the government of Liberia not to allow its territory to be used to destabilize any neighbouring country, the Secretary-General expressed the view that verification of this would improve the security climate throughout the sub-region and improve mutual confidence among countries in the sub-region.

On 22 and 23 June 1998 a Liberian delegation visited Freetown to deliver a message from President Charles Taylor to President Kabbah on ways to promote peace between Guinea, Liberia and Sierra Leone, the three Mano River Union countries. The delegation denied allegations that the Liberian government was supporting AFRC and RUF forces. President Kabbah and President Taylor met in Abuja on 1 July 1998 at a meeting convened by the UN Secretary-General. Agreement was reached on a number of

confidence-building measures. A further meeting between President Kabbah and President Taylor took place in Monrovia, Liberia, on 20 July 1998. In a communiqué signed at the conclusion of the meeting both leaders condemned atrocities and human rights abuses committed by combatants in Sierra Leone against civilians, as well as continued rebel activities in Sierra Leone. They reaffirmed their commitment to non-aggression against the territorial integrity of each other s country and pledged to continue cooperation towards peace and security in the sub-region. Both leaders renewed a call to the UN and ECOWAS to deploy observer units on the border between Liberia and Sierra Leone and agreed to coordinate border security activities.

At a UN special conference on Sierra Leone in New York in July 1998 the meetings between President Kabbah and President Taylor were welcomed and the two leaders were urged to continue to work towards improving relations between their two countries and regional security. The importance of stopping entry of illegal supplies of weapons into Sierra Leone and ending the direct or indirect support of neighbouring countries to rebel forces was stressed.

Relations between the two countries appeared to deteriorate, however, in October 1998 when the government of Sierra Leone was reported to have complained to the international community, including the UN Secretary-General, about the presence of Liberian combatants among rebel forces in Sierra Leone and about preparations for an incursion of Liberian fighters into Sierra Leone. These allegations were vigorously denied by President Taylor. UNOMSIL military observers at that time detected no evidence of an armed incursion from Liberia.

The UN Secretary-General in his Second Progress Report on UNOMSIL on 16 October 1998 expressed deep concern about developments in the situation between Sierra Leone and Liberia and urged both governments to exercise maximum restraint, pursue dialogue and implement the confidence-building measures agreed in July 1998. He also proposed that, should both countries agree, the deployment of ECOMOG forces at the border, subsequently accompanied by UNOMSIL military observers, could help stabilize the situation and restore mutual confidence.

During a visit by Reverend Jesse Jackson, special envoy of United States President Bill Clinton, to West Africa in November 1998 he held meetings in Conakry with President Kabbah, President Taylor and President Lansana Conté of Guinea. The three heads of state on 12 November 1998 stated their commitment to non-aggression and cooperation on security issues within the Mano River Union and also to promoting peace in Sierra Leone and maintaining stability within the sub-region.

In view of the appalling level of violence against civilians which has characterized the conflict in Sierra Leone, including the widespread and gross human rights abuses being perpetrated by AFRC and RUF and their stated intention to attack unarmed civilians, Amnesty International believes that military transfers, including arms, ammunition and combatants, to rebel forces will contribute to abuses of international human rights and humanitarian principles governing the conduct of war.

Recommendations

- all governments should take all possible measures to end immediately military transfers, including arms, ammunition and combatants, to AFRC and RUF forces;

- in addition, the governments of Liberia and Guinea, which border Sierra Leone, should take all possible measures to prevent military supplies, whether they originate in their country or not, destined for AFRC and RUF forces, from entering Sierra Leone across their borders;

- effective monitoring of the border between Sierra Leone and Liberia by ECOMOG forces and UNOMSIL military observers could assist in preventing military transfers to AFRC and RUF forces;

- governments in the sub-region should use whatever influence they may have on AFRC and RUF forces to bring about an end to the atrocities they continue to perpetrate against civilians.

International response to the human rights crisis

Following the military coup in May 1997 the international community made strenuous efforts to resolve the political crisis in Sierra Leone. Since the reinstatement of President Kabbah's government in March 1998, serious attention continues to be paid to consolidating the government's position, ending the conflict in the north and east of the country, which is still claiming hundreds of civilian victims, and to assisting rehabilitation and reconstruction of the country. The continuing gross human rights abuses committed by AFRC and RUF forces have been universally condemned, including by the UN, the OAU, the EU and the Commonwealth.

United Nations

On 17 April 1998 the UN Security Council authorized the deployment of a UN liaison unit in Sierra Leone. Resolution 1162 (1998) provided for up to 10 UN military liaison and security advisory personnel in Freetown with a mandate for up to three months. The group was to coordinate closely with ECOMOG to report on the military situation in Sierra Leone and to assist in disarming former combatants. The resolution also welcomed efforts of President Kabbah and his government to restore peaceful and secure conditions, to re-establish an effective administration and democratic process and to embark on reconstruction. The resolution noted the need to promote national reconciliation and encouraged all parties to work towards that objective. All countries and international organizations were urged to provide urgent humanitarian assistance in Sierra Leone and were encouraged to help with its reconstruction and economic and social recovery. A human rights officer was also appointed to assist the UN Secretary-General's Special Envoy to Sierra Leone, Francis Okelo (who was subsequently appointed as Special

Representative).

In the UN Secretary-General's Fifth Report on Sierra Leone, the deteriorating human rights situation was emphasized, and it was recommended that the number of UN human rights officers in Freetown be increased.

The UN Observer Mission in Sierra Leone

On 13 July 1998 the UN Security Council established a new peace-keeping operation, UNOMSIL, which expanded the office of the Secretary General's Special Envoy, to monitor the military and security situation in Sierra Leone, as security conditions permitted, for an initial six-month period until 13 January 1999. UNOMSIL would consist of 70 military observers and would be accompanied by a small medical unit and civilian support staff. The civilian staff would advise the government and local police, report on violations of international humanitarian and human rights law in Sierra Leone, and assist the government in its efforts to address the country's human rights needs. UNOMSIL was to be led by the Special Representative of the UN Secretary-General in Sierra Leone. Initially, 40 military observers were to be deployed from July 1998 in Freetown, Hastings and Lungi. Depending on the security situation, a second phase of deployment would take place.

In approving Resolution 1181 (1998), which established UNOMSIL, the Security Council also condemned the continued resistance by remnants of the AFRC and RUF to the legitimate government and demanded that they lay down their arms immediately. It expressed its grave concern "*at the loss of life and immense suffering undergone by the people of Sierra Leone, including refugees and displaced persons, as a result of continuing rebel attacks*".

Resolution 1181 (1998), in addition to establishing a military and civilian police peace-keeping mission, also mandated the monitoring of human rights and the provision of assistance to the government of Sierra Leone in addressing its human rights obligations [3]. The resolution also gave UNOMSIL military observers a mandate to monitor respect of international humanitarian law during the demobilization process.

By October 1998 the human rights component of UNOMSIL had been increased to seven staff: four international human rights officers, one national human rights officer and two support staff. Subsequent progress reports by the UN Secretary-General on UNOMSIL to the Security Council referred extensively and in detail to continuing human rights abuses in Sierra Leone. The prominence given to the human rights crisis in Sierra Leone in these reports is welcomed and should continue.

In his First Progress Report on 12 August 1998, the Secretary-General reported that "*there is strong evidence of the systematic and widespread perpetration of multiple forms of human rights abuse against the civilian population, including rape. In recent weeks, elements of the former junta have continued to shell population centres such as Koidu and Daru and have used civilians as human shields in their military operations. There*

have been numerous instances of arbitrary execution, including of women and children, followed in some cases by mutilation of the bodies."

In his Second Progress Report on 16 October 1998, the Secretary-General stated that "*the continuing conflict in Sierra Leone imposes immense suffering on the people of that country. I strongly condemn the summary executions, torture, mutilation, rapes, looting and other acts of barbarism carried out by former junta elements and call on them to lay down their arms and surrender. I am particularly outraged by the senseless acts of terror perpetrated against children, such as the amputation of limbs of boys and girls as young as six years of age, and support the efforts to bring to justice the authors of these especially abhorrent crimes.*"

The UN Secretary-General concluded his Second Progress Report by stating that he would "*examine with great care any realistic proposal to end the armed conflict with minimal loss of life to combatants and to innocent civilians and to promote lasting peace and national reconciliation in Sierra Leone*".

Major initiatives have been undertaken by UNOMSIL human rights officers. Continued monitoring and reporting of human rights abuses have been reflected in the UN Secretary-General's reports to the Security Council. A preliminary human rights needs assessment has been developed. Human rights officers have also closely observed trials before the High Court and court martial in Freetown of those charged with treason in connection with the military coup in May 1997 and have intervened with the government in relation to these trials when appropriate. Guidance on human rights reporting to UNOMSIL military observers has been provided and human rights training programs for police officers, prison officials, the legal profession and the media have been developed and implemented. A human rights monitoring network including local non-governmental human rights organizations throughout the country and international non-governmental organizations has also been developed. Training for the network in human rights monitoring and reporting has been planned by UNOMSIL human rights officers, in cooperation with the National Commission for Democracy and Human Rights and a coalition of local groups, the National Forum for Human Rights. Increased cooperation between local human rights groups has been encouraged and it is anticipated that the human rights training program will involve relevant sectors of civil society from all parts of the country.

The role of UNOMSIL human rights officers in human rights monitoring and reporting should be continued for as long as necessary, including until it is clear that the government is implementing international human rights guarantees effectively. In September 1998 UNOMSIL human rights officers also began to provide human rights technical assistance to the government, including assistance in meeting its reporting requirements under international human rights treaties to which it is a party, such as the UN Convention on the Rights of the Child [4].

The human rights component plays a dominant role within UNOMSIL and is an essential part of the military mandate of the peace-keeping operation. Sierra Leone continues to

face a human rights emergency and monitoring and reporting of human rights abuses therefore remain essential. Strategies to develop continued and enhanced support for the UNOMSIL human rights component should be developed by the UN Office of the High Commissioner for Human Rights.

The UN special conference on Sierra Leone

The UN Secretary-General, Kofi Annan, convened a special conference in New York on 30 July 1998 to galvanize the international community's response to the political, humanitarian and human rights situation in Sierra Leone. The purpose of the meeting was to focus international attention on the situation in Sierra Leone and the government's initiatives aimed at resolving the conflict, restoring secure conditions and effective administration throughout the country. The conference brought together representatives of the government of Sierra Leone, intergovernmental organizations, including the UN, the OAU, ECOWAS, the EU and the Commonwealth. The special conference on Sierra Leone specifically sought assistance from the international community for UNOMSIL and for the disarmament, demobilization and reintegration of former combatants, including child soldiers.

At the time of the UN special conference Amnesty International recommended that the international community's commitment to bring peace and security to Sierra Leone and to assist in its reconstruction and rehabilitation include initiatives which would help to stop the gross human rights abuses being perpetrated by AFRC and RUF forces, prevent further abuses and also lay solid foundations for the respect and protection of human rights in the future[5].

The UN special conference strongly condemned the continued resistance of AFRC and RUF forces, and in particular their perpetration of appalling atrocities, and they were called on to lay down their arms and surrender. The Special Representative of the UN Secretary-General in Sierra Leone urged the international community to match their pledges of support to Sierra Leone with concrete action to consolidate its democratic gains. The conference agreed to establish an international contact group to mobilize and coordinate further support for Sierra Leone. The contact group was convened by the government of the United Kingdom in London on 5 November 1998[6]. Those participating included representatives of the government of Sierra Leone, the Special Representative of the UN Secretary-General in Sierra Leone and Lansana Kouyaté, Executive Secretary of ECOWAS. In his opening address to the meeting, Tony Lloyd, United Kingdom Minister of State, Foreign and Commonwealth Office, said that: "*Atrocities are still being carried out by remaining rebel forces. Sierra Leone needs peace, reconciliation and lasting restoration of democracy and human rights ... we hope to boost the efforts of the international community to meet these needs.*"

Recommendations

- **the human rights component of UNOMSIL should continue to be supported and strengthened; adequate resources, including additional staff, should be**

provided to effectively monitor and report on human rights abuses throughout the country, implement technical assistance programs with the Sierra Leone government and provide support and training to Sierra Leonean human rights groups;

- the UN Office of the High Commissioner for Human Rights should play a major role in reinforcing and providing support to the human rights component of UNOMSIL;

- the human rights component of UNOMSIL should include experts in the area of violence against women, including rape and sexual abuse;

- UNOMSIL human rights officers should continue to submit reports of violations of international humanitarian and human rights law to the UN Secretary-General and to the UN High Commissioner for Human Rights; comprehensive reports on the human right situation in Sierra Leone should be made public and submitted to the UN Security Council;

- the human rights component of UNOMSIL should have sufficient resources to effectively contribute towards long-term measures for human rights protection and its human rights monitoring and reporting roles should be continued for as long as necessary;

- visits to Sierra Leone by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the UN Special Rapporteur on torture should take place in order to investigate and report on the gross human rights abuses which continue to be perpetrated;

- the international contact group on Sierra Leone should place human rights at the centre of its efforts to coordinate the international community's response to the situation in Sierra Leone and ensure that adequate resources are provided to initiatives aimed at the protection and respect of human rights.

OAU and ECOWAS

Immediately after the military coup in May 1997, the OAU Secretary General, Dr Salim Ahmed Salim, condemned it as "*unacceptable to the continent*". The Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution unequivocally condemned the military coup and called for the immediate restoration of constitutional order [7]. It appealed to the leaders of ECOWAS states to pursue efforts aimed at assisting the people of Sierra Leone in the restoration of constitutional order and to the international community to support those efforts.

The 33rd OAU Assembly of Heads of State and Government meeting in Harare, Zimbabwe, in early June 1997 gave a mandate to ECOWAS to take necessary action to

restore legality and constitutionality to Sierra Leone. The specific measures to be taken were to be decided by ECOWAS. The OAU Secretary General reiterated the OAU's strong support for ECOWAS's initiatives to bring peace, security and stability to Sierra Leone at the ECOWAS summit in Abuja at the end of August 1997.

It was under this mandate from the OAU that ECOWAS forces were deployed in Sierra Leone to monitor a cease-fire, to enforce the sanctions and embargo imposed by the UN Security Council and to secure peace in Sierra Leone. Military intervention by ECOMOG remained an option if dialogue between the AFRC and representatives of other ECOWAS countries and sanctions failed.

ECOWAS and ECOMOG have played a dominant role in political developments in Sierra Leone since the military coup, culminating in the removal of the AFRC and the reinstatement of President Kabbah's government in February 1998. ECOMOG forces in Sierra Leone have been widely praised by the international community. At the ECOWAS summit in Abuja in late October 1998 ECOWAS heads of state and government endorsed the extension of ECOMOG's mandate in Sierra Leone and agreed that it should be strengthened, adding that efforts to achieve a lasting solution to the conflict should continue.

Between 10,000 and 12,000 ECOMOG forces were reported to have been deployed in Sierra Leone by October 1998. ECOMOG, which is composed largely of Nigerian forces, also comprises Guinean and Ghanaian troops and further contingents from Côte d'Ivoire, Gambia, Guinea, Mali and Niger were envisaged. ECOMOG headquarters were to be transferred from Monrovia to Freetown. In April 1998 President Kabbah appointed the ECOMOG commander in Sierra Leone, Brigadier-General Maxwell Khobe, as head of internal security in Sierra Leone. He was subsequently appointed in July 1998 as Chief of Defence Staff of the Republic of Sierra Leone Military Force (RSLMF). The national Sierra Leone army had effectively ceased to exist but was to be re-established.

The ECOMOG force in Sierra Leone is generally considered by the international community and within Sierra Leone to be disciplined and its intervention in February 1998 was welcomed by the majority of Sierra Leoneans. During the following months, as atrocities in the north and east of the country escalated, ECOMOG forces evacuated to safety and medical facilities some of the hundreds of victims of amputations and other injuries, saving many lives.

In the following months, however, reports began to be received of human rights violations committed by ECOMOG forces, including illegal detention of civilians, and torture and ill-treatment of civilian detainees and captured combatants. Concerns have also been expressed that the safety of the civilian population might be endangered during ECOMOG operations, especially air strikes, against rebel forces, particularly in Kailahun District, a rebel stronghold. Measures to minimise the risk to civilians during combat must be undertaken during all military operations by ECOMOG forces. The OAU and ECOWAS have a responsibility to ensure that ECOMOG forces in Sierra Leone conform to international humanitarian and human rights law at all times.

As atrocities against unarmed civilians by rebel forces have continued, the need for concerted action by the international community remains. The OAU Central Organ should continue to play a role both in attempts to resolve the conflict in Sierra Leone and also to respond to post-conflict needs, in particular assistance for creating and reinforcing institutions aimed at long-term protection of human rights in Sierra Leone.

The African Commission on Human and Peoples' Rights (African Commission), meeting in Banjul, Gambia, on 22 October 1998 agreed to send its Special Rapporteur on extrajudicial, arbitrary or summary executions, Dr Mohamed Hatem Ben-Salem, to Sierra Leone in November 1998.

Recommendations

- **in view of the continuing gross human rights abuses in Sierra Leone, the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution should consider requesting that the UN Security Council increase the resources of the human rights component of UNOMSIL in order to investigate and document these abuses;**

- **in addition to its Special Rapporteur on extrajudicial, arbitrary or summary executions, the African Commission should also consider a visit to Sierra Leone by its Special Rapporteur on women in order to investigate and report the gross human rights abuses which continue to be committed in Sierra Leone, including against girls and women;**

- **the OAU Central Organ should send a delegation to Sierra Leone to assess the country's post-conflict needs including the establishment of effective structures for the future protection and respect of human rights;**

- **ECOWAS should ensure full compliance of its forces in Sierra Leone to international humanitarian and human rights law; there should be a mechanism to monitor human rights violations and take measures to prevent further violations.**

Human rights violations during the period of AFRC rule

The period from 25 May 1997 until 12 February 1998 was marked by a total disregard for the rule of law and demands from the international community to respect international humanitarian and human rights law. The rule of law completely collapsed and violence engulfed the country.

Hundreds of people who were associated with the government of President Kabbah or his political party, the Sierra Leone People's Party (SLPP), or who were perceived to be opposed to the AFRC were detained without charge or trial, torture and ill-treatment were systematic, and many of those perceived to be political opponents of the AFRC were

extrajudicially executed.

On 20 October 1997 Amnesty International published a report which documented the human rights violations systematically committed by the AFRC and the RUF after the military coup [8]. The victims included those associated with the government of President Kabbah, journalists, students and human rights activists. Between October 1997 and February 1998 arrests, torture and killings continued relentlessly. The full toll of those detained, tortured, ill-treated and killed while the AFRC and RUF held power only emerged after they were forced from power.

During the period of AFRC rule, while it was possible to obtain limited information about human rights violations in Freetown, few details of what was happening in the Provinces were accessible. When an Amnesty International delegation travelled to Sierra Leone in May 1998, the extent of the suffering of civilians became evident. Killings, rape and looting were systematic in all parts of the country. Hundreds of people had been deliberately and arbitrarily killed, thousands lost their possessions, homes and livelihoods. Rape of girls and women was systematic throughout the country.

Amnesty International repeatedly called on the AFRC to end the systematic human rights violations which occurred after May 1997 and to adhere to its obligations under international human rights law, in particular the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (African Charter)[9]. It called for urgent measures to end arbitrary arrest and detention of those perceived to be opposed to the AFRC and to end torture, ill-treatment and extrajudicial executions.

It is important that there continue to be full and independent investigations into the human rights violations committed during the period of AFRC rule and that the truth of what occurred during those months is established and documented in order to bring those responsible to justice. There should be no impunity for the grave human rights violations committed throughout the period of AFRC rule. Investigation and accountability for these human rights violations will also contribute towards the process of national reconciliation within Sierra Leone.

Arbitrary arrest and detention

Hundreds of political detainees were held incommunicado without charge or trial. It was difficult to assess with any accuracy the number of those detained because of continuous arrests and releases, the failure of the authorities to provide information about detainees and lack of access to places of detention. Detainees were held at the Central Prison, Pademba Road, the police Criminal Investigation Department (CID) headquarters and Cockerill military headquarters in Freetown as well as other military camps, such as that known as the SS camp at the village of Regent in the hills above Freetown.

Throughout the period of AFRC rule journalists were particular targets of arrest, detention and torture. During October and November 1997 the crack-down on the press

intensified; at least 20 journalists were detained and many were tortured and ill-treated. They included Jon Z. Foray, editor of the *New Storm* newspaper, who was arrested by soldiers on 11 October 1997. He was taken first to Cockerill military headquarters where he was handed over to the military police and then held in a freight container. Also held in the container was Prince Akpu, a Nigerian journalist who had established a newspaper called *Alpha jet*, and who was arrested around the same time and accused of subversive activities. (Nigerian ECOMOG forces had used military aircraft called Alpha jets in their operations.) Two days later the two journalists were collected by a senior AFRC member, apparently to be taken to CID headquarters. They were, however, blindfolded and taken to the SS camp. Jon Z. Foray was beaten and stabbed with bayonets by soldiers and sustained a serious injury to his spine. He and Prince Akpu were released on 22 October 1997. With the help of friends, Jon Z. Foray managed to leave Sierra Leone for Ghana where he was admitted to hospital and received two months of medical treatment.

Arrests of journalists continued into November 1997: Dorothy Awoonor Gordon, acting editor of the *Concord Times*, Ibrahim Karim-Sei, editor of the *Standard Times*, and Pius Foray, editor of *The Democrat*, were among those detained and subsequently released without charge.

Sylvanus Kanyako, a journalist working for the *Herald Guardian*, and David Kamara, the newspaper's proprietor, were arrested on 10 January 1998, the day after an article suggested that a prominent member of the AFRC, Sergeant Abu "Zagalo" Sankoh, should be arrested in connection with the looting of the Iranian Embassy in Freetown on 31 December 1997. Sylvanus Kanyako was arrested by soldiers after being identified by an AFRC supporter. He and David Kamara were detained for three weeks. Both men were tortured. Sylvanus Kanyako was tied tightly with his arms behind his back, beaten all over his body and burned with a cigarette. At one point he lost consciousness. He sustained serious injuries to his arms and hands. He was then taken to CID cells where he remained, without any medical treatment, until he managed to escape on 30 January 1998.

On 30 January 1998 Michael Lawson, a university student at Fourah Bay College in Freetown, was arrested. He was apparently accused of passing information to a radio station broadcasting in support of the government of President Kabbah. The radio station, 98.1 FM, had been broadcasting clandestinely since July 1997. Many people suspected of providing information to the radio station, or knowing from where broadcasts were transmitted, had previously been arrested and detained. He was reported to be held at CID headquarters until his release in February 1998 after the intervention by ECOMOG.

Torture and extrajudicial executions

Ill-treatment, torture and extrajudicial executions were systematic throughout the period of AFRC rule. Soldiers and RUF members operated with impunity and created a climate of fear both in Freetown and throughout the country.

On 14 January 1998 a trader, Sama Turay, was shot dead by soldiers on Wilkinson Road

in Freetown after an argument. Local residents were forced to hand the body over to soldiers. Residents of the area staged a demonstration along Wilkinson Road the following day in protest against the killing. This demonstration coincided with a visit to Freetown of a delegation headed by the UN Secretary-General's Special Envoy to Sierra Leone, at that time based in Conakry, for discussions with the AFRC on the implementation of the peace agreement signed in Conakry in October 1997.

The demonstration on 15 January 1998 was brutally suppressed; soldiers indiscriminately beat civilians and raided homes in the area around Wilkinson Road. They went from house to house accusing civilians of deliberately discrediting the AFRC during the visit of the delegation. One of the victims was a 25-year-old trader. When soldiers arrived at his stall he was hit in the face with butt of an AK 47 gun and was also badly beaten on his back. He recognized the soldiers who beat him and described them as relatives of Major Johnny Paul Koroma.

Another of the victims was an 18-year-old girl, also living in the Wilkinson Road area, who had joined the demonstration. Three days later six soldiers came to her home. She was raped by all six soldiers who then cut her hair and shaved her head with a broken bottle.

In Kenema, Eastern Province, terror reigned throughout the period of AFRC rule. The town was effectively under the control of the RUF and, in particular, Sam Bockarie. As in Freetown and other parts of the country, rape of girls and women was systematic and at least a hundred civilians were reported to have been deliberately and arbitrarily killed in Kenema. Every house in the town was looted. The homes of those perceived to have been supporters of the SLPP were destroyed.

On 13 and 14 January 1998 several prominent members of the community in Kenema were arrested by members of the RUF under the supervision of Sam Bockarie. They included B.S. Massaquoi, the chairman of the town council, Dr P.B. Momoh, a medical doctor, Paramount Chief Moinama Karmor, a traditional leader, and Ibrahim Kpaka, a businessman. They were arrested at a time of fierce fighting between the *kamajors* and AFRC and RUF forces around Kenema and were accused of supporting the *kamajors*. They were held at the AFRC Secretariat building in Kenema, which had been the local SLPP headquarters, and some were later moved to the police station and army brigade headquarters. They were stripped and repeatedly beaten with sticks, electric cable and strips of tyres and were threatened with death. Their arms were tied tightly behind them. One of those detained sustained a serious head wound and injury to his eye after being beaten on his head with a gun. At least one of these detained died as a result of beatings.

Some of those arrested were released on 26 January 1998 and escaped to safety. B.S. Massaquoi, however, was among those who remained held at army brigade headquarters. He was killed by members of the RUF on 8 February 1998 as news arrived of ECOMOG's offensive on Freetown and as *kamajors* entered Kenema. Dozens of other people were also reported to have been killed. The mutilated body of B.S. Massaquoi and 35 other people were reported to have been found in mass grave near Kenema on 23

March 1998.

The use of the death penalty by the AFRC

The AFRC resorted to the use of the death penalty in an apparent attempt to be seen to be taking action to impose law and order but in doing so violated international human rights standards. On 25 October 1997 10 soldiers were executed after being convicted of murder and sentenced to death by a military court. A further 17 people were reported to have been executed on 2 November 1997, apparently after conviction by a military court although some reports suggested that summary executions took place without any form of legal proceedings. Another eight people were publicly executed in Koidu on 2 December 1997. According to reports, they had been convicted of armed robbery by a military court, from which there was no right of appeal.

On 28 November 1997 a new decree was promulgated which was retroactive to the time of the military coup and which extended the scope of the death penalty by making death sentences statutory for the offences of looting and commandeering vehicles.

International standards prohibit the retroactive use of the death penalty. The ICCPR states that the death sentence may be imposed only "in accordance with the law in force at the time of the commission of the crime" and also that a heavier penalty shall not be imposed than the one that was applicable at the time when the criminal offence was committed. The Safeguards Guaranteeing the Protection of the Rights of Those Facing the Death Penalty state that: "Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission...".

In addition, the ICCPR states that: "In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes...". The Safeguards Guaranteeing the Protection of the Rights of Those Facing the Death Penalty, adopted by the UN Economic and Social Council (ECOSOC) in 1994, also state that "... capital punishment may be imposed only for the most serious crimes ... with lethal or other extremely grave circumstances." The UN Human Rights Committee, a body of 18 experts established under the ICCPR, stated in 1996 that: "Extension of the scope of the application of the death penalty raises questions as to the compatibility with Article 6 of the Covenant", which guarantees the right to life. The UN Commission on Human Rights, in a resolution adopted in April 1997, called on all states which have not yet abolished the death penalty "progressively to restrict the number of offences for which the death penalty may be imposed".

Amnesty International urged the AFRC to repeal this legislation and to ensure that all death sentences were commuted and that no further executions took place.

Recommendations

- investigations into the human rights violations committed during the period of AFRC rule should continue to be undertaken in order to bring those

responsible to justice and to provide compensation to the victims of human rights violations;

- assistance for documenting the human rights violations which occurred during this period should be provided by the international community.

Human rights abuses by AFRC and RUF forces since February 1998

Since their removal from power the AFRC and RUF have wreaked a campaign of terror against unarmed civilians and human rights abuses have reached unprecedented levels. Several thousand civilians have been brutally killed or mutilated. Hundreds of others have been abducted from their villages and forced to join their attackers. Members of the AFRC and the RUF again inflicted on unarmed civilians the atrocities which they had endured throughout Sierra Leone's internal armed conflict but now on a much greater scale [10].

The abuses perpetrated by rebel forces of the AFRC and RUF constitute the most egregious violations of international humanitarian law. The Geneva Conventions of 1949 which apply to international conflicts - wars between nations - also contain provisions which apply to internal armed conflicts. Article 3, common to all four Conventions, extends to "armed conflict not of an international character" fundamental rules for the protection of non-combatants which each party to the conflict is "bound to apply, as a minimum". Under the terms of common Article 3, people who take no active part or who have ceased to take an active part in hostilities must be treated humanely in all circumstances. Common Article 3 specifically prohibits: violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; the taking of hostages; and outrages upon personal dignity, in particular humiliating and degrading treatment. This prohibition applies not only to government forces but to all parties to internal armed conflicts including armed political groups.

Article 4 of the Additional Protocol II of the Geneva Conventions of 1949 relating to the protection of victims of internal armed conflicts prohibits violence to life, health and physical well-being, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment, of all those not taking a direct part in hostilities or who have ceased to take part in hostilities. [11]

In the days immediately after their removal from power by ECOMOG, AFRC and RUF forces indiscriminately killed unarmed civilians, looted and burned houses, both in Freetown and other towns. As the rebel forces were pursued eastwards by ECOMOG forces through towns such as Bo in Southern Province, Kenema and Koidu in Eastern Province and Makeni in Northern Province during February, March and April 1998, they were responsible for widespread killings, torture and ill-treatment, including rape and other forms of sexual assault, and abduction. Villages and towns were burnt to the ground, destroying thousands of homes. Koidu, a major town in the diamond-rich Kono District, was almost totally destroyed by AFRC and RUF forces and villages between Njaiama-Sewafe and Koidu were repeatedly attacked.

Several foreign nationals were captured by RUF forces in mid-February 1998. They included Spanish, Italian and Austrian religious brothers working at St Joseph's Hospital in Lunsar, Port Loko District, Northern Province, who were abducted on 14 February 1998. Eldred Collins, a prominent RUF member, was reported to have demanded the release of Foday Sankoh, at that time still detained in Nigeria, in exchange for the release of the hostages. They were, however, released on 27 February 1998. Two staff of the humanitarian organization *Médecins Sans Frontières* (MSF), a Canadian and a French national, were also abducted around 14 February 1998 at Rogberi while driving between Port Loko and Lunsar. They were also released after two weeks.

Those perceived to be opposed to the AFRC and the RUF were particularly targeted by rebel forces. They included Catholic priests. As almost all other sectors of Sierra Leonean society, the Catholic Church in Sierra Leone had condemned the military coup. Catholic priests were specifically sought by AFRC and RUF forces after February 1998 and some narrowly escaped death. Their homes were looted and destroyed. Traditional leaders, known as Paramount Chiefs, were also singled out; 44 Paramount Chiefs were reported to have been killed in the months following February 1998.

"*Operation no living thing*"

An even more grotesque pattern of killing, rape and mutilation became evident in April 1998 and the number of victims increased dramatically. Rebel forces called their campaign of terror against civilians
"*Operation no living thing*". As fighting continued between ECOMOG and rebel forces around Koidu attacks on civilians in villages in the area persisted and then spread west and north. Later in April and into May 1998 Alikalia, Yifin and other villages in Koinadugu District, Northern Province, were attacked. Unarmed civilians who were taking no active part in the conflict were killed, their homes burned and their villages destroyed.

Although the exact number of those killed is unknown, it is likely to be several thousand. Most survivors of attacks described hundreds of bodies lying in the bush where they had fled and of several members of their families and communities being killed. More than 200 people were killed during an attack on one village, Yifin, in Koinadugu District, in late April 1998. More than 650 bodies, many of them women and children, were reported to have been buried following fighting in the area around Koidu in mid-June 1998.

With these attacks came reports of mutilations. The arms, hands, legs, ears and lips of victims were deliberately cut off. By early May 1998 some 120 victims of severe mutilations had been admitted to Connaught Hospital in the centre of Freetown; about 60 were admitted on one day alone, 26 April 1998. Four had both arms cut off, another 23 had one arm cut off, and others had deep lacerations on their lower arms, severed tendons or broken bones in their arms after being attacked with machetes. Some had a complete hand, several fingers or ears missing. They were all civilians: farmers, housewives, traders, miners, school students. These numbers swelled in the weeks and months which

followed as more victims arrived at Connaught Hospital and other hospitals in the north of the country, including in Makeni and Magburaka. Some of these hospitals lacked the equipment needed to perform war surgery. Connaught Hospital in the centre of Freetown, which had the necessary facilities, struggled to cope with the influx of patients. Between 6 April 1998 and 27 July 1998 an MSF surgical team treated almost 300 patients with amputations, severe mutilations or gunshot wounds at the hospital. The majority of the cases treated were lacerations to the head or neck or amputations of arms, hands, fingers, ears or lips. About a fifth of these victims were children, one aged 18 months. This number represented, however, only a fraction of the number of such victims, many of whom never reached medical help. Between 25 May 1998 and 12 June 1998 International Committee of the Red Cross (ICRC) delegates evacuated 23 people from the north of the country with gunshot wounds, deep lacerations and amputated limbs requiring urgent reconstructive surgery. A helicopter was used to reach areas inaccessible by road because of insecurity and fear of attack by armed groups. Evacuation of wounded civilians continued throughout the following months. According to humanitarian agencies in Freetown, only about one in four victims of mutilations by rebel forces survived their injuries. In June 1998 the ICRC rehabilitated Netland Hospital in Freetown for the surgical treatment of victims of amputations. By the end of September 1998, some 400 victims of amputations were reported to have undergone surgery at Netland Hospital. By October 1998 estimates of the number of victims of mutilations since February 1998 were put as high as 4,000.

Among the thousands of refugees arriving from Eastern and Northern Provinces into Guinea to escape attacks were civilians with similar mutilations. Between April and June 1998 some one hundred refugees were reported to have arrived in Guinea with serious injuries; half of them had suffered deliberate mutilation. By September 1998 a regional representative of the UN High Commissioner for Refugees (UNHCR) reported that more than 400 refugees in a camp at Kissidougou in Guinea had hands, limbs or ears cut off or were suffering other injuries.

Many of the survivors provided accounts of the violence inflicted upon them. Groups of armed men arrived in their villages, claiming to be ECOMOG, that they had come to liberate the villagers and that they were safe. Forced out of their homes, they realised that they were not ECOMOG troops. Civilians were rounded up, in groups or in lines, and then taken individually to a pounding block in the village where their hands, arms or legs were cut with a machete. In some villages, after the civilians were rounded up, they were stripped naked. Men were then ordered to rape members of their own family. If they refused, their arms were cut off and the women were raped by rebel forces, often in front of their husbands. As well as rape, women and girls also suffered other forms of sexual assault such as having foreign objects inserted into their vaginas. Victims of these atrocities also reported women and children being rounded up, locked into houses which were then set alight.

The UN Under-Secretary-General for Humanitarian Affairs, Sergio Vieira de Mello, following a visit to Sierra Leone, said on 15 June 1998 that the brutal treatment of civilians by AFRC and RUF forces was unlike anything he had seen in 29 years of

humanitarian work. Describing the pattern of amputations, lacerations and maiming of civilians, including of children, he said that "*hands are cut off and ears and noses are amputated ... there are no words to condemn this sort of practice ...*".

Villagers from Kondeya, Kono District, fled into the bush when they heard that rebel forces were approaching their village in early April 1998. On 9 April 1998 a group of about 50 rebel forces found them and captured about 120. One of the men was strangled. A baby who was crying was pulled from its mother's back and thrown into a river. They were forced to return to the village where all the houses were burned. Twenty-seven of the captured villagers were then attacked with machetes; some were decapitated, others had their throats cut or their eyes gouged out.

Survivors were often taunted by rebel forces to go to ECOMOG and tell them that the AFRC and RUF were there or to go to President Kabbah to ask for a new limb. One was given a letter and told to deliver it to President Kabbah. Victims who had one or both ears cut off were told that without their ears they could no longer listen to the government or ECOMOG.

In some cases it took victims days or weeks to reach medical assistance. One man who had both arms cut off in April 1998 walked for several weeks from village to village until he was able to find a vehicle to take him to Freetown. Many more, unable to reach a medical centre in time, died as a result of their injuries. Some spent weeks in the bush either attempting to walk to safety or waiting until it was safe to return to their homes. The fate of several thousand people who fled into the bush during attacks on villages remains unknown. Many of those wounded have died in the bush.

An Amnesty International delegation which visited Sierra Leone in May 1998 met some of the victims of these atrocities at Connaught Hospital. One, a farmer aged 40 from the village of Badala, in Koinadugu District, had both hands cut off when the village was attacked on 3 May 1998. Hearing reports of advancing attacks, including those on Yifin and Alikalia, he had previously sent his family to safety in Kabala. At the time of the attack he was preparing food in his compound. Up to 400 men, armed with machetes, AK 47 guns and rocket propelled grenades entered the village. They caught him and asked him where ECOMOG was. When he said that he did not know, he was hit on the head with an AK 47. He was then forced to lie down and both arms were cut off. He was also beaten on his legs. He begged to be killed. The men who attacked him wrote three letters and put them in the pockets of his trousers. He was then told to go to tell President Kabbah that they were coming to Freetown, adding "*No AFRC, no peace*". He lay injured for three days in Badala and arrived at Connaught Hospital four days later. He had no news of his wife and three children. Other villagers, of all ages, from Badala were also mutilated and killed; they included a woman who was raped and then cut with machetes.

Another of the victims, a 15-year-old schoolboy from Koidu who had arrived at Connaught Hospital on 10 May 1998, had suffered severe lacerations to his right ankle in an attempted amputation. He and his family - his parents and six brothers and sisters - had been hiding in the bush for more than two months after being driven from Koidu

after it was attacked by rebel forces. They had no food throughout that time other than bananas. On 1 May 1998 the family had heard reports that ECOMOG had arrived in Koidu and they went to enter the eastern part of the town. They and those with them were attacked by rebel forces who accused them of supporting President Kabbah. Almost 50 people were killed. The young boy stayed for four days in a house without food or treatment for his severely injured leg. He was taken first to Makeni by ECOMOG forces and then brought to Connaught Hospital. He did not know what had happened to his family.

Three young women survived an attack on the village of Boima in Bombali District, Northern Province, on 7 May 1998; one had a deep cut to her arm, the other two had been beaten all over their bodies. One of the women had witnessed the killing of several members of her family, including her children. Twelve people, including three of her children, died when their house was set alight. Another child, a girl aged three, was pulled from her back and cut with machetes.

There were many atrocities in villages around Karina, between Makeni and Fadugu, in Northern Province, which were attacked on 7 May 1998. All those who were unable to run away were killed; others had limbs amputated.

In an incident which occurred on 7 May 1998 in Northern Province, a woman survivor recounted that one of her sisters had been killed by having her throat cut and two others were covered in kerosene and burned. Other victims, including children, were wrapped in a foam mattress which was then set alight.

The village of Tumbodu, north of Koidu, was attacked repeatedly during April and May 1998. During one of these attacks, on 11 May 1998, a woman aged in her twenties who was hiding in the bush outside the town was caught and asked for rice, which she did not have. She was forced to carry a heavy load; when she faltered she was beaten. When she reached Tumbodu she was forced to place her legs on a stone which were then cut in an attempted amputation. She suffered deep laceration to both legs and also to her arms. She arrived in Connaught Hospital on 15 May 1998. Her 10-year-old son was abducted by the rebels.

Massenbendu, a village close to Tumbodu, was also attacked on 11 May 1998. One of the victims, a farmer, was in his house when the door was broken down by rebel forces who demanded money; he said that he had none. Rebel forces told him that they were going to kill him because he supported President Kabbah. He sustained deep lacerations to his neck, head and arms. He was taken first to an ECOMOG base at Masingbi and was then transferred to Freetown. Three members of his family - two men and a small boy -were abducted.

Human rights abuses by rebel forces since July 1998

Atrocities declined significantly during July and August 1998 as the rainy season advanced. Despite this decreased level of atrocities concerns remained that rebel forces

could mount future attacks against unarmed civilians. In his First Progress Report on UNOMSIL, the UN Secretary-General said that he remained "*deeply concerned about the plight of innocent civilians in the country, who may still be suffering the depredations of the rebel forces or at risk from future attacks.*"

Incidents of killing and mutilations continued to be reported. On 27 July 1998 rebel forces, after feigning surrender, attacked Kabala was held by ECOMOG. Rebel forces threatened to use civilians as human shields. No mutilations were reported but a large number of civilians, including children and young people, were reported to have been abducted. Rebel forces held Kabala for about four days before it was retaken by ECOMOG. Some 200 houses had been destroyed, property was looted and money extorted from civilians. All relief goods, medical supplies and logistics for humanitarian efforts had been looted or destroyed. At about the same time, rebel forces attacked a bus carrying civilians about 10 kilometres south of Kabala, killing seven people. Three young boys were also reported to have been abducted.

During attacks on villages in the area of Gbinti, Port Loko District, in early August 1998 victims of killings and mutilations included three women and a two-year-old child who were subsequently admitted to hospital with gunshot wounds, either to the backs of their bodies or their head. Three men were also admitted to hospital with deep lacerations apparently inflicted in attempted amputations.

In late August and during September 1998 an escalation of attacks was reported in Northern Province. Reports began to be received of victims having the initials "AFRC" carved into their foreheads and backs. Around 24 August 1998 there were attacks on villages, including Thawuya and Masunthu, in Kambia District. Several civilians were subsequently admitted to the Government Hospital in the town of Kambia with amputated limbs or severe lacerations. Three had both hands and ears amputated; others had deep wounds to their arms, shoulders and faces. One of the victims was a three-month-old baby with lacerations to the nape of its neck. On 6 September 1998 the town of Kamalu, near Kamakwie, in Bombali District, was attacked by rebel forces. At least 40 civilians, including children, were reported to have been killed in the attack; others were seriously injured with machete wounds. Some of those killed had been first been subjected to torture and sexual abuse; others had been burned alive. A Paramount Chief, Samura Bangura, was reported to have been abducted from Kamalu, together with some 50 others. On 11 September 1998 Fadugu, Koinadugu District, was attacked. According to reports, during that attack eight civilians, including a Paramount Chief, Alimamy Fanna Thoronka II, were burned alive.

Three villages in Kambia District, Yebaya, Kathatinah and Kakula, were reported to have been attacked by around one hundred rebel forces on 12 September 1998, resulting in the deaths of at least 16 civilians. According to witnesses of the attack on Yebaya, at least nine people were killed either by being shot or attacked with machetes. In late September 1998 and early October 1998 more than 50 people were reported to have been killed in attacks in Kambia District, near the border with Guinea, including on the village of Kukuna, and at least 25 civilians were reported to have been mutilated, including by

amputations, by rebel forces.

On 8 October 1998 the town of Mange in Port Loko District, some 150 kilometres from Freetown and on the main road to Guinea, was attacked by more than 200 rebel forces in an attempt to gain control of a strategic bridge. Some 25 civilians were reported to have been killed in the attack but the toll was expected to be higher since rebel forces were reported to have set fire to more than 40 homes, in some cases with civilians inside. Most of the town's 15,000 inhabitants fled and many of the wounded arrived at the hospital in the town of Port Loko for treatment. ECOMOG forces maintained control of the bridge after three days of fighting.

There were further attacks by rebel forces on villages in Bombali District during September 1998. Among the victims were two men, Pa Bai Munu and Morlai Munu, from the village of Mabunduka, between Pendembu and Mateboi, some 40 kilometres from Makeni. Pa Bai Munu, a farmer aged over 70, had fled his village for Makeni following an earlier attack during which two other members of his family, including Sorie Kabbie Munu, were abducted by rebel forces. The village was burned. Other members of the same family, Pa Amadu Munu and Pa Santigie Munu, had been killed by having their throats cut during an attack on Mateboi in May 1998. Pa Bai Munu later returned to a village, Four Road Loko, close to his home at Mabunduka. He, Morlai Munu and about 20 other people were killed when Four Road Loko was attacked on 16 September 1998. According to reports, Pa Bai Munu was tied by the neck and dragged for about 10 kilometres before he was hacked to death and his body mutilated. At least six members of the family had been killed or abducted.

Attacks on villages around Kabala, including Benikoro and Badala, resumed and intensified during September 1998. The town of Kabala itself, earlier attacked and held briefly by rebel forces in late July 1998, was again attacked on 18 September 1998. Some 20 civilians were reported to have been killed and houses burned. Among the victims who were evacuated to Freetown by the ICRC were three children, two of whom were suffering from extensive burns. One of them had hidden with his family in a hut which was set alight by rebel forces; he was the only survivor.

On 24 October 1998, apparently in retaliation at the death sentence imposed on Foday Sankoh the previous day, the village of Alikalia was attacked by some 300 rebel forces. Reports of the attack referred to civilians, including women and children, being shot, decapitated or having their arms amputated. Civilian survivors of the attack on Alikalia were admitted to Connaught Hospital with gunshot wounds and multiple lacerations.

Attacks by rebel forces also escalated in Kenema District from August 1998. Among the villages affected were Mendekelema, Neama and Sandaru, which was completely destroyed, less than 30 kilometres from the town of Kenema. One of the victims of the attack on Mendekelema in late August 1998 had both hands amputated. Survivors of attacks consistently described mutilation, rape, torture, killing and the burning of houses. Entire local communities were displaced from the area, many fleeing to the towns of Kenema, Segbwema and Daru.

Recommendations

- the international community must continue to condemn in the strongest possible terms the grave breaches of international humanitarian law committed by forces of the AFRC and RUF;

- leaders of AFRC and RUF forces must take immediate measures to end human rights abuses committed by their combatants, including deliberate and arbitrary killing of non-combatants, torture, mutilation and rape, and must publicly state their commitment to respecting international humanitarian law;

- those in command of AFRC and RUF forces should exert effective control over those under their command in order to prevent torture and killing of non-combatants; those suspected of committing human rights abuses should be removed from any position of authority or duties which bring them into contact with prisoners or others at risk of abuse;

- AFRC and RUF forces must respect human rights and the basic principles of international humanitarian law and abide by minimum standards of humane behaviour at all times.

Children at the centre of the violence

Children have not escaped the violence and brutality of the conflict in Sierra Leone; they have often been the principal victims of gross human rights abuses, including the atrocities in Eastern and Northern Provinces which occurred in the months following the removal of the AFRC and RUF from power in February 1998. They have been deliberately and arbitrarily killed, mutilated and maimed, abducted and forcibly recruited by rebel forces. Among the thousands of Sierra Leonean refugees in neighbouring countries or internally displaced within Sierra Leone after February 1998 were hundreds of unaccompanied children, separated from their families as a result of the violence.

Several thousand children, including babies and very young children, have been separated from their families as a result of seven years of internal armed conflict. Most of those abducted in the earlier years of the war were from Southern and Eastern Provinces. The most common reason for the separation of children from their families was abduction by rebel forces. Others became separated from their parents as a result of attacks on their towns and villages when their parents were killed, abducted or became missing.

Many families have rejected children who had been forcibly recruited into rebel forces and have refused to take them back into their homes. Even in cases where parents are willing to take back their children, the level of resentment and bitterness within their communities sometimes prevents them from doing so.

Significant and coordinated efforts are being undertaken by the UN Children's Fund (UNICEF) together with a coalition of non-governmental organizations to reunite these children with their families and to help their reintegration into their families and communities, often in the most difficult of circumstances.

The work of UN agencies and non-governmental organizations in providing help and protection to children traumatized by the conflict, including former child combatants, should be supported and reinforced by the international community.

Abduction of children

Large numbers of civilians, in particular children and young men and women, have been abducted by the RUF throughout the years of the internal armed conflict. They have been forcibly recruited to fight or forced to undertake other tasks such as carrying loads, including looted property and food, and cooking. Women and girls have been forced to become the sexual partners of rebel forces. While in the early years of the conflict representatives of the RUF claimed publicly that some of those abducted had joined rebel forces willingly, in most cases captured civilians have been held under duress, threatened with killing or ill-treatment, and have had little option but to cooperate.

Capture and abduction of civilians, including many children, has continued throughout the months since the AFRC and RUF were deposed and has occurred increasingly in Northern Province. In those areas of the country which remained under the control of rebel forces thousands of civilians, including women and children, effectively remained captive, many of them in Kailahun District, a stronghold of the RUF since the beginning of the internal armed conflict. Some estimates put this number as high as 10,000. They were used to carry goods, as human shields or for sexual slavery.

Testimonies of victims of the attacks by rebel forces which occurred in Northern Province from April 1998 invariably referred to the abduction of large numbers of people, including children. When the town of Kabala was attacked by a large group of rebel forces in July 1998, a large number of children were abducted. Njalia Nimikoro, a village some 10 kilometres southwest of Koidu, was reported to have been attacked around 18 August 1998. Nine civilians, including a 10-year-old child were admitted to hospital with gunshot wounds, and a woman and her five children were reported to have been abducted by rebel forces. A few days earlier, on 15 August 1998, rebels in the area around Koidu were reported to have released around 250 captured civilians. Dozens of civilians were reported to have been abducted, however, when three villages in Kambia District were attacked in September 1998.

The abuse of children by rebel forces

Many of those abducted have been trained and forced to fight. When RUF forces joined the AFRC in Freetown following the military coup in May 1997 many of its fighters, some as young as 11 or 12 years and many in their teens, who had previously been abducted arrived in Freetown. Many had spent several years in RUF camps in the bush

and had fought in the conflict. In some cases their names had been changed by the RUF. Fear played a significant role in forcing these children to remain with the RUF. Those who attempted to escape were beaten or killed. Former RUF child combatants have recounted summary killing, torture and ill-treatment. These children also relied on the RUF for their means of survival, including food and shelter. As well as being forced to fight, they were used as porters to carry goods and looted property. The use of drugs such as amphetamines was reported to be widespread. Sex was used in a systematic way by the RUF to enslave girls, often very young, and young women. While some later expressed a wish to remain with their partners, most remained under duress. Many had become pregnant and had children, making eventual reintegration into their own communities even more difficult.

The histories of many of the children abducted by the RUF since 1991 emerged when they arrived in Freetown. An 11-year-old boy caught and abducted during an ambush by the RUF near Bo several years earlier had been forced to take drugs and fight. Another boy had been captured in Kailahun District in 1992 when he was six years old and separated from his mother, sister and brother. Six years later he did not know where his family were or whether they were still alive. Another boy had been abducted during an attack in Kenema District in 1992, in which both his parents had been killed, when he was 10 or 11 years old. He had been with the RUF for six years and had been trained to use a gun and fight. A girl, aged 14 at the time of her abduction in 1995, was forced to become the sexual partner of a member of the RUF. She was forced to cook and taught how to use a gun.

Victims and perpetrators of human rights abuses

When the AFRC and RUF were forced by ECOMOG from Freetown in mid-February 1998 many of these children, some of whom had been responsible for killings and torture, were identified as members of the RUF and risked revenge attacks by civilians, placing their safety and lives in jeopardy. Almost 3,000 children associated with the RUF, fearing reprisals from civilians, were reported to have fled from Freetown in a matter of days. There were reports of such children being beaten by civilians before being handed over to ECOMOG troops and one child who had been living on the streets of Freetown was reported to have been burned alive in an apparent revenge attack. ECOMOG troops were also reported to have ill-treated some of these children when they were handed over into their custody.

Recruitment of children by Civil Defence Forces

Large numbers of children have also been recruited into the ranks of the CDF which support President Kabbah and are fighting with ECOMOG against rebel forces. Although the CDF has made a commitment to end initiation of children into the traditional hunters' societies which form the CDF, there were reports that new members, including children between the ages of 15 and 17, were recruited near Magburaka in Tonkolili District, Northern Province, in July 1998. Initiation of children into the CDF was also reported to be continuing in Southern and Eastern Provinces, for example at Daru and Segbwema.

during the following months and children, some as young as seven years, were still seen carrying arms and guarding CDF checkpoints. In early October 1998 Chief Samuel Hinga Norman, Deputy Minister of Defence, during a visit to Sierra Leone by the Executive Director of UNICEF, Carol Bellamy, was reported as stating his commitment to disarming and demobilizing children recruited by the *kamajors*, adding, however, that the conflict in Sierra Leone was not yet over.

Efforts by the international community to meet the needs of children

The Special Representative of the UN Secretary-General for Children and Armed Conflict, Olara Otunnu, visited Sierra Leone in both March and May 1998. During his visit in May 1998, when he travelled to the east of the country, it became clear that one of the most pressing challenges facing Sierra Leone was the "*crisis of the young*": the plight of children affected directly or indirectly by the conflict. He identified five areas requiring urgent action by the international community: demobilization and reintegration of child combatants; resettlement of internally displaced people; tracing the families of unaccompanied children; rehabilitation and support of victims without limbs; and provision and rehabilitation of medical and educational services.

At a meeting with the UN Special Representative during his visit in May 1998, the government agreed not to recruit children under the age of 18 years into a reconstituted national army. The CDF also agreed to stop initiation and recruitment of children under the age of 18 and to begin the process of demobilization of child combatants within their ranks [12]. Both ECOMOG and the CDF agreed to provide special protection to AFRC and RUF child combatants in their custody as a result of surrender, capture or escape. On 5 November 1998 Olara Otunnu again appealed to both the CDF and rebel forces to end the recruitment of child soldiers.

Olara Otunnu called on the international community to respond in a more vigorous and concerted way to the needs of children affected by the conflict in Sierra Leone and urged it to make the rehabilitation of children in Sierra Leone a pilot project for post-conflict reconstruction. Meeting the specific needs of children, young people and women affected by the conflict in Sierra Leone were particularly important in plans for rehabilitation and reconstruction.

In a press conference following his address to the UN General Assembly in October 1998, Olara Otunnu made specific references to the plight of children in Sierra Leone and called for the international community to provide both political commitment and resources. He recommended to the key actors responsible for post-conflict reconstruction programs, such as the World Bank and the United Nations Development Programme (UNDP), that the needs of women and children who had been victims of conflict should be at the centre of such programs.

On 29 June 1998 the UN Security Council strongly condemned the targeting of children in war, in particular their abduction, sexual abuse and recruitment as soldiers, and said that it would pay serious attention to the situation of children affected by armed conflicts.

In his address to the UN special conference, the UN Secretary-General acknowledged the terrible suffering of children in Sierra Leone: "*To an appalling degree, it was children who were, and still are, the victims of war, either as conscripted fighters or as casualties of indiscriminate attacks.*" The Secretary-General welcomed the government of Sierra Leone's decision to offer an amnesty for child soldiers from all combatant groups and efforts to develop a national program to meet the needs of children who had been particularly adversely affected by seven years of conflict.

At the UN special conference the Executive Director of UNICEF referred to the importance of demobilizing and reintegrating into society an estimated 4,000 children still attached to fighting forces which would require an intensive and long-term commitment of resources from the international community. Some 2,500 of these children were being forced to fight with rebel forces; the others had been recruited by the CDF. The safety of all children who had been captured needed to be ensured and ways found to release them and include them in the disarmament, demobilization and reintegration program.

During her visit to Sierra Leone in early October 1998, the Executive Director of UNICEF again urged that all child combatants be disarmed and demobilized: "*the fact that the conflict is (still going) on should not justify recruitment of children*". During discussions with government officials, she sought assurances that the government would abide by its commitments to demobilize child combatants, not to recruit new child combatants and to provide an amnesty for those children who had been fighting with rebel forces. She urged that the process be speeded up. She also called for the release of all child prisoners of war, the number of which is unknown.

The demobilization of soldiers and their reintegration into society - socially, psychologically, politically and economically - is critical to post-conflict reconstruction and rehabilitation. Support for such programs, particularly those for children, is vital. UNICEF and UNOMSIL, with the National Commission for Human Rights and Democracy and ECOMOG, are undertaking a program of registration and interviewing of former RUF child combatants in order to include them into the disarmament, demobilization and reintegration process. The children, once registered, are released from ECOMOG custody into the care of UNICEF. In October 1998 some 60 children, aged from eight to 18, were reported to have been registered in Makeni and another 120 in Bo; registration in Port Loko was due to commence in November 1998.

Recommendations

- **AFRC and RUF forces must end the gross human rights abuses being perpetrated against children, including killing, mutilation, rape and other forms of sexual abuse, abduction and forcible recruitment as combatants;**

- **AFRC and RUF forces should release all children currently held as captives or child soldiers;**

- immediate measures to end the recruitment of children under the age of 18 by the CDF should be taken and the government should be assisted and supported in the registration of child combatants among the CDF in order to ascertain their exact number and location and to incorporate them into the disarmament, demobilization and reintegration program;

- the Sierra Leone government and the international community should fully support and assist relevant UN agencies and non-governmental organizations to identify and address the social, psychological and material needs of children, particularly former child combatants, affected by the conflict in Sierra Leone;

- the international community should fully support the proposal of the Special Representative of the UN Secretary-General for Children and Armed Conflict for Sierra Leone to be made a pilot project for a more effective response in the context of post-conflict peace building; this pilot project should coordinate, reinforce, and provide adequate resources for initiatives aimed at the protection of children in Sierra Leone.

Human rights violations by ECOMOG forces

At the time of its offensive on Freetown which began on 5 February 1998, shelling by ECOMOG forces was reported to have caused a high number of civilian casualties. Shelling continued in densely populated areas of Freetown throughout the week of the offensive, including in areas where medical facilities, such as Connaught Hospital, were situated. More than 600 people with war-related injuries were reported to have been admitted to hospital during that period. The high number of civilian casualties suggested that ECOMOG may have taken inadequate measures to protect civilians during the offensive on Freetown.

Shelling by AFRC and RUF forces was, however, also intensive during that period and some civilians claimed that residential areas in Freetown were being deliberately shelled by AFRC and RUF forces, particularly by those positioned at Fourah Bay College on a hill overlooking Freetown.

Thousands of civilians in rebel-controlled areas, in particular Kailahun District, remain at risk of being caught in hostilities between ECOMOG, fighting with the CDF, and rebel forces. There are fears that the safety of the civilian population might be endangered, especially during air strikes which are reported to be taking place. Measures to minimise the risk to civilians during combat, in conformity with international humanitarian law, must be undertaken during military operations, including aerial bombardments of rebel forces' bases located near or within areas where there are high concentrations of civilians.

In his Second Progress Report on UNOMSIL the UN Secretary-General referred to reports which suggested that "*certain ECOMOG personnel do not consistently ensure full respect for provisions of international humanitarian law, such as those regarding the*

protection of non-combatants in combat situations and the proper treatment of combatants during surrender or capture. UNOMSIL is encouraging the ECOMOG leadership to raise awareness among all troops to ensure full respect for all relevant aspects of international humanitarian law".

In the days after it took control of Freetown, several thousand soldiers surrendered to or were captured by ECOMOG forces. In subsequent weeks and months, ECOMOG supervised thousands of military detainees, in particular at Benguema, a military training camp some 25 kilometres from Freetown, but also at military bases at Lungi, Bo, Kenema and Makeni. According to the Attorney-General and Minister of Justice, Solomon Berewa, all military detainees held by ECOMOG remained under the authority of the Sierra Leone government; the role of ECOMOG was to screen those detained, assess whether they were a security risk and whether they could be deployed as part of the ECOMOG force or the eventual reconstituted national army.

It was claimed that AFRC and RUF combatants captured by the CDF were handed over to the police or ECOMOG forces after February 1998. It appeared, however, that CDF forces summarily killed some captured combatants and reports also suggested that ECOMOG forces handed over captured AFRC and RUF forces to the CDF who subsequently killed them.

A significant number of civilians are being detained by ECOMOG forces under the category of "safe custody" in prisons and other places of detention throughout the country. An unspecified number of people are held under ECOMOG "safe custody" at Pademba Road prison. At the Central Prison in Kenema more than 30 people, some apparently accused of collaboration with rebel forces, were reported to be held under ECOMOG "safe custody" in October 1998 without any referral of their cases to the civilian authorities. There is apparently no legal basis for their detention; it is unclear whether they are held under the provisions of the Public Emergency Regulations which came into effect in March 1998. In October 1998 there were reports that a suspected member of rebel forces had been taken into custody by ECOMOG in Makeni despite substantial evidence that he was innocent.

There have also been reports that those taken into custody by ECOMOG forces have been ill-treated by being beaten and tied tightly. Among the victims in Freetown were children who had been among RUF forces and who were detained shortly after the ECOMOG intervention. During September 1998 there were reports, although few in number, of torture and ill-treatment of both civilian detainees and captured combatants. A number of former RUF child combatants who were registered as part of the disarmament, demobilization and reintegration program claimed that they had been ill-treated while in the custody of ECOMOG.

There have also been reports of acts of violence and intimidation by ECOMOG forces against civilians in Freetown and other parts of the country. On 5 October 1998 at a checkpoint at Magbenteh, about three kilometres from Makeni, a driver was reported to have been beaten and stabbed with a bayonet by a member of ECOMOG during an

argument about a search of his vehicle and request for his documents. Sexual assault of women at ECOMOG checkpoints has also been reported in the area around Makeni.

There were several reports of harassment of humanitarian convoys by both ECOMOG and CDF forces in the area of Masingbi and Njaiama-Sewafe during October 1998. For example, the driver of vehicle belonging to a non-governmental organization was reported to have been physically assaulted by ECOMOG forces near Masingbi who also stole property from the vehicle. UNOMSIL military observers have frequently been requested to intervene with ECOMOG and the CDF on behalf of UN agencies and non-governmental organizations.

ECOMOG commanders have expressed a determination to address problems of ill-discipline and were reported to have established a complaints procedure to investigate any allegations of harassment of civilians by ECOMOG forces.

Recommendations

- all military personnel participating in the ECOMOG force in Sierra Leone must adhere to international humanitarian and human rights law at all times;

- all troops participating in ECOMOG should be fully trained in these standards and understand their obligation to adhere to them;

- in accordance with international humanitarian law, civilians should not be targeted during military operations by ECOMOG forces; ECOMOG forces must at all times distinguish between the civilian population and combatants and take all necessary measures to protect civilians from the dangers arising from military operations;

- the cases of civilian detainees reported to be held "in safe custody" by ECOMOG forces should be reviewed by a civilian judicial authority in order to establish the legal basis for their detention and to determine whether they should be charged or released;

- specific mechanisms for monitoring, investigating and reporting any violations of international humanitarian and human rights law by ECOMOG forces should be established;

- UNOMSIL military observers should be provided with adequate resources to monitor the respect by ECOMOG forces of international humanitarian and human rights law during both military operations and during disarmament, demobilization and reintegration programs for former combatants;

- any allegations of human rights violations by ECOMOG forces, such as extrajudicial execution, torture and ill-treatment, should be promptly and

independently investigated and those responsible brought to justice, in accordance with international standards.

Human rights violations by Civil Defence Forces

The CDF have also failed to respect international human rights and humanitarian law and have been responsible for torture, ill-treatment and extrajudicial executions, although not on the scale of abuses committed by AFRC and RUF forces.

The CDF are composed of traditional hunters and include *kamajors* from the south and east of the country, and *kapras, donsos, tamaboros* from the north. The National Coordinator of the CDF is the Deputy Minister of Defence. Although attempts have been made to register all members of the CDF throughout the country, this has been made difficult because of the lack of a formal structure and control over some of the CDF, continuing recruitment and fighting.

The CDF have killed, tortured and ill-treated both captured AFRC and RUF combatants and also civilians suspected of supporting or collaborating with the AFRC and RUF. In September 1997 four people, including a woman, who were suspected of being soldiers or AFRC supporters were reported to have been summarily executed by being decapitated when the vehicle in which they were travelling from Bo to Makeni was stopped by *kamajors*. In January 1998 *kamajors* were reported to have summarily killed civilians suspected of supporting the AFRC and RUF in two villages near the town of Rotifunk, Southern Province, some 90 kilometres from Freetown.

In February 1998, in the days following the removal of the AFRC and RUF, there were many cases of torture, ill-treatment and extrajudicial executions by the *kamajors*, including in the towns of Bo, Kenema and Koidu. They were often mutilated and many were killed by being burned alive; some had tyres placed around their heads which were then set alight. At least 50 people accused of having supported the AFRC and RUF were extrajudicially executed in Kenema. Black marks on the dirt roads where people had been burned alive were still visible months later. When *kamajors* entered Koidu on 11 and 12 February 1998 they captured and killed AFRC soldiers. Some were decapitated, others were doused with petrol or had tyres placed around them and were burned alive. Such killings also took place in Freetown in the days immediately following the removal of the AFRC and RUF. At least six people were killed by civilians in revenge attacks. They included Mohamed Bangura, also known as Saccoma, who was burned alive, Sheik Mustapha, who was beaten to death, and Musa Kabia.

Several independent sources referred to isolated incidents of extrajudicial execution together with ritual cannibalism by members of the CDF. Ritual cannibalism is not, however, accepted behaviour or policy among the CDF and is rejected as abhorrent by most CDF. It appears to be carried out only by a small number of *kamajors*, in particular in the region around Kenema, who subscribe to animist beliefs. One such incident was reported to have occurred on 27 March 1998 when a boy aged 17 from Kenema was detained by *kamajors* and accused of collaborating with the AFRC and RUF. He was

taken to the market place and forced to buy vegetables and other ingredients. He was then reported to have been killed in a cannibalistic ritual. His partially burned body, with the heart removed, was later seen by witnesses. Other incidents of ritual cannibalism were reported to have taken place during April and May 1998 at Panguma, north of Kenema. These incidents must be investigated by the authorities and those responsible brought to justice. Longer-term measures, including increasing awareness and understanding of the cultural basis for this practice, are also needed in order to eradicate ritual cannibalism.

On 28 April 1998 President Kabbah announced that the CDF had been placed under the command of ECOMOG. The following day a *kamajor* leader in Bo was reported to have criticized the growing lawlessness of the *kamajors* and called for the registration of all CDF, who were apparently roaming the streets of Bo. Although nominally under the command and control of ECOMOG, the behaviour of the CDF continued to be undisciplined in the following months, particularly in areas other than their own villages, towns and districts. Reports of extrajudicial executions and torture of prisoners decreased significantly, however, from June 1998, apparently as a result of intervention by the government and ECOMOG, and the discipline of many CDF units improved significantly.

Some incidents of extrajudicial execution, torture and ill-treatment, however, continue to be reported. On 26 October 1998 four captured rebels were reported to have been extrajudicially executed in the village of Romeni, north of Port Loko. At least another 10 were reported to have been killed after being captured during the attack on Alikalia in October 1998.

In late August 1998 a young woman from the area around Kenema who had previously handled goods looted from the World Food Programme (WFP) by rebel forces was reported to have been interrogated by a group of about 20 CDF in the town of Kenema. When she made remarks considered offensive by the CDF, she was stripped and beaten. She was then taken to an unknown destination. Reports were also received in September 1998 of illegal arrest and detention of civilians by the CDF although it is unclear whether this practice is continuing.

Criminal acts, such as looting, confiscation of vehicles and civil disturbance, by the CDF have continued. Civilians have been harassed and money and goods extorted in exchange for permission to pass through checkpoints along major roads. The CDF have imposed their authority through fear and intimidation with the result that many people are afraid to make formal complaints to the authorities about their conduct. During September 1998 there were persistent reports of interference with the delivery of humanitarian supplies.

Little or no action is known to have been taken by the authorities against members of the CDF who have been responsible for illegal arrest and detention, torture and ill-treatment and extrajudicial executions of those suspected of having collaborated with the AFRC which have occurred since February 1998. The CDF appear to act with impunity. There is an urgent need to investigate human rights violations committed by the CDF and bring those responsible to justice.

Recommendations

- strict chain of command must be enforced over members of the CDF in order to prevent extrajudicial executions, torture and ill-treatment, illegal arrest and detention;

- all reports of extrajudicial executions, torture and ill-treatment, illegal arrest and detention by the CDF should be promptly and independently investigated in order to bring those responsible to justice.

Refugees and internally displaced people - still at risk

In July 1998 at the UN special conference on Sierra Leone, the UN High Commissioner for Refugees, Sadako Ogata, stated that the refugee crisis in Sierra Leone had been the worst in Africa so far during 1998. On 10 November 1998 she again referred to the plight of Sierra Leonean refugees and internally displaced people when she called on the UN Security Council to respond more effectively to refugee crises in Africa.

As fighting has intensified in the east and north of the country since the intervention by ECOMOG in February 1998, at least 550,000 Sierra Leoneans are estimated to have fled areas affected by conflict. They include hundreds of unaccompanied children. According to UNHCR, since the beginning of 1998, some 210,000 Sierra Leoneans have sought refuge in Guinea and another 57,000 in Liberia. It is also estimated that more than 300,000 have become internally displaced within Sierra Leone during 1998.

The continuing violence perpetrated by rebel forces has not only prevented the return of refugees and internally displaced people to their homes but has also caused a serious humanitarian situation which threatens lives. Both refugees and internally displaced people remain vulnerable to attacks by rebel forces and face acute hardship, disease and malnutrition. The violence and insecurity in areas affected by the conflict has often prevented adequate assistance reaching them.

Refugees in Guinea and Liberia

When fighting between ECOMOG and rebel forces intensified in Kailahun District in April 1998, some 1,000 civilians were reported to be fleeing to Liberia daily. Thousands of refugees also fled into Guinea; 6,000 new refugees arrived during the first week of June 1998. Many, including children, died as a result of malnutrition, diarrhoea and malaria.

The majority of Sierra Leonean refugees were in areas where access was extremely difficult. In both Guinea and Liberia, poor road conditions and the onset of the rainy season, combined with concerns about security by both the Liberian and Guinean authorities, aggravated still further problems of access by humanitarian agencies to refugees in camps near the border, threatening food deliveries and basic medical care.

including vaccinations.

Between 15 June 1998 and 10 July 1998 humanitarian agencies were denied access by the Guinean authorities to camps close to the border in the Guéckédou region where more than 150,00 refugees had recently arrived. The Guinean authorities cited insecurity and difficulties in guaranteeing the safety of humanitarian agencies in the area. UNHCR and its partners did not have access to these refugees for more than three weeks. Many of the refugees in this area were already in poor physical condition when they had arrived. In early September 1998 heavy rains disrupted the delivery of relief assistance to some 180,000 Sierra Leonean refugees in camps in the Guéckédou region of Guinea.

In Guinea most camps were near the border with Sierra Leone, leaving refugees close to areas of the fighting and vulnerable to attacks. On 3 July 1998 the refugee camp at Forokonia in Guinea was attacked during an incursion by rebel forces from Sierra Leone. Six refugees were killed and the camp was looted and almost entirely burned.

In early September 1998 UNHCR reported that rebel forces were continuing to brutalize Sierra Leonean refugees in Guinea. Rebel forces had attacked a refugee camp at Tomandu inside Guinea on 1 September 1998, killing at least 10 people - seven women refugees and several Guineans - as they forced other refugees to carry stolen goods back across the border into Sierra Leone. UNHCR sent representatives to the village which had been attacked. They found Sierra Leonean refugees who had previously been abducted by rebel forces, including a girl who said that she had been repeatedly raped and a boy who had the letters RUF carved into his chest and forehead. Witnesses said that rebel forces had raided local food stores killing everyone nearby. Three women refugees were reported to have been shot and seriously wounded when they refused to continue across a bridge into Sierra Leone. UNHCR subsequently moved thousands of refugees from Tomandu to camps further inside Guinea.

Conclusion 22 of the UNHCR Executive Committee states that: "The location of asylum-seekers should be determined by their safety and well-being as well as by the security needs of the receiving State. Asylum-seekers should, as far as possible, be located at a reasonable distance from the frontier of their country of origin' . In addition, Conclusion 48: "Condemns all violations of the rights and safety of refugees and asylum-seekers and in particular military or armed attacks on refugee camps and settlements".

On 8 September 1998 the WFP appealed for assistance for more than 200,000 Sierra Leonean refugees in the Guéckédou region, most of whom had fled continuing rebel attacks in Kono and Kailahun Districts. According to the WFP, some 80 per cent of civilians from these areas were either dead or unaccounted for. Several thousand others were believed to be held captive by rebel forces. Refugees were arriving destitute, suffering from exhaustion, malnutrition and disease.

There was a further large influx of Sierra Leonean refugees into the Forécariah region of Guinea in late September 1998. According to UNHCR, more than 3,000 people crossed the border on 29 September 1998 after rebel forces had killed civilians and burned homes

in Kukuna. Concern was expressed that refugee camps in the Forécariah region, close to the border, were vulnerable to incursions by rebel forces from Sierra Leone. Another 2,000 were reported to have also fled their homes and become internally displaced.

Most Sierra Leonean refugees in Liberia, the majority unaccompanied women and children, were based at camps at Vahun and Kolahun in Lofa Country in northwestern Liberia. An unknown number of others were scattered along the border without access to humanitarian assistance. Bad roads and rains hampered access by humanitarian organizations to refugee camps.

The large concentrations of Sierra Leonean refugees in Liberia, in particular at camps in Vahun and Kolahun, contained significant numbers of both active and former combatants. They included rebel forces who regularly crossed the border between Sierra Leone and Liberia. Others were former Sierra Leonean soldiers who feared returning to Sierra Leone because of possible reprisals by the CDF. Also among Sierra Leonean refugees in Liberia were former combatants of the RUF who had voluntarily ceased combat. Conclusion 77 of the UNHCR Executive Committee "calls on States of refuge to take all necessary measures to ensure that the civilian and humanitarian character of refugee camps and settlements is maintained".

In addition to the severe physical hardship encountered by refugees and internally displaced people, there was also concern that refugees returning to Sierra Leone who might be considered to be associated with rebel forces could be at risk of revenge attacks on their return and might become victims of arbitrary detention, torture and ill-treatment or extrajudicial execution.

Internally displaced people

Some 20,000 internally displaced people sought safety from the increasing attacks in Northern and Eastern Provinces from April 1998 at Masingbi, between Koidu and Makeni, swelling the town's normal population of 7,000. During June and early July 1998 up to 300 people arrived daily at Masingbi, decreasing to between 50 and 100 a day during August 1998. The humanitarian situation of internally displaced people at Masingbi remained critical during the following months and there was a high mortality rate as a result of disease and malnutrition. Children under five years were the worst affected. Fears for the safety of displaced people at Masingbi heightened after ECOMOG forces repelled an attack by rebel forces on Masingbi in late October 1998.

With the onset of the rainy season from May, when endemic diseases such as cholera resurface, many civilians caught in areas under the control of rebel forces, forced from their homes and seeking refuge in the bush and with no access to medical assistance were reported to be suffering from vomiting and diarrhoea.

As attacks by rebel forces in both Northern and Eastern Provinces resumed during September and October 1998 entire local communities in Kambia, Koinadugu, Bombali and Kenema Districts were displaced. Attacks by rebel forces on villages in Kenema

District in late September 1998 were reported to have resulted in as many as 10,000 people fleeing their homes, half of whom sought refuge in the town of Kenema.

Recommendations

- all violations of the rights and safety of refugees and, in particular, military or armed attacks on refugee camps and settlements should be condemned; all efforts should be made to protect the safety of refugees in camps and settlements, including location to secure areas and, whenever possible, at a reasonable distance from the border with Sierra Leone;

- effective measures should be taken to preserve the civilian and humanitarian nature of refugee camps and settlements;

- every effort should be made to ensure the safety of internally displaced people; internally displaced people's camps should be provided adequate protection from human rights abuses;

- all efforts should be made to ensure that there is adequate access to refugees and internally displaced people in order to monitor their safety and provide humanitarian assistance;

- refugee repatriation programs should include effective monitoring and protection for as long as necessary; international refugee law and protection standards must be adhered to at all times, including the principles of *non-refoulement*, the right to seek asylum and repatriation only on a voluntary basis with international supervision.

Accountability for human rights abuses

The government of President Kabbah, since it was reinstated in March 1998, has taken measures to establish accountability for human rights abuses and to bring those responsible to justice. This is essential for achieving justice and moving towards national reconciliation. Such a process, however, must be undertaken in accordance with international standards and must not itself violate human rights. Trials of those accused of human rights abuses must conform to international standards for a fair trial and there should be no recourse to the death penalty.

Impunity contributes to continuing human rights abuses. It is only when those responsible for human rights abuses are brought to justice for their crimes that a clear message is sent that these abuses will not be tolerated or allowed to go unpunished.

The scale of the atrocities committed by the AFRC and the RUF, both before and after they held power, demand that those responsible be brought to justice. This is not incompatible with peace and reconciliation. Peace and security will not be achieved in Sierra Leone until there is an end to impunity. True reconciliation cannot be achieved if

the right of victims and their families to truth, justice and redress are ignored.

On 17 June 1998, shortly after a conference on the creation of an international criminal court opened in Rome, Italy, a joint statement by the heads of five UN agencies said that the atrocities being committed in Sierra Leone were a brutal reminder of the urgent need for an international criminal court to try those responsible for war crimes and crimes against humanity. The statement by UNICEF, UNHCR, the Special Representative of the UN Secretary-General for Children and Armed Conflict, the UN High Commissioner for Human Rights and the UN Under-Secretary-General for Humanitarian Affairs urged those participating at the conference in Rome to study carefully the situation in Sierra Leone and to ensure that the statute they adopted would be able to combat impunity, provide justice and contribute to a lasting peace in the country.

The statement added that, despite the willingness of the Sierra Leone government, it was unlikely that the judicial system would have sufficient resources to bring those responsible for human rights abuses to justice, which would raise "*the prospect of yet another round of mindless violence going unpunished*".

The delegation of Sierra Leone to the conference in Rome repeatedly cited its country as evidence of the need for the establishment of a permanent international criminal court. Amnesty International believes that the international community must assist in establishing accountability for the atrocities in Sierra Leone. This assistance should include both political commitment and practical assistance towards the re-establishment of a functioning and effective justice system and the investigation and documentation of past human rights abuses.

At the UN special conference on Sierra Leone, the UN Secretary-General also stressed the need for national reconciliation and for Sierra Leoneans to put the past behind them and put the future first. The process of reconciliation did not, however, preclude accountability for human rights abuses: "*Those responsible for the atrocities and other gross violations of human rights will in time be brought to justice*". The need to pursue policies promoting national reconciliation had to be combined with ensuring that those responsible for crimes and atrocities against civilians were brought to justice. All those accused had to be given fair trials with full respect for due process of the law.

Recommendations

- **those responsible for the gross human rights abuses which have occurred in Sierra Leone since May 1997 must be held accountable for their crimes, in accordance with international standards;**

- **the international community should assist Sierra Leone in establishing accountability for the atrocities in Sierra Leone and bringing those responsible to justice, in accordance with international standards.**

Detentions and trials after February 1998

After ECOMOG forced the AFRC from power in February 1998, some 2,000 people were arrested and detained. A significant number were former combatants who were considered to be prisoners of war. Others were associated or perceived to be associated with the AFRC and RUF. Many of those detained were suspected of criminal offences which included gross human rights abuses such as torture and deliberate and arbitrary killing of civilians. Some of those detained had given themselves up to police and ECOMOG forces as a means of protection from civilians who attacked, and in some cases killed, those closely associated with the AFRC and RUF.

On 10 March 1998, President Kabbah proclaimed a state of emergency, under Section 29 of the Constitution of 1991, which includes provisions for indefinite detention without charge or trial. The Proclamation of Emergency was ratified by parliament on 26 March 1998. The Public Emergency Regulations, 1998, state that:

"2. The President may, if in his opinion it is necessary, for the purpose of maintaining and securing peace, order and good government in Sierra Leone, make an Order-

(a) directing that any person be detained or continues to be detained and so long as such an Order is in force in respect of any person, that person shall be liable to be detained in such place and under such circumstances as the President may from time to time determine and shall, while so detained, be deemed to be in legal custody".

Although Article 4 of the ICCPR allows the Sierra Leone government to derogate from its obligations under the treaty, it requires that derogation has to be to the "extent strictly required by the exigencies of the situation". Certain rights, including the right to life in Article 6 and the prohibition of torture, cruel, inhuman or degrading treatment or punishment in Article 7, cannot be derogated from. The UN Human Rights Committee which monitors compliance with the ICCPR has stated that "measures taken under Article 4 are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened and that, in times of emergency, the protection of human rights becomes all the more important, particularly those rights from which no derogations can be made".

Hundreds of people alleged to have collaborated with the AFRC and RUF have been held without charge under the Public Emergency Regulations. The scope of these regulations raises concern that people could be held indefinitely without charge or trial, in violation of international human rights standards, in particular the ICCPR.

Throughout the months following the return of the government of President Kabbah arrests of those suspected of collaborating with the AFRC have continued, although the scale of arrests has gradually decreased and some of the detainees have been released without charge. It has been difficult to determine at any one time exactly how many detainees are held without charge. At the end of September 1998, however, several hundred people, including some 130 children, were believed to be held without charge in

detention in Pademba Road prison and other places of detention in and around Freetown. In some cases detentions appeared to be entirely arbitrary, for example, in cases where people were denounced as collaborators for reasons of personal revenge or settling of scores. In September 1998, 18 women were reported to have been arrested in Freetown after being denounced for having fraternized with members of the AFRC.

Significant numbers of civilians are also being held illegally by ECOMOG forces in "safe custody" without any process of review of their detention by a civilian judicial authority.

Among those released without charge from Pademba Road prison after several months in detention were more than 20 senior police officers, who were reported to have been released on 20 August 1998. More than 270 Sierra Leonean soldiers who had been part of the ECOMOG contingent in Liberia at the time of the ECOMOG intervention in Freetown, repatriated in March 1998 and detained in Pademba Road prison were also released from custody for retraining on 31 August 1998.

Fifty-nine civilians were charged with treason and other offences in April 1998 and were brought to trial before the High Court early the following month. Trials before a court martial of 37 soldiers began in July 1998. Foday Sankoh was brought before a magistrates' court on 4 September 1998 and charged with treason and other related offences; his trial before the High Court began later that month. It was also expected that further trials of both civilians and soldiers would begin in November 1998. The Court of Appeal ruled in 1975 that the death penalty for the offence of treason was discretionary.

The cases of some of the hundreds of other detainees who remained held without charge or trial were to be reviewed by an independent committee of investigation.

The committee of investigation

In late May 1998 the government established an independent committee of investigation to review the cases of the several hundred people arrested for alleged collaboration with the AFRC who remained detained without charge. The purpose of the committee is to review the cases of those detained in order to expedite release or prosecution. The terms of reference of the committee was to advise the government on action to be taken in the cases of: those alleged to have collaborated with the AFRC; civil servants who had resumed work under the AFRC at their own request or on the invitation of the AFRC; and managers and employees of public sector services who allowed the use of funds by the AFRC or others who facilitated payment of public funds.

The committee of investigation is headed by Nasiru Tejan-Cole, a former Director of Public Prosecution, and includes seven other prominent members of the community. It began its work on 17 July 1998 but its hearings were not held in public. Human rights officers from UNOMSIL were, however, allowed to attend. Detainees appeared before the committee in person and were not represented by lawyers. They were invited to comment on statements that they had made to the police after their arrest and were also able to call witnesses. The committee then made recommendations to the government on

whether to prosecute or release them.

Amnesty International welcomed the establishment of the committee of investigation by the government as a positive initiative. While its progress in reviewing cases has been slower than anticipated, the committee is reported to have conducted its work professionally and competently.

By late September 1998 the cases of some 120 detainees had been considered by the committee. More than 70 had been released unconditionally and another 17 were released either on bail or pending further investigations. In other cases the committee concluded that there was evidence of criminal offences. The committee of investigation is continuing its work and has repeated its calls for witnesses of suspected collaboration to provide evidence and cooperate with the committee.

Recommendations

- **the cases of those who remain detained without charge or trial should be reviewed by the committee of investigation with a minimum of delay with a view to either charging or releasing them.**

Trials before the High Court

Among the 59 civilians charged in April 1998 with treason and some also with other offences, including murder and arson, were those who had participated in the AFRC by accepting government posts. The defendants also included a number of former politicians including former President Joseph Saidu Momoh. One of the defendants, Abdul B. Sankoh, died as a result of ill-health on 21 June 1998. Trials in three groups began in early May 1998 before the High Court in Freetown.

The government stated its commitment to ensuring fair trials for those charged, whereas the public mood was one of anger and a desire for swift justice. The trials were open to the media and public and were monitored by UNOMSIL human rights officers, assisted from July until October 1998 by representatives of the International Bar Association. Independent observers concluded that there had been a genuine attempt by the government to conduct fair and transparent trials before the High Court and that the trials appeared to comply to international procedural standards.

On 25 August 1998, 16 defendants in one of the trials were convicted and sentenced to death; the two remaining defendants were acquitted. Among those sentenced to death were Victor Foh, a member of parliament of the All People's Congress (APC) party, Allieu Badara Kamara, AFRC Under-Secretary of State for Information, Christian Kargbo, former Governor of the Central Bank, Hilton Fyle, a journalist and broadcaster, who had formerly worked for the British Broadcasting Corporation (BBC) World Service, Ibrahim Ben Kargbo, a journalist and editor of the *New Citizen* newspaper, Gipu Felix-George, Director General of the Sierra Leone Broadcasting Service (SLBS), and two other SLBS broadcasters, Dennis Ayodele Smith and Olivia Mensah. Olivia Mensah,

who was pregnant at the time of her arrest and who gave birth in July 1998, was also convicted of murder.

A second trial concluded on 19 October 1998; 16 defendants were convicted and three acquitted. On 21 October 1998, 11 of those convicted were sentenced to death and the five others were sentenced to 10 years' imprisonment. Those sentenced to death included Claude Victor Campbell, a former Attorney General and Minister of Justice, Ahmed Charrid Dumbuya, former head of the National Power Authority, Brigadier (rtd.) Leslie Modibo Lymon, AFRC Secretary of State for the Interior, and Nancy Steele, a former APC politician.

The third trial concluded on 4 November 1998. Fifteen of the defendants were convicted of treason and were sentenced to death the following day. They included several people who had held ministerial positions during the period of AFRC rule, including Victor Brandon, Secretary of State for Development, Dr Bailah Leigh, Secretary of State for Health, Dr Matilda King, Under-Secretary of State for Health, and Ajibola Manley-Spaine, Attorney General and Minister of Justice. Former President Momoh was found not guilty of treason but was convicted of two counts of conspiracy and sentenced to two five-year terms of imprisonment to be served concurrently. Five other defendants were acquitted.

All those convicted by the High Court have the right to appeal to the Court of Appeal and, if unsuccessful, to the Supreme Court. If conviction and sentence are confirmed on appeal, those sentenced to death may seek the exercise of the prerogative of mercy, under Section 63 of the Constitution of 1991. The prerogative of mercy is exercised by a special committee chaired by the President. All those convicted and sentenced to death have appealed against their conviction and sentence; a date for hearings before the Court of Appeal had not been set by early November 1998.

Following interventions by the international community calling for commutation of the death sentences passed in August 1998, the government responded that the judicial process was continuing, that those sentenced had the right to appeal to the Court of Appeal and the Supreme Court, that it remained committed to due process of the law and that the President would consider exercising clemency in any cases where a death sentence was confirmed at the completion of the judicial appeal procedure.

The trial of Foday Sankoh began on 24 September 1998 and he appeared before the High Court on several occasions during October 1998, pleading not guilty to charges of treason and other offences related to the military coup of May 1997. Sierra Leonean lawyers feared reprisals if they agreed to represent Foday Sankoh and genuine efforts by the government to provide legal representation for him proved unsuccessful. He therefore conducted his own defence.

Under Article 14(3)(d) of the ICCPR, a defendant should be allowed to defend himself through a legal representative of his own choosing and that, if he does not have legal assistance, such assistance should be assigned to him. Article 7 of the African Charter, as

interpreted by the African Commission, also includes the right to be defended by a lawyer of the defendant's choice. Safeguard 5 of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, states that: "Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure fair trial, at least to those contained in Article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings." The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reiterated in December 1996, that: "All defendants facing the imposition of capital punishment must benefit from the services of a competent defence counsel at every stage of the proceedings."

On 23 October 1998 Foday Sankoh was convicted on seven of the nine counts against him and sentenced to death. He appealed against his conviction and sentence and requested representation by a defence lawyer for the appeal procedure. The government sought assistance in providing a lawyer for Foday Sankoh from the United Kingdom and other Commonwealth countries.

Recommendations

- **all trials should continue to be open to international observers and to conform to international standards for a fair trial;**

- **all those tried for offences which carry a mandatory or discretionary death sentence should be ensured all appropriate safeguards as guaranteed by international standards, including adequate legal assistance at all stages of the proceedings and the right to appeal against conviction and sentence to a higher jurisdiction.**

Trials before court martial

The trial of 37 soldiers charged with mutiny, failure to suppress a mutiny, treason and conspiracy began on 23 July 1998. The defendants included senior members of the AFRC such as Colonel Abdul Karim Sesay, AFRC Secretary General, Sergeant Abu "Zagalo" Sankoh and Corporal Tamba Gborie who had announced the military coup on 25 May 1997 on state radio. The judicial panel comprised Sierra Leonean army officers and was presided by a Judge Advocate who was a Nigerian ECOMOG officer.

As with the trials before the High Court, the court martial was open to independent observers. In addition to monitors from UNOMSIL and the International Bar Association, an Amnesty International representative observed the early proceedings of the trial before the court martial in late July and early August 1998.

Trials before court martial in Sierra Leone allow no right of appeal against conviction and sentence to a higher jurisdiction. The right of appeal from a decision of a court martial was abolished by statute in 1971. This lack of judicial appeal violates international

standards for a fair trial. Amnesty International repeatedly urged the government to allow a judicial appeal from the court martial.

Article 14(5) of the ICCPR states that: "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law." Under the Optional Protocol to the ICCPR, ratified by Sierra Leone in 1996, where rights guaranteed by the ICCPR, including the right to fair trial, have been violated, recourse may be sought from the UN Human Rights Committee.

The Human Rights Committee has concluded that imposition of a death sentence after a trial which violates the provisions of the ICCPR, including Article 14, constitutes a violation of the right to life which is guaranteed by Article 6 of the treaty.

In addition, Safeguard 6 of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty states that: "Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory." [13]

The African Charter also guarantees, under Article 7, the right to fair trial. The African Commission has made several decisions which interpret Article 7 of the African Charter to include a right of appeal to a higher jurisdiction. In April 1998 the African Commission, before the execution of 23 people in Rwanda, issued a statement saying that the executions of people who had been denied a fair trial violated Article 4 of the African Charter which prohibits the arbitrary deprivation of the right to life.

As with those sentenced to death by a civilian court, the presidential committee for the prerogative of mercy may meet after judgment has been made to confirm or reduce sentences by the court martial.

In the final stages of the trial, the judicial panel of the court martial refused to accept legal arguments, which had previously been accepted by the prosecution in the case of civilians being tried for treason before the High Court, that the death penalty was discretionary, rather than mandatory, for the offence of treason. It therefore refused to accept evidence in mitigation.

On 12 October 1998 34 of the defendants before the court martial were convicted of treason, murder and collaborating with the enemy and sentenced to death. They included Colonel Abdul Karim Sesay, Sergeant Abu "Zagalo" Sankoh, Corporal Tamba Gborie, Brigadier Hassan Karim Conteh, a former Chief of Defence Staff, Colonel Samuel Francis Koroma, also former Chief of Defence Staff, Squadron Leader Victor L. King, and a woman, Major Kula Samba, who had been AFRC Secretary of State for Social Welfare, Children and Gender Affairs. The three other defendants were acquitted.

Complaints of violations of the ICCPR were submitted to the UN Human Rights Committee on behalf of 18 of those sentenced to death by the court martial. Despite these submissions and appeals for stays of execution and clemency by the international

community, including the UN Secretary-General and UN High Commissioner for Human Rights, 24 of those sentenced to death, including those named above, were executed on 19 October 1998. The other 10 had their sentences commuted to life imprisonment by the committee for the prerogative of mercy.

The executions were carried out by a firing squad using automatic weapons and took place in public on the outskirts of Freetown. The executions were reported to have been observed by a large number of people, although not specifically invited, who included the news media. Photographs of the executions were subsequently published. Amnesty International considers that the death penalty in all circumstances is a cruel, inhuman and degrading punishment. The manner in which these executions were carried out, however, was particularly cruel, inhuman and degrading. The graphic publicity subsequently appearing in the news media in Sierra Leone both emphasized and aggravated the brutalizing effect that the executions have on society within Sierra Leone.

These executions violated Sierra Leone's commitments under international human rights law and were condemned by the international community, including the UN and the EU, as well as Amnesty International and other human rights organizations. The UN Secretary-General said on 22 October 1998 that he regretted that the executions had taken place despite his appeal to the government to consider, at the very least, a stay of execution pending review of the proceedings before relevant international monitoring bodies. He added that he hoped that the government would ensure due process of the law in subsequent trials. The UN Human Rights Committee requested the government to explain why it had disregarded the Committee's request for a stay of execution and carried out the executions.

It was reported in late October 1998 that a further 16 soldiers would be tried on treason charges before the court martial; if convicted, they too faced death sentences without the right to appeal to a higher jurisdiction.

Recommendations

- **trials before court martial must conform to international standards for a fair trial, including the right of appeal against conviction and sentence to a higher jurisdiction;**

- **in addition, those tried before court martial for offences which carry a mandatory or discretionary death sentence should be ensured all appropriate safeguards.**

The death penalty - a violation of human rights

All those convicted of treason and other offences relating to the military coup of May 1997 face a possible death sentence. By early November 1998, 42 civilians and Foday Sankoh had been sentenced to death and 24 of 34 soldiers sentenced to death by court martial had been executed.

The anger and bitterness of the people of Sierra Leone against those tried for crimes committed during the period of AFRC rule and the desire for retribution and swift justice was demonstrated by the series of revenge killings which took place in Freetown and other parts of the country after the removal of the AFRC and RUF. Public opinion in Sierra Leone demands that strong action is taken by the government against those responsible for crimes committed during that period, which included gross human rights abuses such as killings and torture. The atmosphere surrounding the trials has been highly charged and support for the death penalty in Sierra Leone is inevitably widespread.

Amnesty International acknowledges the government's responsibility to bring to justice those responsible for such crimes, in accordance with international standards. Amnesty International is opposed to impunity and always encourages governments to investigate human rights abuses and to bring the perpetrators to justice. It is precisely because Amnesty International is concerned that those guilty of human rights abuses should not escape justice that it urges the government to ensure that all trials are conducted fairly.

Amnesty International is, however, unconditionally opposed to the death penalty on the grounds that it is a violation of the fundamental right to life and the right not to be subjected to cruel, inhuman or degrading punishment as set out in the Universal Declaration of Human Rights and the ICCPR. There is particular concern when those sentenced to death and executed do not receive fair trials.

The scale of human rights abuses committed in Sierra Leone has been horrendous. An argument used in favour of the death penalty is that it is justified retribution for particularly atrocious crimes. The use of the death penalty, however, perpetuates a cycle of violence, bitterness and revenge, instead of bringing reconciliation and respect for human rights. The death penalty is an official form of violence which has a brutalizing effect on society. Violent retribution is not justice but vengeance disguised as justice. A government and people committed to end human rights abuses must rise above vengeance and promote and protect human rights, in particular the right to life.

A difficult and daunting task faces Sierra Leone in achieving reconciliation within its society after the atrocities committed by the AFRC and RUF. Amnesty International, however, does not believe that the use of the death penalty will contribute in any way to the process of reconciliation. On the contrary, it considers that the public executions of 24 soldiers in October 1998 after an unfair trial are incompatible with initiatives aimed at reconciliation within Sierra Leone.

There has been significant progress towards ending the use of the death penalty both in Africa and throughout the world; 19 states in Africa and a majority of states worldwide have abolished the death penalty in law or in practice. The government of Sierra Leone should move in the direction of this trend, rather than against it.

Recommendations

- the government of Sierra Leone should take steps towards the abolition of the death penalty in law

- pending abolition, all death sentences should be commuted and no executions should take place;

- the government and non-governmental organizations should initiate and promote open debate on the death penalty among the Sierra Leonean population in order to raise awareness of the human rights issues involved.

Harsh prison conditions

Conditions in prisons, police stations and other places of detention in Freetown and throughout the country fall far short of international standards for the treatment of prisoners and in some cases amount to cruel, inhuman and degrading treatment. The severity of conditions in Sierra Leone's prisons appears to be attributable to material shortages in a country which faces acute economic problems. Conditions have been further exacerbated by the destruction and damage of prison facilities at the time of the military coup in May 1997.

All places of detention hold numbers of detainees well beyond the capacity for which they were designed. Following the detention of some 2,000 people in the weeks following the removal of the AFRC and RUF from power, conditions in Pademba Road prison and police cells in Freetown became severely overcrowded. In October 1998 some 1,200 detainees were reported to be held at Pademba Road prison, more than three times the capacity for which it was constructed. Most of these detainees were held under the Public Emergency Regulations. Detainees were also held in military camps, including ECOMOG bases at Wilberforce and Lungi barracks.

In August 1998 a local human rights organization, Prison Watch Sierra Leone, reviewed conditions both at Pademba Road prison and the Kingtom Remand Home for children in Freetown. It concluded that generally the diet of prisoners was deficient. With the exception of separate facilities provided for women prisoners, sanitation was poor at Pademba Road prison. Prisoners depended on family and relatives for the provision of clothing. Prison Watch Sierra Leone drew particular attention to the neglect of 24 children held at that time at the Kingtom Remand Home, the youngest of whom was 11 years old. Few received visits from members of their families and most appeared to be children who had lost contact with their families as a result of the conflict.

Conditions are particularly harsh at CID headquarters and also at the Central Police Station in the centre of Freetown. Large number of detainees, accused of criminal offences or of crimes committed during the period of AFRC rule, are reported to have been held for lengthy periods at CID headquarters in small, dark cells with inadequate ventilation and sanitary facilities. Cells at the Central Police Station, which is situated next to the sea, are reported to be extremely damp and subject to flooding. Often detainees have no bedding and have to sleep on the floor. Food and medical care are

inadequate. Detainees held in police stations rely on food being provided by relatives and friends.

Conditions in prisons outside the capital are also extremely poor. Food and sanitary provisions are particularly deficient. There is no effective system for providing food to prisoners and those without support from relatives are at particular risk of deprivation. Often there is no space for exercise within the prison. In prisons outside Freetown, for example in Kenema, female prisoners are not segregated from males and minors are held with adult prisoners.

As a result of severe overcrowding, inadequate hygiene and medical care diseases, including malaria, diarrhoea and skin complaints, are rife in Pademba Road prison and other places of detention. Some prisoners and detainees were reported to have died as a result of ill-health. While Pademba Road prison has medical facilities within the prison and a prison doctor, most prisons outside Freetown have no such provision.

Following the detention of hundreds of people alleged to have collaborated with the AFRC and RUF visits were severely restricted and denied altogether on several occasions. The authorities justified these restrictions on security grounds.

Shortly after the removal of the AFRC and RUF a delegation of the ICRC, accompanied by a doctor and a nurse, were authorized to visit all places of detention in areas under the control of ECOMOG, including Pademba Road prison, and visits have since continued.

The government is reported to be reviewing the prison system in Sierra Leone in order to undertake major reforms. Financial assistance from the international community will, however, be necessary to implement improvements to conditions in prisons and other places of detention. Following visits to several places of detention in late October 1998 UNOMSIL human rights officers prepared an analysis of the problems faced by the prison system in order to provide a more coordinated response to the needs of prisons and other places of detention.

Recommendations

- **urgent and effective measures should be taken to ensure that all places of detention in Sierra Leone conform to international standards for the treatment of prisoners, including the UN Standard Minimum Rules for the Treatment of Prisoners;**

- **the health of all detainees and prisoners should be ensured while in custody; adequate medical facilities and treatment, food, washing and sanitary facilities should be provided, and prisoners should have daily exercise in the fresh air;**

- **the international community should assist the Sierra Leone government in ensuring acceptable conditions of detention.**

Long-term measures for the protection and respect of human rights

Establishing accountability for human rights abuses is essential to prevent human rights violations in the future. Also needed are strong and effective institutions within Sierra Leone to ensure that fundamental human rights are respected and protected. This includes the legal and judicial systems, the army and the police, as well as an independent national human rights commission. Civil society, including human rights groups, are also integral to promoting human rights and creating an environment in which human rights are respected.

Despite the exceptionally difficult circumstances that all sectors of civil society, including the human rights community, in Sierra Leone have recently endured, human rights groups have emerged as a committed and active force. Their potential should be acknowledged and their activities supported. A National Forum for Human Rights, which is a coalition of 18 organizations working in diverse areas, has been established.

It is essential that basic institutional reforms are guided by strict adherence to international standards relating to the independence of the judiciary, human rights in the administration of justice and codes of conduct for law enforcement officials. All sectors of Sierra Leonean society, including the human rights community, should be involved in these reforms and should receive education and training on human rights standards and complaints procedures.

The international community, including the UN and international financial institutions such as the World Bank and the International Monetary Fund, should work closely together to promote post-conflict reconstruction and rehabilitation in Sierra Leone which is based on good governance and respect for human rights. International financial institutions should use their influence - official and unofficial - to ensure that the restoration of good and effective governance includes the re-establishment of mechanisms and systems to promote the rule of law and the protection of human rights. This should include assistance towards the establishment of permanent, independent and effective national institutions for the long-term protection of human rights and the rule of law, including an independent judiciary and fair criminal justice system.

Reform of the legal and judicial system

The long-term protection of human rights in Sierra Leone depends fundamentally on an effective legal system which is enforced by an independent, impartial and accessible judiciary with adequate resources. The Sierra Leone government, following its return to power, admitted that the judicial system was entirely inadequate. Courts outside Freetown are not functioning, other than magistrates courts in Bo, Kenema and Makeni, and the traditional court system has collapsed.

There should be a thorough review of existing legal institutions in order to make them more effective in the protection of human rights. These initiatives should be accompanied by a determined government policy to hold those responsible for human rights violations

fully accountable.
UNOMSIL, UNDP, other UN agencies and international financial institutions should contribute towards the reconstruction of an effective judiciary and legal system in Sierra Leone. Some initiatives have already been undertaken. UNOMSIL has provided law books to the legal profession and has distributed legal technical documents to lawyers representing defendants in the treason trials. It has also conducted seminars for lawyers to discuss aspects of trial practice and procedure.

Restructuring the armed forces

The Sierra Leone national army, the RSLMF, was effectively disbanded following its participation in the military coup and the period of rule by the AFRC. Programs for disarmament, demobilization and reintegration have commenced but at a slower pace than anticipated.

In May 1998 the government announced plans for the establishment of a new national army. Recruitment and training was entrusted to ECOMOG. During a meeting with the Special Representative of the UN Secretary-General for Children and Armed Conflict in May 1998, the government agreed not to recruit children under the age of 18 years. The government and ECOMOG have also agreed to receive assistance from UN agencies in providing training materials on humanitarian and human rights standards concerning the protection of civilians, particularly women and children.

In early September 1998 President Kabbah announced the government's strategy for the re-establishment of a professional and disciplined Sierra Leonean national army which would comprise 5,000 soldiers, including some of those who had remained loyal to President Kabbah's government after the military coup and who had surrendered to ECOMOG forces after February 1998. Some of these soldiers have already been deployed alongside ECOMOG and CDF forces in those parts of the country still affected by conflict. The international community, including the United Kingdom and the Commonwealth, are providing assistance in training and equipping the new national army. Restructuring, training and equipping the national army should include provisions for the protection of human rights contained in international humanitarian and human rights law.

Human rights training for the police force

Restructuring and training of the police force should also include training in human rights. In August 1998 the government announced its intention to create a police force which would be able to assist Sierra Leone in returning to peace and prosperity and which would eventually remove the need for the deployment of military and paramilitary forces, including the CDF, in towns and villages.

UNOMSIL civilian police advisers should continue to monitor, supervise and train national police and security forces and verify their adherence to international human rights and criminal justice standards. A UN civilian police adviser was deployed in Sierra

Leone in accordance with UN Security Council resolution 1162 (1998) in July 1998; Resolution 1181 (1988) provided for the deployment of a further four police advisers. Their role is to assist in restoring the confidence of the government and the people of Sierra Leone in the police force and to advise the government on training and re-equipment needs. UNOMSIL civilian police advisers are working closely with a team of police advisers from Commonwealth countries, the Commonwealth Police Development Task Force, deployed at the request of the government, as well as with UNOMSIL human rights officers.

In his Second Progress Report on UNOMSIL, the UN Secretary-General acknowledged that reform of the police force in Sierra Leone poses great challenges. Parts of the country are without a police presence, since many police officers have been killed or have abandoned their posts as a result of the conflict. Little or no training has been available for several years and the police suffer from inadequate logistical support, lack of equipment and poor conditions of service. Respect for human rights has been emphasized and police training initiatives have begun.

UNOMSIL human rights officers have conducted a series of human rights training workshops for police officers, including at the Sierra Leone police training college and in Bo and Kenema, as part of continuing efforts by UNOMSIL and the Commonwealth to restructure and train the Sierra Leonean police force.

The National Commission for Human Rights and Democracy

Long-term respect for human rights requires national human rights institutions to redress human rights violations. Rarely do they receive the necessary funding. If empowered with political support and resources national human rights institutions are the most sustainable mechanisms for the protection human rights. National institutions, which include government bodies as well as those of civil society such as human rights groups, the media, trade unions and professional organizations, are an important element of post-conflict reconstruction.

A National Commission for Human Rights and Democracy has been established in Sierra Leone and with the return President Kabbah's government has begun to resume its activities. The National Commission has a crucial role to play within Sierra Leone in building a culture based on the universality, interdependence and indivisibility of all human rights for all people. It should be supported and strengthened and its independence and impartiality guaranteed [14].

An effective national human rights commission, with the power to investigate human rights violations and to institute legal proceedings where appropriate, can play a central role in protecting human rights. It is crucial, however, that the National Commission is supported by the government in bringing those responsible for human rights violations to justice.

An effective national human rights commission is an important mechanism for

strengthening human rights protection and bringing about institutional reform. It should not, however, replace or detract from the importance of safeguards provided by an effective legal system.

On 18 September 1998 the National Commission established four committees, composed of prominent civilians, to monitor and report on areas of concern for the protection and respect of human rights. These included the conduct of the police, prison conditions and the situation of women and children. On 10 October 1998 UNOMSIL human rights officers conducted a human rights training session for the committee monitoring women and children which was also attended by members of the National Commission.

The National Commission should continue to work closely with local human rights groups in order to develop a strong and effective human rights movement in Sierra Leone which includes all sectors of civil society.

Recommendations

- **the international community, including international financial institutions, should continue to contribute to institutional reform in Sierra Leone, including strengthening the independence of the judiciary and reforming the military and civilian police force;**

- **the National Commission for Human Rights and Democracy should have the necessary powers, resources, professional competence and guarantees of independence and impartiality to carry out prompt and effective investigations into human rights violations; its findings should be made public and it should include recommendations for bringing those responsible for human rights violations to justice and for providing compensation to the victims;**

- **the National Commission for Human Rights and Democracy should also make recommendations for institutional reform and other preventive measures, such as human rights education aimed at all sectors of society, including military, police and judicial officials.**

****

(1) ECOMOG had been deployed under the authority of ECOWAS in neighbouring Liberia since 1990. Immediately after the military coup in May 1997, Nigerian forces already present in Sierra Leone under the provisions of a defence agreement between Sierra Leone and Nigeria were significantly reinforced by ECOMOG forces, who were predominantly Nigerian. ECOWAS is an intergovernmental organization of 16 states (Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo) with its headquarters in Nigeria. Established in 1975, the aim of ECOWAS is to promote cooperation and development and to improve relations among member states.
(2) CMAG is composed of Barbados, Botswana, Canada, Ghana, Malaysia, New

Zealand, the United Kingdom and Zimbabwe.
(3) For further information on implementing human rights in international peace-keeping operations, refer to *Peace-keeping and human rights* (AI Index: IOR 40/01/94), published by Amnesty International in January 1994.
(4) Sierra Leone ratified the Convention on the Rights of the Child in 1990.
(5) For further information about Amnesty International's recommendations to the UN special conference on Sierra Leone, refer to *Sierra Leone: The United Nations special conference on Sierra Leone: the protection of human rights must be a priority for the international community* (AI Index: AFR 51/14/98), published by Amnesty International on 24 July 1998.
(6) The contact group included representatives from China, Egypt, France, Germany, Japan, the Netherlands, Nigeria, Norway, New Zealand, Sweden, the United States and the EU.
(7) Countries which are part of the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution are also part of the Bureau of the Assembly of the Heads of State and Government. The Bureau consists of 16 ambassadors and is elected annually. It plays a crucial role in decision-making and planning at the OAU. For further information about the OAU and the African Commission on Human and Peoples' Rights, refer to *Organization of African Unity: Making Human Rights a Reality for Africans* (AI Index: IOR 63/01/98), published by Amnesty International in August 1998.
(8) For further information, refer to *Sierra Leone: A disastrous set-back for human rights* (AI Index: AFR 51/05/97), published by Amnesty International on 20 October 1997.
(9) Sierra Leone ratified the International Covenant on Civil and Political Rights in 1996 and the African Charter on Human and Peoples' Rights in 1984.
(10) For further information about human rights abuses committed in the internal armed conflict in Sierra Leone, refer to *Sierra Leone: Human rights abuses in a war against civilians* (AI Index: AFR 51/05/95), published by Amnesty International on 13 September 1995, and also *Sierra Leone: Towards a future founded on human rights* (AI Index: AFR 51/05/96), published by Amnesty International on 25 September 1996.
(11) Sierra Leone acceded to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II) in 1986.
(12) For further information on the involvement of children in armed conflicts, refer to *"Old enough to kill but too young to vote"* (AI Index: IOR 51/01/98), published by Amnesty International in January 1998.
(13) For further information on international standards relating to the use of the death penalty, refer to *International standards on the death penalty* (AI Index: ACT 50/06/97), published by Amnesty International in August 1997.
(14) For further guidelines on the mandate, composition and functioning of national institutions for the promotion and protection of human rights, refer to *Proposed Standards for National Human Rights Commissions* (AI Index: IOR 40/01/93), published by Amnesty International in January 1993, and the handbook on *National Human Rights Institutions*, published in 1995 by the UN Centre for Human Rights (now the Office of the High Commissioner for Human Rights).

[EMBARGOED FOR: 31 August 2000] Public

amnesty international

SIERRA LEONE
Childhood - a casualty of conflict

31 August 2000 SUMMARY AI INDEX: AFR 51/69/00
DISTR: SC/CC/CO

More than 5,000 children under the age of 18, both boys and girls and some as young as five, have fought as combatants in Sierra Leone's internal armed conflict. Children have been specifically singled out for recruitment by both the armed opposition and forces fighting in support of the government. Most of the children fighting with rebel forces have been abducted from their homes and families and forced to fight. Victims themselves, they have also been perpetrators of human rights abuses, sometimes against members of their own families and communities. Many have been forced to kill and mutilate under the influence of drugs, alcohol or simply because of fear. Former child combatants often say that they do not know why Sierra Leoneans are killing Sierra Leoneans.

A further 5,000 children, again both boys and girls, have been associated with rebel forces although not directly deployed in combat; they have been used to carry goods, cook or collect firewood, and girls have been raped and forced into sexual slavery. Some girls are forced to "serve" many male combatants. These figures are estimates; the real figures may be much higher.

On 7 July 1999 in Lomé, Togo, the government of Sierra Leone and the armed opposition Revolutionary United Front (RUF) signed a peace agreement which was to end Sierra Leone's eight-year conflict. The difficult task of disarming and demobilizing very large numbers of child combatants and helping them to return to a normal life with their families and communities began.

While some progress was being made towards securing the release, disarmament and demobilization of child combatants following the signing of the peace agreement, further efforts have since been curtailed. The political and security situation in Sierra Leone deteriorated in early May 2000 with the capture of some 500 United Nations (UN) peace-keeping troops by rebel forces and a resumption of hostilities. The recruitment and use of children as combatants

by both rebel forces and government-allied forces, among the most distressing features of the internal armed conflict, are continuing.

In this report Amnesty International describes the violation of the most fundamental rights of the children of Sierra Leone. Much of the information included comes from the children themselves who were interviewed by Amnesty International representatives during visits to Sierra Leone in March, June and July 2000.

The scale of the problem of child combatants in Sierra Leone is well known and has been recognized, including by the UN, the government of Sierra Leone and non-governmental organizations, both national and international. There is a wealth of international and regional standards, resolutions and statements on the protection of children in situations of armed conflict. What is now urgent is to give substance to the repeated commitments to end the recruitment and use of children as combatants.

Amnesty International is making a series of recommendations to the government of Sierra Leone, the leaders of RUF forces and the international community aimed at finally ending the use of child soldiers in Sierra Leone. These include:

- the highest priority should be given to resuming the disarmament, demobilization and reintegration of child combatants and prompt and effective measures should be taken to ensure that no child under the age of 18 is recruited for military service, including by raising the minimum age for military recruitment to 18;
- all children held by RUF forces should be released immediately and RUF forces should immediately cease forcible or voluntary recruitment and use of children under the age of 18;
- in all efforts by the international community to resolve the political and security crisis in Sierra Leone, the needs of children affected by the internal armed conflict, including child combatants, should be given the highest priority and concrete steps should be taken to implement commitments made to end the recruitment and use of child combatants in Sierra Leone;
- those responsible for grave breaches of international human rights law and humanitarian law, including the abduction and forcible recruitment of children, should be brought to justice.

KEYWORDS: CHILD SOLDIERS1 / RECRUITMENT OF CHILD SOLDIERS1 / JUVENILES / ARMED CONFLICT / MILITARY / NON-GOVERNMENTAL ENTITIES / WITNESS TESTIMONIES / REHABILITATION / MSP / HUMAN RIGHTS INSTRUMENTS / INVESTIGATION OF ABUSES / PEACE-KEEPING / UNICEF / PHOTOGRAPHS

This report summarizes a 40-page document (15,129 words), *Sierra Leone: Childhood - a casualty of conflict* (AI Index: AFR 51/69/00), issued by Amnesty International on 31 August 2000. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at http://www.amnesty.org and Amnesty International news releases can be received by email: http://www.amnesty.org/news/emailnws.htm

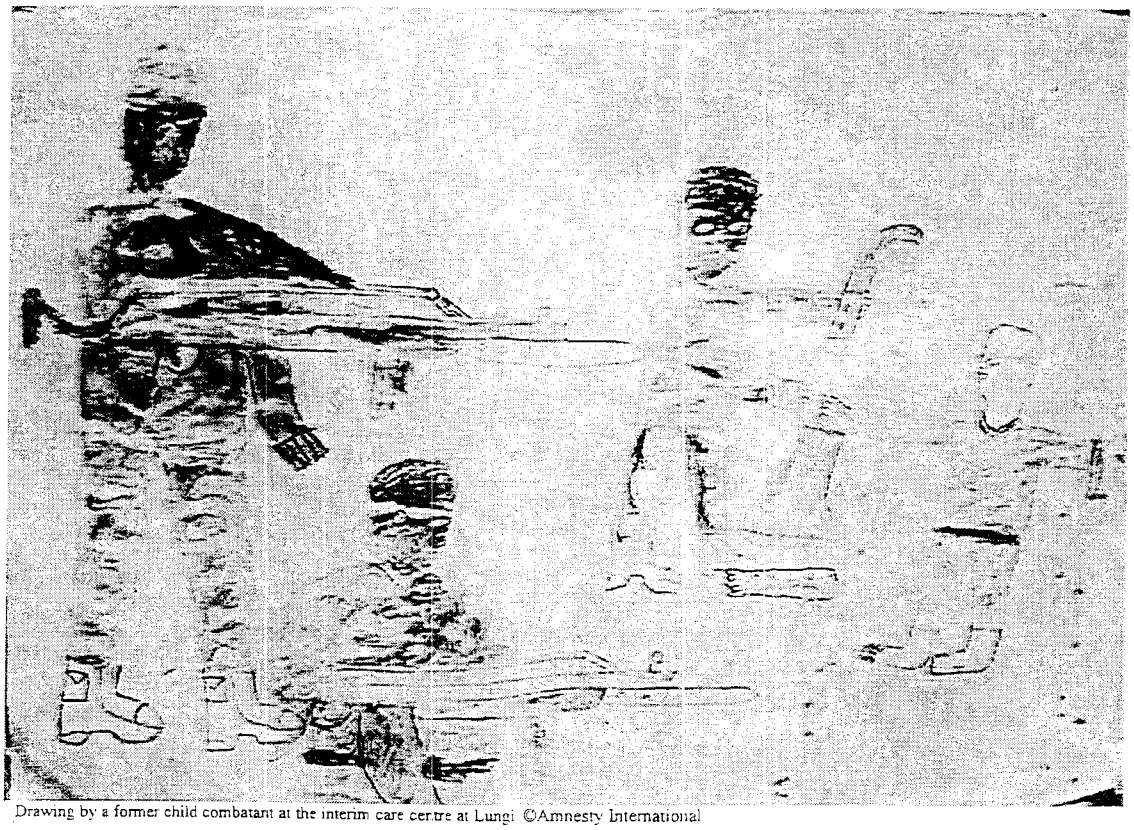
INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

[EMBARGOED FOR: 31 August 2000] Public

amnesty international

SIERRA LEONE

Childhood - a casualty of conflict



Drawing by a former child combatant at the interim care centre at Lungi ©Amnesty International

31 August 2000
AI Index: AFR 51/69/00
Distr: SC/CC/CO

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

Table of Contents

Introduction 1

The use of child combatants in the internal armed conflict 3

Former child combatants tell their stories 4

- Former child combatants fighting with the RUF 4
- Former child combatants fighting with the AFRC 7
- Former child combatants fighting with the CDF 9

Rehabilitating child combatants 10

May 2000 - children again forced into conflict 15

- Continuing recruitment of children by the RUF 16
- Continuing recruitment of children by government-allied forces 18

Arming the children 19

- Military assistance to rebel forces 19
- Military assistance to government forces 22

A violation of children's rights and a war crime 23

- Bringing to justice those who recruit and deploy children as combatants 28

The Sierra Leone government's responsibility to end the use of child soldiers 30

Moves by the international community to end the use of child soldiers 33

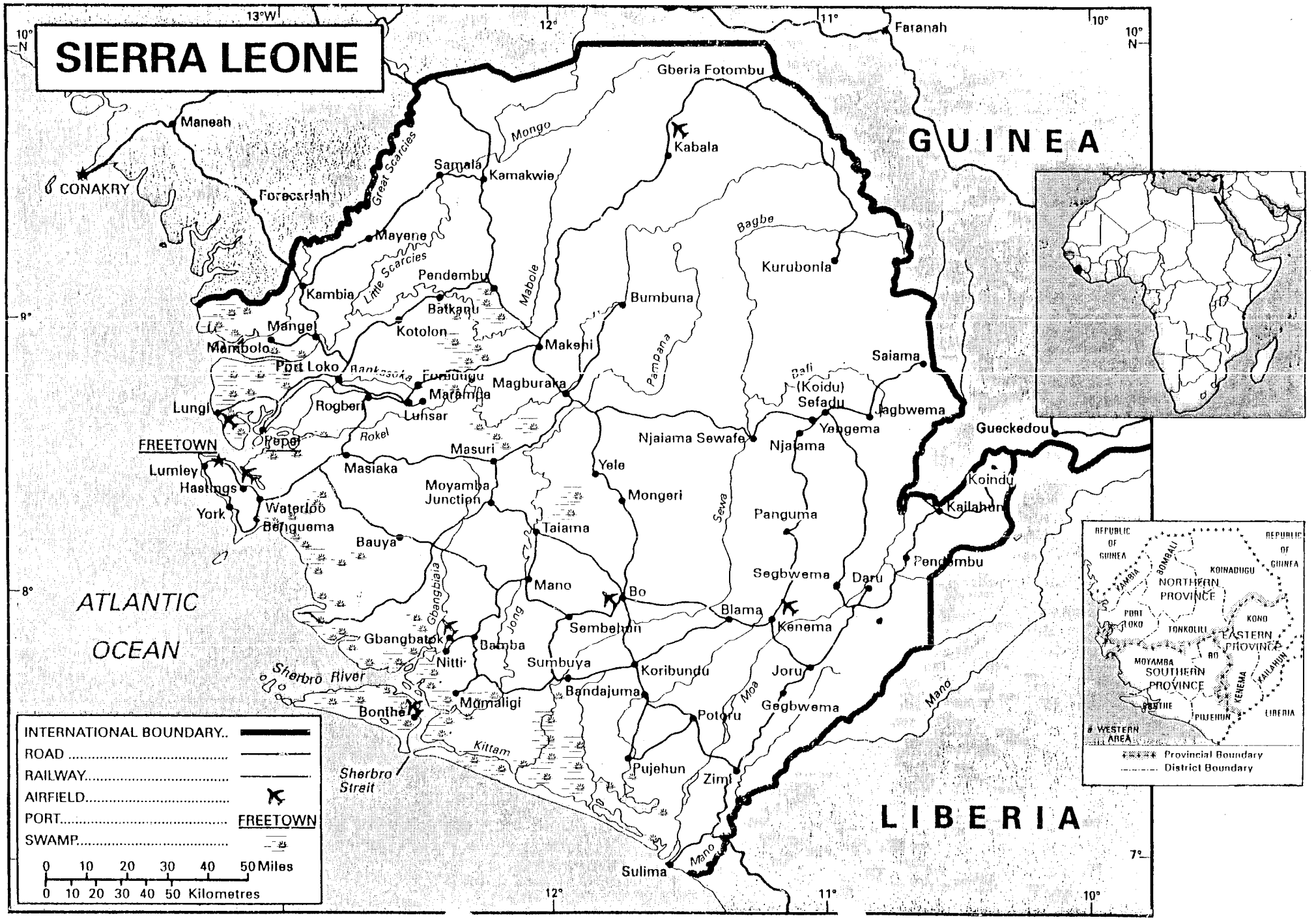
Amnesty International's recommendations 37

- Recommendations to the Sierra Leone government, including the Chief of Defence Staff, the Deputy Minister of Defence and the leader of the AFRC 37
- Recommendations to the leaders of the RUF 38
- Recommendations to the international community 39

Appendix A

Appendix B

1749


SIERRA LEONE
GUINEA
LIBERIA
ATLANTIC OCEAN
CONAKRY
FREETOWN
Maneah
Forecariah
Kambia
Mangel
Mambolo
Port Loko
Lungi
Pepel
Lumley
Hastings
York
Waterloo
Benguema
Rogberi
Lunsar
Maramua
Masiaka
Masuri
Moyamba Junction
Bauya
Gbangbatok
Nitti
Bamba
Mumaligi
Bonthe
Sherbro River
Sherbro Strait
Kittam
Gbangbiala
Jong
Mano
Bo
Sembehun
Sumbuya
Bandajuma
Koribundu
Potoru
Pujehun
Zimi
Sulima
Taiama
Mongeri
Yele
Njaiama Sewafe
Njaiama
Yengema
Sefadu
(Koidu)
Jagbwema
Saiama
Gueckedou
Koindu
Kailahun
Pendembu
Daru
Segbwema
Blama
Kenema
Joru
Gegbwema
Moa
Mano
Pampana
Bafi
Sewa
Bagbe
Kurubonla
Bumbuna
Makeni
Magburaka
Mabole
Mongo
Kabala
Gberia Fotombu
Faranah
Samala
Kamakwie
Mayene
Pendembu
Batkanu
Kotolon
Little Scarcies
Great Scarcies
Rokel
Bankasoka
Forodugu
Mangi
Kambia
Mangel
Mambolo
Port Loko
Lungi
Pepel
Masiaka
Bauya
Gbangbatok
Nitti
Bamba
Sumbuya
Bandajuma
Koribundu
Potoru
Pujehun
Zimi
Sulima
Mano
Kenema
Blama
Pendembu
Kailahun
Koindu
Gueckedou
Faranah
Gberia Fotombu
Kabala
Kurubonla
Bumbuna
Saiama
Jagbwema
Yengema
Sefadu
Njaiama
Panguma
Segbwema
Daru
Joru
Gegbwema
Mongeri
Yele
Mano
Bo
Taiama
Moyamba Junction
Masuri
Rokel
Mambolo
Port Loko
Lungi
Pepel
Lumley
Hastings
York
Waterloo
Benguema
Bonthe
Mumaligi
Kittam
Sherbro River
Sherbro Strait
Gbangbiala
Jong
Mabole
Mongo
Great Scarcies
Little Scarcies
Bagbe
Pampana
Bafi
Sewa
Moa
Mano
13°W
12°
11°
10°
10° N
9°
8°
7°
INTERNATIONAL BOUNDARY
ROAD
RAILWAY
AIRFIELD
PORT
FREETOWN
SWAMP
0 10 20 30 40 50 Miles
0 10 20 30 40 50 Kilometres
REPUBLIC OF GUINEA
REPUBLIC OF GUINEA
KAMBIA
BOMBALI
KOINADUGU
NORTHERN PROVINCE
PORT LOKO
TONKOLILI
KONO
EASTERN PROVINCE
MOYAMBA
BO
SOUTHERN PROVINCE
KENEMA
KAILAHUN
BONTHE
PUJEHUN
LIBERIA
WESTERN AREA
Provincial Boundary
District Boundary

SIERRA LEONE
Childhood - a casualty of conflict

Introduction

More than 5,000 children under the age of 18, both boys and girls and some as young as five, have fought as combatants in Sierra Leone's internal armed conflict. Children have been specifically singled out for recruitment by both the armed opposition and forces fighting in support of the government. Most of the children fighting with rebel forces have been abducted from their homes and families and forced to fight. Many were separated from their families at a very young age. Victims themselves, they have also been perpetrators of human rights abuses, sometimes against members of their own families and communities. Many have been forced to kill and mutilate under the influence of drugs, alcohol or simply because of fear. Former child combatants often say that they do not know why Sierra Leoneans are killing Sierra Leoneans.

A further 5,000 children, again both boys and girls, have been associated with rebel forces although not directly deployed in combat; they have been used to carry goods, cook or collect firewood, and girls have been raped and forced into sexual slavery. Some girls are forced to "serve" many male combatants.[1]

These are the figures provided by the United Nations Children's Fund (UNICEF) but they are estimates; the real figures may be much higher. The Special Representative of the United Nations (UN) Secretary-General for Children and Armed Conflict, after a visit to Sierra Leone, said on 9 September 1999 that '*more than 10,000 children have been serving as child soldiers in various fighting groups*'.

On 7 July 1999 in Lomé, Togo, the government of Sierra Leone and the armed opposition Revolutionary United Front (RUF) signed a peace agreement which was to end Sierra Leone's eight-year conflict. The difficult task of disarming and demobilizing very large numbers of child combatants and helping them to return to a normal life with their families and communities began.

While some progress was being made towards securing the release, disarmament and demobilization of child combatants following the signing of the peace agreement, further efforts have since been curtailed. The political and security situation in Sierra Leone deteriorated in early May 2000 with the capture of some 500 UN peace-keeping troops by rebel forces and a resumption of hostilities. The recruitment and use of children

[1] For further information about the abduction, rape and other forms of sexual violence committed against girls and women, see *Sierra Leone: Rape and other forms of sexual violence against girls and women* (AI Index: AFR 51/35/00), published by Amnesty International on 29 June 2000.

as combatants by both rebel forces and government-allied forces are continuing. This is among the most distressing features of a conflict which has also been characterized by systematic and widespread deliberate and arbitrary killing, amputation of limbs and mutilation, rape and other forms of sexual violence.[2]

In this report Amnesty International describes the violation of the most fundamental rights of the children of Sierra Leone. Much of the information included comes from the children themselves who were interviewed by Amnesty International representatives during visits to Sierra Leone in March, June and July 2000.

The scale of the problem of child combatants in Sierra Leone is well known and has been recognized, including by the UN Secretary-General, his Special Representative for Children and Armed Conflict, UNICEF, the UN Committee on the Rights of the Child, the government of Sierra Leone and non-governmental organizations, both national and international. There is a wealth of international and regional standards, resolutions and statements on the protection of children in situations of armed conflict. What is now urgent is to give substance to the repeated commitments to end the recruitment and use of children as combatants, by whatever side.

Amnesty International is making a series of recommendations to the government of Sierra Leone, the leaders of RUF forces and the international community aimed at finally ending the use of child soldiers in Sierra Leone. These include:

- the highest priority should be given to resuming the disarmament, demobilization and reintegration of child combatants, and prompt and effective measures should be taken to ensure that no child under the age of 18 is recruited for military service, including by passing legislation raising the minimum age for military recruitment to 18;

- all children held by RUF forces, either used as combatants or in any way associated with fighting forces, should be released immediately and RUF forces should immediately cease forcible or voluntary recruitment and use of children under the age of 18;

[2] For further information about human rights committed during the conflict, see previous reports published by Amnesty International, in particular: *Sierra Leone: Recommendations to the international contact group on Sierra Leone, New York, 19 April 1999* (AI Index:AFR 51/05/99), 19 April 1999; *Sierra Leone: 1998 - a year of atrocities against civilians* (AI Index: AFR 51/22/98), November 1998; *Sierra Leone: A disastrous set-back for human rights* (AI Index: AFR 51/05/97), 20 October 1997; *Sierra Leone: Towards a future founded on human rights* (AI Index: AFR 51/05/96), 25 September 1996; and *Sierra Leone: Human rights abuses in a war against civilians* (AI Index: AFR 51/05/95), 13 September 1995.

- in all efforts by the international community to resolve the political and security crisis in Sierra Leone, the needs of children affected by the internal armed conflict, including child combatants, should be given the highest priority and concrete steps should be taken to implement commitments made to end the recruitment and use of child combatants in Sierra Leone;

- those responsible for grave breaches of international human rights law and humanitarian law, including the abduction and forcible recruitment of children, should be brought to justice.

The use of child combatants in the internal armed conflict

Children have fought with the various forces involved in Sierra Leone's internal armed conflict which began in 1991. These forces include the RUF, the Armed Forces Revolutionary Council (AFRC), the Sierra Leone Army and the Civil Defence Forces (CDF). The AFRC came to power following the military coup on 25 May 1997 which overthrew the government of President Ahmad Tejan Kabbah elected in 1996. The AFRC joined forces with the RUF after coming to power and remained its ally after the AFRC was forced from power in February 1998 by forces deployed in Sierra Leone by the Economic Community of West African States (ECOWAS), known as ECOMOG. With the signing of the peace agreement in July 1999, the AFRC allied itself to the government of President Kabbah but some of its forces continued to engage in hostilities against government-allied forces. Rebel forces who remain in control of parts of the north and east of the country continue to forcibly recruit and use child soldiers. Previously disarmed and demobilized members of the AFRC and those members of the Sierra Leone Army who had remained loyal to the government, including children under the age of 18, have again been recruited and rearmed to fight on behalf of the government since May 2000. Large numbers of children have also been recruited and used in combat by the CDF, the civilian militia based on societies of traditional hunters, such as the *kamajors*, which support the government of President Kabbah.

The involvement of children in conflict has devastating effects on their physical and mental integrity. There have been higher casualty rates among children because of their inexperience, fearlessness and lack of training. Children are considered as particularly useful because their size and agility means that they may be sent on particularly hazardous assignments. Frequently ill-treated or even killed by the commanders, they have no protectors. Adult combatants who commit human rights abuses, including crimes against humanity and war crimes, involve children in those crimes. In addition to the obvious risks

of death or serious injury in combat, children suffer disproportionately from the general rigours of military life, especially in the bush, and are particularly vulnerable to disease and malnutrition. As for the severe psychological consequences of active participation in hostilities, with children witnessing and at times also committing atrocities, the full extent of the impact on child combatants as well as society as a whole may only become apparent over a long period.

Former child combatants tell their stories

Those children who have been released or have escaped and who have been disarmed and demobilized provide horrifying accounts of how the conflict has affected them. The names of the children whose testimonies are included have been changed in order to protect their identities. Most were interviewed by Amnesty International representatives during June and July 2000.

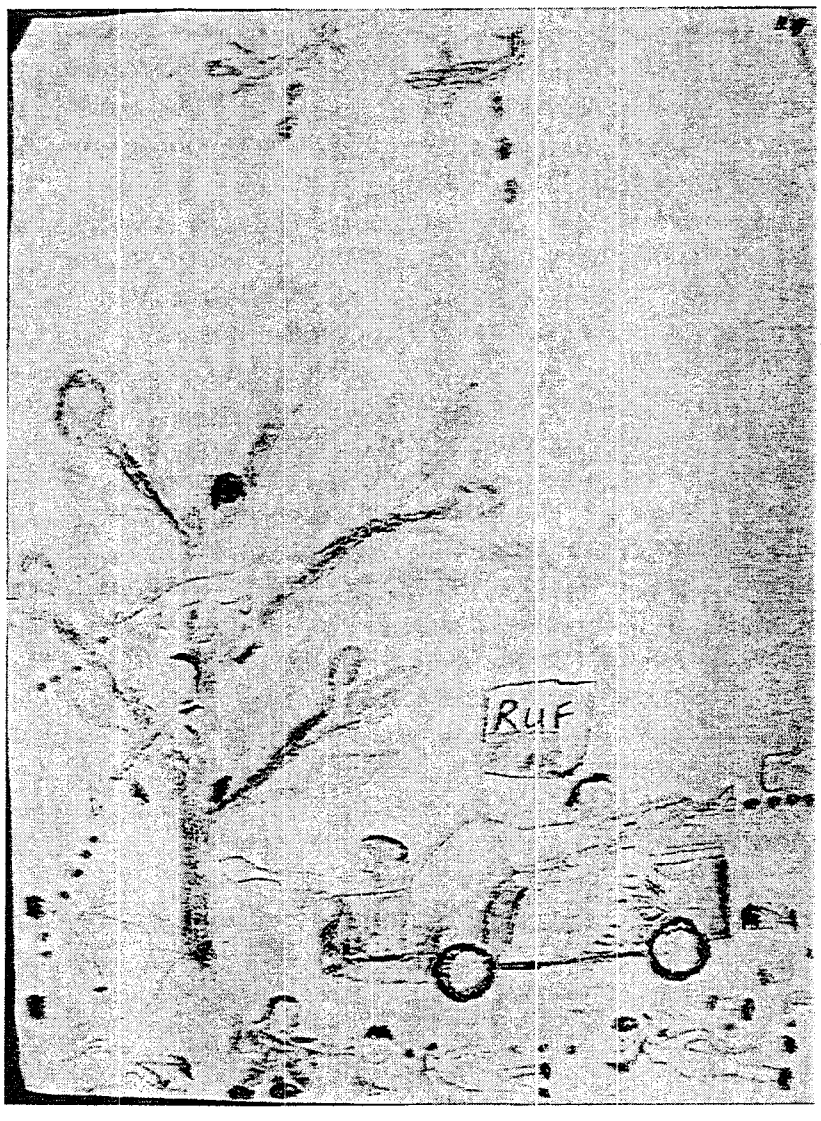
Child combatants live in constant fear of being beaten and killed. Many former child combatants describe being threatened, intimidated and severely beaten; others recount the killing of their friends and companions. Former child combatants describe the killings and mutilations of civilians which they carried out while fighting. If they refused, they risked being beaten or killed. Peter, a 12-year-old former child combatant, said: "*When I was killing, I felt like it wasn't me doing these things. I had to because the rebels threatened to kill me.*"

Former child combatants fighting with RUF

Ibrahim is now aged 16 and living at a centre for former child combatants at an internally displaced people's camp at Waterloo, 20 kilometres east of Freetown. He was captured by the RUF in 1992 in Kono District, Eastern Province, and from there was transferred to the rebel stronghold of Kailahun District, also in Eastern Province. He was taught how to use weapons, how to advance and attack the enemy and how to ambush. He described how before attacks, each combatant, including child combatants, was given cocaine and marijuana: "*After sniffing cocaine, I was not afraid of anything. I became bloody.*"

Ibrahim told Amnesty International on 19 June 2000 that when the RUF forces with whom he fought heard that RUF leader Foday Sankoh was going to be tried in 1998: "*We were ordered to kill any civilian that we came across. Any fighter or children suspected of being reluctant to do the killings were severely beaten. We were asked to advance and to do everything possible to terrorize the civilians. It was during this period that people's hands and limbs were cut off, in Kono, Masingbi, Matatoka, Magburaka and Makeni.*

During that time, one of the children asked the commander the reasons for the killings. He said that the civilians were supporting President Kabbah's government. Sheriff Kabia, who was 17 and known as 'Crazy Jungle', was killed because he asked this question." Sheriff Kabia was reported to have been killed in November 1998. Ibrahim also described the death of Mamadu Kamara, aged 14, who was killed because he refused to cut off the hand of someone from his own village.



Drawing by a former child combatant at the interim care centre at Lungi
© Amnesty International

Abdul, now aged 17, was abducted by the RUF in 1997 during an ambush in Kenema District, Eastern Province. He told Amnesty International on 21 July 2000 that he was taken to an RUF training camp, known as Camp Lion, near Pendembu in Kailahun District where he was trained by both Sierra Leoneans and Liberians. He was taught to use a variety of weapons, including AK47 and AK58 rifles, which he said came from Liberia. "*After the Lomé peace accord, we thought that was the end of the whole war. We were waiting to disarm; there was no fighting. Instead we all went to Tongo Field to mine. Most rebels did that.*" Abdul was then ordered to go to Lunsar, Port Loko District: "*We didn't even reach the front line when we met some wounded colleagues. I wanted to surrender but I was afraid.*" When he gave himself up to Sierra Leone Army forces, his arms were tied tightly behind his back; rope marks on both arms were still visible. He was first taken to Masiaka, some 50 kilometres east of Freetown, where he was hit on the head with a pistol by a soldier and then transferred to Cockerill military headquarters in Freetown. "*They threatened to kill me. For the first week I was treated badly but then I was given food and water and no one treated me badly. For the first two weeks I was not allowed out of the cell.*" He remained there for more than three weeks before being transferred to an interim care centre in Freetown. "*I want to go back to school but here in Freetown, not in the provinces. I am scared that I'll get taken back to the front line.*"

David, now aged 14, from Bumbuna, Tonkolili District, Northern Province, was abducted in 1996 by the RUF when they attacked Bumbuna. He is now at a centre established to care for former child combatants, known as an interim care centre, run by an international non-governmental organization, in Freetown. When interviewed by Amnesty International on 12 July 2000, he said that after his abduction he was taken first to Kabala, Koinadugu District, Northern Province, and then to Bunumbu in Kailahun District, an RUF stronghold. There he, together with another 40 children, was trained to fight at Camp Lion. "*I had to go through the training and learn to fight, otherwise the RUF people would beat me or kill me.*" Among those killed by the RUF during the training was a boy, aged about 11, with whom David had become friends. He was beaten to death because he refused to continue training. He had complained of being tired - the training was difficult and he was exhausted. He was beaten in front of more than 30 other children and his body was thrown into the bush. Another child, aged 14, was also beaten and killed.

David described how, even under the influence of marijuana and alcohol, he was still afraid to fight, but he did not tell anyone for fear of being killed. David remained with rebel forces for three years until surrendering to forces of the UN Mission in Sierra Leone (UNAMSIL) at Makeni, Bombali District, Northern Province, after the peace agreement was signed in July 1999. Now at the interim care centre, he said: "*I want to become a doctor now and go back to school to learn how to cure people.*"

Many former child combatants with rebel forces have described how they were forced to drink alcohol and take drugs and the effect that it had on them. Among the drugs used were marijuana, amphetamines, commonly referred to as "blue boats", and cocaine. When child combatants refused to take drugs they were beaten and, in some cases, killed.

Komba, now aged 15, was captured by the RUF in 1997 in Binkolo, Bombali, District. Now at the centre for former child combatants at Waterloo, he told Amnesty International on 20 June 2000 that he was among rebel forces who attacked Freetown in January 1999: "*My legs were cut with blades and cocaine was rubbed in the wounds. Afterwards, I felt like a big person. I saw the other people like chickens and rats. I wanted to kill them.*"

When interviewed by Amnesty International on 20 June 2000, Gibril, aged 11, said: "*Before battles, I was given white powder which was mixed with rice. It made me brave, it made me think that I could do anything.*"

Fifteen child combatants, including at least two girls, were among some 2,500 Sierra Leonean refugees who fled into Gueckédou in Guinea during the first two weeks of August 2000 to escape intensified fighting and bombing by government forces of rebel-held areas in Eastern Province. All but one had been abducted by rebel forces and forced to fight for periods of up to seven years. According to the UN High Commissioner for Refugees (UNHCR), all the children said that they had been heavily drugged with cocaine and they acknowledged that they had been extremely brutal. They were separated from other refugees because they feared that victims of the atrocities which they had committed would recognize them.

Former child combatants fighting with the AFRC

After being removed from power in February 1998 by ECOMOG forces acting in support of President Kabbah, the AFRC, together with the RUF, wreaked a campaign of terror against civilians, particularly in Northern Province. From April 1998 reports emerged of widespread killings, amputations and abductions in villages in Northern Province.

When interviewed on 19 June 2000 by Amnesty International, Sayo, now aged 14, said that he was abducted by AFRC forces in 1998 in Makali, Tonkolili District. He was trained in different places, including Koinadugu District. He described how his skin was cut in different places, including near his eyes, and cocaine put in the wounds. "*When I go to the battle fields, I smoke enough. That's why I become unafraid of everything. When you refuse to take drugs, it's called technical sabotage and you are killed.*" After the peace agreement was signed in July 1999 Sayo was freed and taken to a centre for former child

combatants run by a non-governmental organization, CARITAS-Makeni, in Kabala. He is now at the centre for former child combatants at Waterloo.

Hassan, now aged 15, from Makeni, told Amnesty International on 21 July 2000 at a centre for former child combatants in Freetown that he was abducted with four of his cousins by the AFRC in 1998 when he was aged 13. He was trained in a camp near Kabala where he was given an AK 47 rifle. He claimed that there were several hundred other young boys in the camp. The training lasted three months. He had to learn how to dismantle a weapon, how to use a rocket propelled grenade (RPG), how to attack, how to undertake guard duty and how to parade. He also said that he had to parade for AFRC leaders, including Johnny Paul Koroma, now head of the Commission for the Consolidation of Peace, established under the July 1999 peace agreement, and Brigadier, now Colonel, Gabriel Mani, who was appointed in July 2000 as Director of Army Training.

Hassan spent over a year with the AFRC in Kono District, Eastern Province. Following the signing of the peace agreement in July 1999 he remained with the AFRC in the Occra Hills, some 40 kilometres east of Freetown, the stronghold of a faction of the AFRC known as the "West Side Boys" who had not disarmed after the peace agreement. In late June 2000 Hassan travelled to Freetown to purchase drinks for the "West Side Boys". He was not armed and he travelled in a public transport vehicle. At a checkpoint he was recognized as a West Side Boy by members of the Sierra Leone Army and the *kamajors* and ordered to get out of the vehicle. His shoes and trousers were removed but, initially, he was not otherwise ill-treated. He was taken to Benguema military training camp, 20 kilometres east of Freetown, and the following day to Cockerill military headquarters in Freetown. He was interrogated about a recent attack on the town of Masiaka. One soldier, however, beat him severely on his back; three weeks later, in July 2000, deep scars were still visible. The beating was stopped by a more senior officer.

Hassan said: "*At first, I loved being in the bush. I could get money and other things, including vehicles, for free. But then I got tired. Now I want to go home.*"

When interviewed on 24 July 2000 John, now aged 15, from Mokanji, Moyamba District, Southern Province, did not remember when he had been abducted by the AFRC and did not know what had happened to his family. He was threatened that he would be killed if he did not go with the AFRC and was taken to Makeni where he was trained how to use weapons and how to fight the CDF and ECOMOG. John said that he was told not to kill civilians and that civilians were killed in the cross-fire. He was also instructed not to loot property but said that many AFRC members did engage in looting. "*I was not happy living in the bush but I had no way to escape. I asked to leave and was told 'go if you can' but I then saw children being killed - many of them - when they tried to escape to go home.*

I was afraid of fighting but I was given 'blue boats'. After that I felt like I could do anything. I never refused to take drugs."

John recalled that children were punished if they refused to obey orders: "*I was punished after I was asked to be part of an advance team to attack Koinadugu. I was not feeling well; I was feeling sick and had a stomach ache. I said that I could not go and fight. The commander ordered other small boys to beat me. After I was beaten a doctor who had been captured helped me.*"

Isatu, a girl now aged 17, was abducted by AFRC forces from Fadugu, Koinadugu District, in 1998. She told Amnesty International on 24 July 2000 at a centre for former child combatants: "*I did not want to go; I was forced to go. They killed a lot of women who refused to go with them.*" She was forced to become the sexual partner of the combatant who captured her and is now the mother of their three-month-old baby: "*When they capture young girls, you belong to the soldier who captured you. I was 'married' to him.*"

Isatu was trained in a base near Kabala to use weapons, including a bayonet, gun and knife, and fought in the area around Fadugu and Makeni. She admitted that she had cut off the hands of children and adults, and set fire to houses with civilians locked inside. "*There is a law of the AFRC that forces you to kill; if you refuse to, you yourself are killed.*"

Former child combatants fighting with the CDF

Child combatants recruited by the CDF have also recounted their experiences. The parents of 12-year-old Brima, now at the centre for former child combatants at Waterloo, gave permission to the CDF to use him as a child combatant in 1998. He continued to live at his home but was active with the CDF in areas around Masiaka, Port Loko and Yele. He was trained to fight by CDF "initiators", those who admit members into the societies of traditional hunters. Brima told Amnesty International on 20 June 2000 that when children disobeyed orders they were beaten unless their parents paid a fine. Brima recalled: "*I was beaten because I became separated from a CDF patrol.*"

Brima recounted that when a rebel is caught, his arms are tied up behind his back. The captive is then interrogated and stabbed to death. "*I saw four executions.*"

Mohamed, also aged 12, from Port Loko, Port Loko District, Northern Province, was recruited by the CDF in 1998. His parents were not informed about the recruitment but they did nothing to prevent it because of the status attached to membership of the society of traditional hunters, such as the *kamajors*, described by Mohamed as "*the supremacy of the society*". In addition to carrying water and machetes for the CDF, he escorted captured

rebels to the Sierra Leone Army. He also described to Amnesty International on 20 June 2000 how the CDF executed rebels they had captured or those suspected of being rebels: "*I saw three captured rebels being killed; their heads were cut off. The children had to bring the heads to the SLA [Sierra Leone Army] headquarters to show that the CDF were effective.*"

Rehabilitating child combatants

Until the resumption of hostilities in May 2000 UNAMSIL, including its human rights section, played an important role in negotiating the release of children held by rebel forces and providing logistical support and military escorts to ensure their safe transfer to interim care centres. It worked with a number of non-governmental organizations, both national and international, who have been active in trying to secure the release of children and to provide the assistance they need. In March 2000 UNICEF and non-governmental organizations were supporting more than 700 children in interim care centres; about 80 per cent of these were demobilized child combatants.

Following the July 1999 peace agreement and before the resumption of hostilities in May 2000, specific procedures had been adopted for child combatants. When children presented themselves to a disarmament, demobilization and reintegration reception centre - sometimes simply a table in the middle of the road - those who were not combatants were handed over to child protection agencies and taken to an interim care centre. If, after questioning, it was established that they were combatants, they were transferred to the children's sections of disarmament, demobilization and reintegration camps. For those who had fought with the RUF, the AFRC or the former Sierra Leone Army this program lasted for five weeks; for those with the CDF a shorter program was provided because normally the children had not been separated from their families and communities.

At interim care centres former child combatants are provided with medical treatment, food and clothing, psycho-social rehabilitation, education and recreation. Some of the older children, especially those who had spent months or years with rebel forces, have bullet wounds or other injuries. Malnutrition, respiratory and skin infections and other ailments are common, as are sexually transmitted diseases, including HIV/AIDS. Some still suffer the effects of narcotic drugs.

When Amnesty International met former child combatants at the centre for former child combatants at Waterloo on 25 March 2000, a boy aged 14 who had been abducted by AFRC forces in 1998 said: "*I want to go to school and learn so that I can forget the old*

times." Another former child combatant interviewed at Waterloo on 19 June 2000 said: "*We want to go back to school; we don't want to go back to the bush.*"



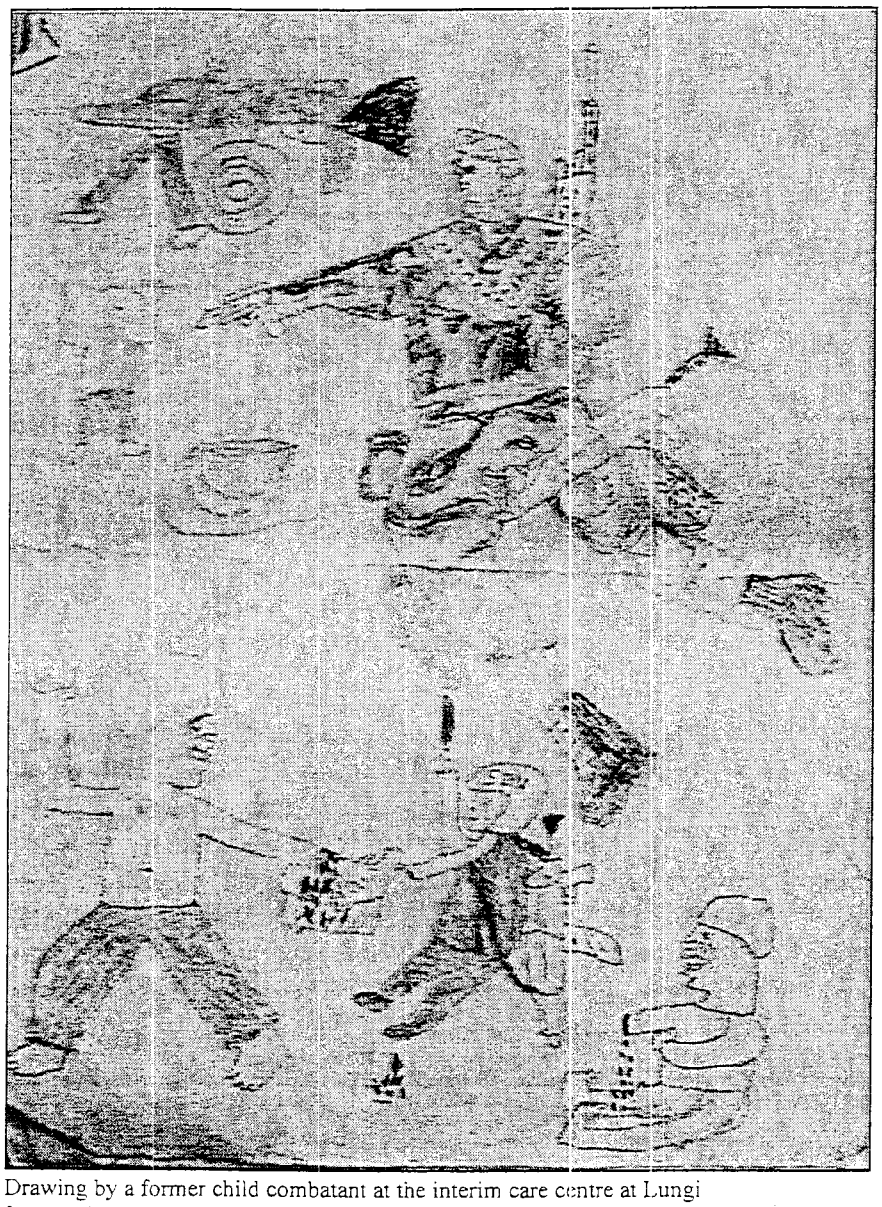
Former child soldiers in the interim care centre at Waterloo, east of Freetown, 25 March 2000
© Amnesty International

The psychological effects of the conflict on children have often been severe: many have killed, mutilated or raped or have witnessed such atrocities. During the rebel incursion into Freetown in January 1999 - when at least 2,000 civilians were killed, more than 500 people had limbs severed, and rape of girls and women was systematic - it was estimated that some 10 per cent of rebel combatants were children. Often under the influence of drugs, many of them committed atrocities. During the first few weeks after they are disarmed and demobilized, former child combatants are reported to be often aggressive and violent, to show other behavioural problems, to suffer nightmares, alienation, outbursts of anger and an inability to interact socially.

In a report published in January 2000, the international humanitarian organization *Médecins sans Frontières* (MSF-Holland) said that: "*The psychological impact of actually witnessing horrific events imposes a serious psychological stress. Deliberately or not, witnessing at least once events such as torture, execution,(attempted) amputations, people being burnt in their houses and public rape often results in traumatic stress or even post-traumatic stress disorder.*"[3]

[3] *Assessing Trauma in Sierra Leone*, Médecins Sans Frontières (Holland), 11 January 2000.

At an interim care centre in Lungi, former child combatants have been encouraged to make drawings of their experiences as child combatants. Many have depicted horrific scenes of the mutilation, rape and killing in which they have been involved.



Drawing by a former child combatant at the interim care centre at Lungi
© Amnesty International

After considering Sierra Leone's initial report under the UN Convention on the Rights of the Child in January 2000, the UN Committee on the Rights of the Child expressed concern that the government had insufficient capacity to provide psycho-social

assistance to the many children who have suffered forms of psychological trauma. The Committee urged the government to make every effort to strengthen available psycho-social assistance and to recruit more mental health workers, recommending in addition that the government seek international assistance in this area.

After undergoing the demobilization and rehabilitation process, efforts are made to reunite former child combatants with their families. Child protection agencies have developed programs for family tracing and reunification, often with success. In some cases, however, former child combatants, especially the younger ones, do not know their real names and have lost all knowledge of what a family is. One boy now aged 16, who was abducted by the RUF in 1992, said: "*The commander told me when I was captured: 'Your father is gone. Now I am your father'.*" Another, aged 15, who was abducted in 1997 said: "*After you are captured you cannot think about your family; that is out. Sometimes, when I was by myself, I would think about them. But when you are captured you have to change or you are a dead man.*"

Many former child combatants have been transferred to the province from which they originally came, if this has been possible, in order to increase the possibility of tracing their families. In other cases, however, their parents have been killed or displaced. Where their families cannot be traced, the children are placed temporarily with foster families. Significant efforts have been made to sensitize communities to the plight of former child combatants and to promote reconciliation. In some cases, however, former child combatants have been rejected by their families and communities because of the atrocities committed by rebel forces during the conflict. One 16-year-old former child combatant said: "*I don't want to go back to my village because I burnt all the houses there. I don't know what the people would do, but they'd harm me. I don't think I'll ever be accepted in my village.*"

Girls who have been abducted and forcibly recruited often face specific problems. When an Amnesty International delegation visited Sierra Leone in March 2000, it identified that the process of disarmament, demobilization and reintegration of former combatants appeared often not to provide any real opportunity to those girls and women who had been abducted by rebel forces and forced to become their sexual partners to free themselves from former combatants when they reported for disarmament and demobilization. The Fourth Report of the UN Secretary-General on UNAMSIL of 19 May 2000 recognized "*the need to protect dependants of ex-combatants, the majority of whom are women and children*" and that "*the majority of 'wives' of the combatants are in fact abductees and, if not interviewed*

separately from their 'husbands', would most likely not feel free to express their wish to return to their original families".[4]

Effective provision needs to be made for those girls and women, many of whom are pregnant or have young children, to leave former combatants, if they wish. This would require: firstly, the opportunity to indicate privately to UN personnel their desire to leave the men who abducted and sexually abused them; secondly, support to enable them to receive all necessary medical and psycho-social care; and thirdly, support either to return to their families where this is possible or to re-establish their lives together with their children.

In Resolution 1314 (2000) on children and armed conflict of 11 August 2000 the UN Security Council underlined "*the importance of giving consideration to the special needs and particular vulnerabilities of girls affected by armed conflict, including, inter alia, those heading households, orphaned, sexually exploited and used as combatants*" and urged "*that their human rights, protection and welfare be incorporated in the development of policies and programmes, including those for prevention, disarmament, demobilization and reintegration*".



Former child combatants attending a human rights education session led by a human rights officer for CARITAS-Makeni at the interim care centre at Lungi, July 2000
© Amnesty International

[4]Fourth Report of the Secretary-General on the United Nations Mission in Sierra Leone, S/2000/455.

May 2000 - children again forced into conflict

"A whole generation of children has already been emotionally traumatized and physically scarred. They'd been told that peace had finally arrived. Now what are we supposed to tell them?" - Johanna van Gerpen, UNICEF representative in Sierra Leone, 10 May 2000.

After the signing of a peace agreement between the government and the RUF in July 1999, several hundred children were released by rebel forces; by the end of 1999 some 800 children, many of them combatants, had been handed over to UNICEF and other child protection agencies. During the first months of 2000 there was a significant increase in the release of children, most of them combatants, by AFRC forces from the Occra Hills to the east of Freetown and from Kabala, Northern Province. By the end of April 2000, some 1,700 child combatants, of an estimated total of 5,000, had been absorbed into the disarmament, demobilization and reintegration program. According to estimates by UNICEF, about 800 of them had been reunited with their families or placed in foster care, or had run away, leaving 900 in interim care centres. Several thousand children, however, remained in the hands of rebel forces, particularly in Northern Province.

When the political and security situation in Sierra Leone deteriorated seriously at the beginning of May 2000, fears of an imminent attack on Freetown by rebel forces intensified and hostilities between RUF forces and forces of the Sierra Leone Army, the CDF and UNAMSIL troops were reported close to the capital and in Port Loko District.

Moves to secure the release of children still held by rebel forces halted. Former child combatants in interim care centres in areas where rebel forces were active again became vulnerable to being abducted and forcibly recruited by rebel forces. UNICEF and the child protection agencies with which it works have tried to ensure adequate protection for these children.

In his Fourth Report on UNAMSIL to the UN Security Council on 19 May 2000, the UN Secretary-General cited preliminary reports which suggested that child combatants were being used extensively as hostilities resumed. UNAMSIL human rights officers who visited Masiaka on 15 May 2000 observed several child combatants, mostly boys, with the CDF, the AFRC and former Sierra Leone Army and the reconstituted Sierra Leone Army. Some 25 per cent of the combatants observed were under 18 and some freely admitted that they were between 7 and 14. Almost all of them were armed. Other reports indicated that RUF forces were using a similar proportion of child combatants at the front line. In his subsequent report to the UN Security Council on 31 July 2000, the Secretary-General reported that both the RUF and forces fighting for the government continued to use children

in combat.[5] He expressed deep concern about continuing human rights abuses, including the forced recruitment of children, and urged "*all fighting forces to immediately release all child combatants among their forces and to cease the recruitment of children as combatants*".

Continuing recruitment of children by the RUF

Since May 2000 RUF forces have continued to abduct and forcibly recruit children as combatants, some of whom had previously been demobilized. While some of the children recruited by both rebel and government-allied forces since May 2000 were forcibly recruited, usually after being abducted, others were reported to have volunteered to join the RUF. It appears, however, that in many cases these children had little option but to do so. Reports from Kambia District, Northern Province, during May 2000 described RUF forces going from village to village demanding a quota of men and boys, most of whom were forced to join under duress. Local traditional rulers, known as Paramount Chiefs, were ordered to provide a certain number of recruits and families were forced to hand over children, including those aged under 18. For example, in Madina Junction, Kambia District, 300 men and boys were demanded. Similar reports have been received from the towns of Kambia and Kamakwie. This practice explained the comparatively high number of young men and boys, without their families, who fled across the border into Forécariah region, Guinea, during May 2000. Reports of forcible recruitment were also received from Mange in Port Loko District.

In Makeni, when the RUF first confronted UNAMSIL troops in early May 2000, children were pressed by RUF forces by threats and intimidation into joining them. RUF commanders positioned vehicles at the entrance of an interim care centre, run by CARITAS-Makeni, and repeatedly coaxed the older boys to rejoin them, through enticement and implicit threat. Some of the children were told by RUF forces that their families had been traced and that the RUF would help them return to their homes. It was also reported that the RUF had threatened to kill all those in the interim care centre if the children did not rejoin the RUF. Staff at the centre believed that up to 30 boys aged from 14 to 17 rejoined the RUF; other estimates put the number of those who rejoined the RUF at 40 or as many as 50. It appeared that shortage of food at the centre, which had been looted by rebel forces, was also a factor influencing the children's return to rebel forces. The centre had been looted on 2 May 2000 by rebel forces; some of the older boys in the interim care centre had tried to prevent the looting and one of the adult carers, a woman, had been beaten. The rebels came the following day and again looted the centre.

[5]Fifth Report of the Secretary-General on the United Nations Mission in Sierra Leone, S/2000/751.



Lungi interim care centre for former child combatants run by CARITAS-Makeni, July 2000
© Amnesty International

For fear of further attack, on 23 May 2000, 83 children from the centre - 73 boys and nine girls, most aged between 6 and 12 years - and 27 adult carers fled the centre for Freetown. On their arduous three-day trek their remaining possessions, including food and money, were stolen by RUF combatants. When they arrived in Petifu, Tonkolili District, some of the group, both children and adults, were beaten by members of the CDF. The children finally arrived safely in Freetown on 26 May 2000 and were taken to the interim care centre at Lungi.

One former child combatant, Francis, now aged 16 who had been abducted in 1998, described to Amnesty International on 15 July 2000 at the interim care centre in Lungi how RUF forces had tried to lure children back into their ranks from an interim care centre in Lunsar, Port Loko District: "*by then the rebels had moved from Makeni to Lunsar. They came to our camp and asked some children to join them again and we refused. We have rights to live and play. They encouraged us to join them. We told the manager of the centre to move us. At that time there were no vehicles; even the NGO's vehicle was not around. We walked along the road to Rogberi Junction where we met the rebels. They told us to return to our camp. We knew that they were killing people around. After that they said, please, come and join us or we are going to kill you people. After that we fled in the bush.*"

On 31 May 2000 RUF forces were reported to have killed two boys and a young man at the village of Maforay, near Port Loko, after they refused to join them. On 15 June 2000, a farmer from a village near Magbile, Port Loko District, between Masiaka and Rogberi Junction, described to Amnesty International the killing of his sons by RUF forces on 11 June 2000: *"My four sons, aged 11, 21, 23 and 25, were building a new hut when the rebels asked them to join them. They refused and the rebels shot and killed them."* His three eldest sons were all farmers, married with children; his youngest son worked on his father's farm.

Continuing recruitment of children by government-allied forces

Government-allied forces have also continued to recruit children and use them in combat. Some of the child combatants who had been disarmed and demobilized after the peace agreement were again recruited to fight against the RUF. Government-allied forces comprise a loose alliance of the Sierra Leone Army, the AFRC and the CDF. Although in theory these various forces are under the command of the Chief of Defence Staff, in practice it appears that chain- of-command control is diffuse and often unclear and that, in the confused and unstable situation which prevails, it is unlikely that senior military personnel of the Sierra Leone Army exert effective control over all forces fighting on behalf of the government.

When an Amnesty International delegation met the Deputy Minister of Defence, Chief Samuel Hinga Norman, who is also the National Coordinator of the CDF, in Freetown on 25 May 2000, he denied that the CDF recruited children or "initiated" them into the societies of traditional hunters. He said that the children with CDF forces had been rescued or captured from rebel forces and that they were handed over to child protection agencies. Chief Hinga Norman has publicly announced that child combatants will be demobilized from government and government-allied forces. In mid-July 2000 he held a meeting in Bo, Southern Province, with CDF leaders and "initiators". He instructed that no further children were to be "initiated" into the CDF. It is not clear, however, to what extent this instruction is being heeded. While it may reduce the number of children newly admitted into the CDF, it does not resolve the problem of those already with CDF forces.

A senior member of the CDF in Kenema, Eastern Province, told Amnesty International on 27 July 2000 that, although he personally opposed the use of children, he acknowledged that it was normal practice within the CDF. He was in the presence of two boys who appeared to be under 18 and who were both armed. He claimed that, before the peace agreement, there were some 600 children in the CDF forces around Kenema but that they were all subsequently demobilized and that there was no further recruitment of children.

On 12 June 2000 in Masiaka, an area where hostilities were continuing, much publicity was given to the apparent demobilization of 135 child combatants with government-allied forces, in particular the CDF. It subsequently transpired, however, that only 13 of these children were serving as combatants, nine with the CDF and four with the AFRC. It appeared that children and their families were attracted by the potential assistance and facilities provided to former child combatants, including food and education, as well as the opportunity to remove the children to safety from an area close to the front line. The children who were not former child combatants, and who had been separated from their families, were subsequently returned to their homes.

According to some reports, recruitment of children by the CDF is continuing in Bo and Moyamba Districts in Southern Province. It is often difficult, however, to distinguish between "initiation" into the societies of traditional hunters and recruitment to fight. Child protection agencies report that recruitment of children, including those who had previously been demobilized, is continuing. According to reports which remain unconfirmed, villages in Southern Province are expected to provide a certain number of children to the CDF. In some areas the CDF appear to be no longer using children so openly to guard checkpoints along major roads in Southern Province; children, some of them armed, have been seen close to checkpoints but hidden in the bush. In late May 2000 two children with the CDF aged about 14 or 15 were observed in Moyamba close to a checkpoint. In other areas, however, an increase in the number of children guarding checkpoints has been observed.

Arming the children

Military assistance to rebel forces

Rebel forces in Sierra Leone have received and continue to receive significant military assistance, including arms and ammunition, despite a UN embargo on the provision of such assistance. UN Security Council Resolution 1132 (1997) of 8 October 1997 imposed an arms embargo on Sierra Leone following the military coup of 25 May 1997 which brought the AFRC to power. After the government of President Kabbah was restored to power in March 1998, UN Security Council Resolution 1171 (1998) of 5 June 1998 lifted the arms embargo on the government of Sierra Leone but prohibited the sale and supply of arms and related *matériel* to non-governmental forces in Sierra Leone.

In view of the appalling level of human rights abuses against civilians perpetrated by rebel forces, military assistance to rebel forces can be assumed to have contributed, and to continue to contribute, to continuing violations of international human rights and humanitarian law. Among these violations are the recruitment and use of child combatants.

Arms and ammunition reaching rebel forces inevitably fall into the hands of the children abducted and forcibly recruited by rebel forces. Traffic in small arms and light weapons clearly facilitates and encourages the use of child combatants. Amnesty International is calling for the cessation of all military assistance to rebel forces in Sierra Leone, including the provision of arms, ammunition, combatants and training.

The government of Liberia has been consistently cited as violating the embargo on military assistance to rebel forces in Sierra Leone. Following a visit to Sierra Leone and Liberia in December 1998 the Chairman of the UN Security Council sanctions committee on Sierra Leone said that arms and ammunition were crossing into Sierra Leone from neighbouring countries, including Liberia, in violation of UN Security Council Resolution 1171 (1998).[6] At the time of the rebel incursion into Freetown in January 1999, the governments of both the United Kingdom (UK) and the United States of America (USA) unambiguously accused the government of Liberia of supporting rebel forces. Burkina Faso has also been reported to have acted as a transit route for military assistance to rebel forces in Sierra Leone. Some of this assistance has originated from countries in the former Soviet bloc and has been facilitated by the activities of international arms brokers and shipping agents, some of them based in Europe.

In April 1999 the commander of ECOMOG in Sierra Leone accused Liberia and Burkina Faso of transferring arms to rebel forces. He asserted that a Ukrainian-registered cargo plane had delivered arms and ammunition to Ouagadougou, the capital of Burkina Faso, for on-shipment to RUF forces through Liberia.[7] A Gibraltar-based company was reported to have organized the arms shipment to Burkina Faso, using a UK-based air company.

These accusations against Liberia and Burkina Faso have continued and intensified, especially as the international community has focused increasing attention on the role of the illicit trade in diamonds from rebel-held areas of Sierra Leone in financing the provision of military assistance to rebel forces.[8]

---

[6]S/1998/1236, Report of the Security Council Committee established pursuant to Resolution 1132 (1997) concerning Sierra Leone, 31 December 1998.

[7]For further information, see *Neglected Arms Embargo on Sierra Leone Rebels*, published by Human Rights Watch on 15 May 2000.

[8]For further information on Amnesty International's position on military assistance to rebel forces and the trade in diamonds, see *Sierra Leone: Cutting the link between diamonds and human rights abuses "forever"* (AI Index: AFR 51/56/00) 14 July 2000, *Sierra Leone: Amnesty International calls for fast and effective action on diamonds* (AI Index: AFR 51/54/00), 30 June 2000, and *Sierra Leone: Cutting the link between diamonds and guns* (AI Index: AFR 51/27/00), 31 May 2000.

On 5 July 2000 the UN Security Council passed Resolution 1306 (2000) which imposed an embargo on all diamond exports from Sierra Leone for 18 months until the government of Sierra Leone can establish a proper certification system for diamonds and regain full access to those areas of the country - notably in Eastern Province and in particular Kono District and Tongo Field - where RUF forces remain in control. Liberia was specifically referred to as a transit route for diamonds from rebel-held areas; the Security Council expressed its concern "*at the role played by the illicit trade in diamonds in fuelling the conflict in Sierra Leone, and at reports that such diamonds transit neighbouring countries, including the territory of Liberia*". The resolution decided that "*all States shall take the necessary measures to prohibit the direct or indirect import of all rough diamonds from Sierra Leone to their territory*".

The international diamond industry has meanwhile responded to growing international pressure. The International Diamond Manufacturers' Association and the World Federation of Diamond Bourses, meeting in Antwerp, Belgium, from 17 to 19 July 2000, agreed that they will not trade in diamonds from rebel-held areas of Sierra Leone. The industry has sought further legal action from governments, such as import control and certification systems.

In line with the provisions of Resolution 1306 (2000), on 31 July and 1 August 2000 the UN Security Council sanctions committee on Sierra Leone held a public meeting, which included representatives of the international diamond trade, governments and non-governmental organizations, to debate the role of the illicit trade in diamonds from rebel-held areas in procuring military assistance for rebel forces.

Further allegations were levelled against Liberia and Burkina Faso, notably by representatives of the UK and USA governments. Ambassador Jeremy Greenstock of the UK said that: "*a variety of reliable sources show that President [Charles] Taylor [of Liberia] is orchestrating the activities of the RUF. He is giving direct military support, encouraging attacks against UNAMSIL and Sierra Leone government forces, providing strategic direction, influencing decisions on leadership and on command and control. Moreover, he is using the RUF to retain control of Sierra Leone's diamonds reserves.*" Ambassador Richard Holbrooke of the USA said that: "*there was reason to believe that RUF leaders and the President of Liberia have taken increasingly large commissions for each of themselves, and particularly for Liberian President Taylor for his services as a facilitator of diamond sales and related arms transfers*" and added that the government of Burkina Faso was also involved providing arms to the RUF.

The governments of both Liberia and Burkina Faso vigorously denied these allegations and called on the international community to conduct independent investigations in their countries in order to substantiate these claims.

The UN Security Council sanctions committee on Sierra Leone established a panel of five experts to continue to investigate the link between the diamond trade and the conflict in Sierra Leone, including the alleged implication of the governments of Liberia and Burkina Faso. The panel of experts is expected to report on its findings by the end of October 2000.

In Resolution 1314 (2000) on children and armed conflict, the UN Security Council expressed its grave concern at: "*the linkages between the illicit trade in natural resources and armed conflict, as well as the linkages between illicit trafficking in small arms and light weapons and armed conflict, which can prolong armed conflict and intensify its impact on children, and, in this regard, expresses its intention to consider taking appropriate steps, in accordance with the Charter of the United Nations.*"

Military assistance to government forces

Since May 2000 combatants below the age of 18 have continued to be recruited by the Sierra Leone Army and other government-allied forces, including the AFRC and the CDF.

While recognizing the responsibility of the Sierra Leone government to maintain security and protect its population and territory, Amnesty International opposes the provision of assistance to armed forces where it can be reasonably assumed to contribute to the recruitment of children under the age of 18 by the armed forces or other armed groups and their participation in hostilities. Effective mechanisms need to be put in place to monitor the distribution and use of arms and ammunition provided by other countries to the Sierra Leone Army and other forces fighting on behalf of the Sierra Leone government in order to ensure that they do not reach combatants under the age of 18. Continuing military assistance to government forces should be conditional on guarantees being provided that such assistance does not facilitate the recruitment and use of child combatants, or contribute to other human rights violations. If evidence is found that military assistance from other countries facilitates the recruitment and use of child combatants, the international community has a responsibility to ensure that such assistance is suspended.

The UK government has provided substantial assistance to the government of Sierra Leone for training and equipping the new Sierra Leone Army. As a condition for proceeding with training and equipping the Sierra Leone Army, the UK government sought and obtained assurances from President Kabbah in March 1999 that children under the age

of 18 would not be used by the Sierra Leone Army or the CDF and that equipment supplied would be used in accordance with international human rights and humanitarian law.

The UK leads what will become a 90-strong military training team composed of military personnel from several other countries. Some 200 UK military personnel are providing a two-month training for recruits for the new Sierra Leone Army; a first contingent of 1,000 recruits completed their training in July 2000 and a further contingent of 1,000 is now being trained. All have been over 18. In addition, the UK continues to provide arms and ammunition to the Sierra Leone Army.

On 23 May 2000 the UK Ministry of Defence announced that it would be transferring 10,000 self-loading rifles to the Sierra Leone Army to assist in military operations against the RUF. UK government officials stressed at the time that the program to train and equip the Sierra Leone Army would be carried out under strict supervision. It sought to allay fears that arms supplied by the UK government would fall into the hands of children. These fears were fuelled by a photograph published by a UK newspaper of a 14-year-old boy, alleged to be fighting with government-allied forces, with a weapon previously supplied by the UK government. A spokesperson for the UK government said on 24 May 2000 that: "*We have instructed the [(UK] High Commissioner in Sierra Leone to remind the President of his undertaking last year that UK-supplied weapons would be used only by regular soldiers and in accordance with international law.*" During a visit to Sierra Leone in early June 2000 UK Foreign Secretary, Robin Cook, obtained clear and public commitments from the leaders of government-allied force that they would not use child soldiers and that any remaining in their ranks would be disarmed and demobilized.

Further assurances were provided by the UK Secretary of State for Defence, Geoffrey Hoon, following an announcement that further military assistance, including ammunition, was to be transferred to the Sierra Leone Army. He was reported to have said on 12 July 2000 that: "*the ammunition is being provided subject to further reassurances that it will be used only by regular soldiers, in accordance with humanitarian law and human rights standards, and not by child soldiers.*"

A violation of children's rights and a war crime

The recruitment and use of children under the age of 15 as combatants is prohibited by both international human rights law and international humanitarian law.

Invariably, the use of children as combatants violates the rights enshrined in the UN Convention on the Rights of the Child of 1989, ratified by Sierra Leone on 18 June 1990, for example by depriving them of a family environment, education and basic health care.

On 13 January 2000 the UN Committee on the Rights of the Child considered Sierra Leone's initial report on its implementation of the Convention on the Rights of the Child and adopted its concluding observations on 28 January 2000.[9] The Committee expressed "*its deep consternation at the very high numbers of children who have been forcibly recruited into armed forces, including children at least as young as five years old, and who have been forced to commit atrocities against other people, including other children and members of their community*". The Committee added that it was "*deeply saddened by direct effects of the armed conflict on all child victims, including child combatants, and is concerned with the tragic loss of life and severe psychological trauma inflicted upon them*".

Article 1 of the Convention on the Rights of the Child states that:

For the purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

Article 38 of the Convention on the Rights of the Child states that:

1. *States Parties undertake to respect and ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.*

2. *States Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.*

3. *States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of 18 years, States Parties shall endeavour to give priority to those who are oldest.*

4. *In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.*

[9]Concluding Observations of the Committee on the Rights of the Child: Sierra Leone, CRC/C/15/Add.116.

Amnesty International believes that voluntary or compulsory recruitment and participation in hostilities, whether on the part of governments or armed opposition groups, ultimately jeopardize the mental and physical integrity of anyone below the age of 18. For this reason, Amnesty International actively opposes the voluntary or compulsory recruitment, as well as participation in hostilities, of children below 18 by governments or armed opposition groups.

In line with the general age of majority set in the Convention of the Rights of the Child, Amnesty International and five other international non-governmental organizations have been calling for the age of military recruitment - be it voluntary or compulsory - as well as deployment in hostilities to be raised to 18.[10]

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict states:

Article 1	*States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.*
Article 2	*States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.*
Article 4(1)	*Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.*
(2)	*States Parties shall take all feasible measures to prevent such recruitment and use, including adoption of legal measures necessary to prohibit and criminalize such practices.*
(3)	*The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.*

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was adopted by the UN General Assembly on 25 May 2000 and is now open for signature and ratification. The Optional Protocol raises the age for participation in hostilities, for both the armed forces and armed groups, from 15 to

[10]Amnesty International, Human Rights Watch, International Federation *Terre des Hommes*, the International Save the Children Alliance, the Jesuit Refugee Service and the Quaker UN Office (Geneva) launched the Coalition to Stop the Use of Child Soldiers in June 1998. For further information, see *Stop Using Child Soldiers!*, Coalition to Stop the Use of Child Soldiers, second edition published by Rädda Barnen on behalf of the International Save the Children Alliance in November 1998.

18. Eight countries have so far signed the Optional Protocol; only one, Canada, has ratified it. UN Security Council 1314 (2000) on children and armed conflict urged member states to ratify the Optional Protocol.

The African Charter on the Rights and Welfare of the Child, which entered into force on 29 November 1999, is the only regional instrument which specifically prohibits the recruitment and use as combatants of children under 18 in both international and internal armed conflicts. Article 22 (2) requires States Parties to "*take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular from recruiting any child*". Sierra Leone has signed but not yet ratified the African Charter on the Rights and Welfare of the Child.

International humanitarian law - the laws of war - also prohibits the recruitment of children under 15 into the armed forces of governments and armed opposition groups as well as their participation in hostilities.[11]

Article 4 (3)(c) of Additional Protocol II to the Geneva Conventions states that:

Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities.

Francis, now aged 16 and at the interim care centre in Lungi, was abducted by rebel forces in 1998. He told Amnesty International on 15 July 2000: "*As far as the Geneva Conventions are concerned, we should not fight. They have violated our rights. Even the government troops, they some time ago made a mistake of killing the children because the rebels use children.*"

Many of the children who have been abducted and forcibly recruited have also been victims of deliberate and arbitrary killing, beatings and other forms of torture or ill-treatment. Girls have been raped and forced into sexual slavery. These abuses constitute the most serious violations of international humanitarian law. Article 3, common to all four Geneva Conventions, extends to "*armed conflict not of an international character*" (internal armed conflict) fundamental rules for the protection of those taking no active part in hostilities which each party to the conflict is "*bound to apply, as a minimum*". Under the terms of common Article 3, people who take no active part or who have ceased to take an active part in hostilities must be treated humanely in all circumstances. Common Article

[11] Sierra Leone acceded to the Geneva Conventions of 12 August 1949 on 10 June 1965. On 21 October 1986 it acceded to both Additional Protocol I of 8 June 1977 relating to the Protection of Victims of International Armed Conflicts, and Additional Protocol II of 8 June 1997 relating to the Protection of Victims of Non-International Armed Conflicts.

3 specifically prohibits: "*violence to life and person in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment.*" This prohibition is binding not only on government forces but on all parties to internal armed conflicts, including armed political groups.



Former child combatants playing volleyball at the interim care centre at Lungi, July 2000
© Amnesty International

Additional Protocol II of the Geneva Conventions relating to the protection of victims of internal armed conflicts, which develops and supplements common Article 3 of the Geneva Conventions, requires all parties to the conflict to treat humanely every person affected by the conflict. Article 4 of Additional Protocol II prohibits: "*violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment*" of all those not taking a direct part in hostilities or who have ceased to take part in hostilities.

In Resolution 1314 (2000) on children and armed conflict the UN Security Council urged: "*all parties to armed conflict to respect fully international law applicable to the rights and protection of children in armed conflict, in particular the Geneva Conventions*

of 1949 and the obligations applicable to them under the Additional Protocols thereto of 1977, the United Nations Convention on the Rights of the Child of 1989 and the Optional Protocol thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court."

Bringing to justice those who recruit and deploy children as combatants

Although the recruitment of children is unlawful in many countries, prosecution is rare. The majority of the world's nations finalized in July 1998 the Statute of a permanent International Criminal Court which will have jurisdiction to prosecute those charged with war crimes, genocide, aggression and crimes against humanity. Included in the list of war crimes is "*conscripting or enlisting children under the age of 15 years into national armed forces or using them to participate actively in hostilities*" and, in the case of an internal armed conflict, "*conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities*". The International Criminal Court will be formally established once 60 states have ratified the Statute, thereby giving the court jurisdiction over these provisions. Sierra Leone signed the Statute on 17 October 1998 and intends to ratify it shortly.

On 12 February 1999, Carol Bellamy, Executive Director of UNICEF, stated at a UN Security Council Open Briefing on the Protection of Civilians that: "*over 300,000 children, girls as well as boys, have participated as combatants in the 30 most recent conflicts. Many are recruited - others are abducted. Some join simply to survive. And many of these children, some less than 10 years old, have witnessed or taken part in acts of unspeakable violence, often against their own families or communities... Children's recruitment as members of the armed forces, their rape and slaughter, and the targeting of their schools and hospitals are recognized by the International Criminal Court statute for what they are: heinous atrocities.*"

The UN Security Council, in Resolution 1261 (1999) of 25 August 1999 on children and armed conflict, called on all parties concerned to comply strictly with their obligations under international law, in particular the Geneva Conventions, the Additional Protocols, and the Convention on the Rights of the Child, and stressed "*the responsibility of all States to bring an end to impunity and their obligation to prosecute those responsible for grave breaches of the Geneva Conventions of 12 August 1949*".

This was reiterated by the UN Security Council in Resolution 1314 (2000) in which it emphasized the responsibility of all States: "*to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes, and, in this regard, stresses the need to exclude these, where feasible, from amnesty provisions and relevant legislation.*" In a statement issued on 11 August 2000 when the resolution was

adopted, UNICEF said that it: "*underlines the urgent need for an end to impunity for those who commit crimes against children.*"

Although the use of child combatants under 15 violates both international human rights and humanitarian law, no one in Sierra Leone has yet been brought to justice for these crimes. The peace agreement signed in July 1999 provided an amnesty for all activities undertaken in pursuit of the conflict, including human rights abuses, even when amounting to crimes against humanity or war crimes. The UN at the time added a disclaimer to the agreement that the amnesty would not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law. Although the amnesty did not apply to crimes committed after 7 July 1999, human rights abuses against civilians, including deliberate and arbitrary killings, mutilation, rape, abduction and forcible recruitment continued to be committed with impunity.

By June 2000, with the lack of implementation of key provisions of the peace agreement, the resumption of hostilities and the arrest of the leader of the RUF, Foday Sankoh, and other leading members of the RUF, initiatives by the authorities began to address the issue of impunity. On 12 June 2000 the government wrote a letter to the UN Secretary-General requesting assistance from the UN in establishing a special court to try Foday Sankoh and other senior members of the RUF for "*crimes against the people of Sierra Leone and for the taking of UN peace-keepers as hostages*".

On 14 August 2000 the UN Security Council passed Resolution 1315 (2000) on the creation of an independent special court. Amnesty International has urged that the special court try all those alleged to be responsible for crimes under international law, including crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as certain grave crimes under national law, throughout the period since the conflict began in 1991. This would include the forcible recruitment and deployment of children under 15. Although forces of the RUF have been responsible for systematic and widespread abuses throughout the conflict, those of the AFRC, the Sierra Leone Army and the CDF have also been responsible for gross human rights abuses, including violations of international humanitarian law. Those allegedly responsible for these crimes, whether they be members of the RUF, the AFRC, the Sierra Leone Army and regardless of their current political position or allegiance, must be brought to justice.[12]

[12]For further information on Amnesty International's recommendations for ending impunity in Sierra Leone, see *Sierra Leone: The United Nations Security Council should strengthen the independent special court to prosecute perpetrators of human rights abuses* (AI Index: AFR 51/66/00), 4 August 2000, and *Sierra Leone: Ending impunity - an opportunity not to be missed* (AI Index: AFR 51/60/00), 26 July

Child combatants themselves will not be brought to trial before the International Criminal Court, as the Statute bars it from exercising jurisdiction over any person who was under 18 at the time that the crime was committed. Child combatants in Sierra Leone have been responsible for gross human rights abuses; many of the worst atrocities have been carried out by children who were abducted and subjected to horrifying acts of violence. In a situation where crimes have been committed by children terrorized and brutalized into submission, complex questions about their criminal responsibility are raised.

While recognizing the need for justice and accountability, former child combatants must be treated in accordance with the principles of juvenile justice, which place the best interest of the child as a priority, recognize the special factors and needs of childhood, and place an emphasis on rehabilitation and reintegration rather than punishment. In conformity with the provisions of the Convention of the Rights of the Child, arrest, detention or imprisonment of a child must be in accordance with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. Any child who is detained should be held separately from adults.

The Sierra Leone government's responsibility to end the use of child soldiers

The government of Sierra Leone has made repeated commitments to demobilize all combatants under the age of 18, to raise the legal age of military recruitment to 18 and to fulfil its obligations under the UN Convention on the Rights of the Child.

Considering Sierra Leone's initial report in January 2000, the UN Committee on the Rights of the Child expressed its deep concern about the massive participation of children associated with fighting forces in Sierra Leone, either as combatants or in other roles. The Committee also noted that there is no minimum age defined by national legislation for voluntary recruitment, when the consent of a specified adult party is given. The Committee welcomed the government's intention to pass legislation raising the minimum age of recruitment to 18 and urged the government to move quickly towards passing this legislation and to ensure that the new legislation was enforced.

On 24 May 2000, following reports that children were either fighting with government-allied forces or were being allowed to remain in front-line positions, the government issued a statement reiterating its position on the recruitment of child soldiers (see appendix A).

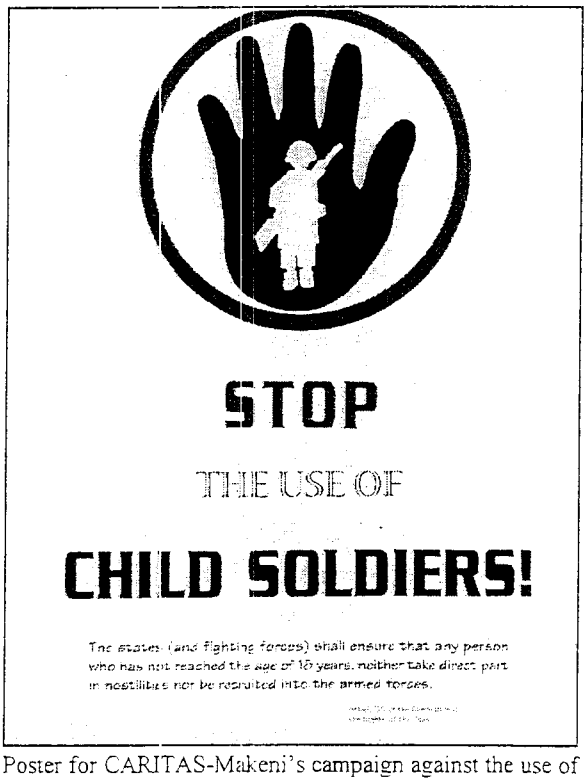
2000.

The government stated that this practice was "*totally against government policy which stipulates that 18 years is the minimum age for bearing arms in Sierra Leone*". The statement continued: "*The Acting Chief of Defence Staff has been instructed to ensure that all those below the age of 18 currently involved in fighting on the side of the government should be immediately withdrawn, demobilized and handed over to competent institutions for rehabilitation. Henceforth, any commander who allows a child below 18 years to carry arms within his area of operations or allows children to remain in areas of active conflict will face severe disciplinary action.*" It is not clear, however, what measures have been taken to implement these commitments.

On the same day Johnny Paul Koroma, leader of the AFRC, issued statements on behalf of the AFRC and the Commission for the Consolidation of Peace which he heads. In these statements Johnny Paul Koroma "*warned all warring factions to desist from recruiting child soldiers*" and stated his strong opposition to the recruitment of child soldiers by both government-allied forces and rebel forces.

On 22 March 2000 CARITAS-Makeni launched a campaign to end the use of child combatants. Secondary school children marched through the centre of Freetown and speakers representing the government, UN agencies and non-governmental organizations called publicly for an end to the use of child combatants.

A Declaration of Commitment to the Release of Child Combatants and Child Abductees by the Various Factions was drafted as part of the campaign and signed by Chief Hinga Norman, Deputy Minister of Defence and National Coordinator of the CDF, Johnny Paul Koroma, leader of the AFRC and Chairman of the Commission for the Consolidation of Peace, and Colonel Tom Carew, acting Chief of Defence Staff. RUF leader Foday Sankoh declined to sign the



Poster for CARITAS-Makeni's campaign against the use of child soldiers © Amnesty International

declaration (see appendix B). The declaration made the following commitments:

Article 1 *The parties hereto shall forthwith facilitate the disarmament of all child combatants, that is to say, children under the age of 18 years and bearing arms and shall take immediate steps to prevent the use of child combatants in any manner whatsoever.*

Article 2 *The parties hereto shall in tandem with the actions contemplated in Article 1 above, release, free and cause to be released, all children and other persons abducted both during the conflict and after the signing of the Lomé peace accord.*

Article 3 *The parties shall in utmost good faith facilitate the return and/or handing over of child combatants and abductees to UNAMSIL, disarmament, demobilization and reintegration camps and other humanitarian agencies by 15 May 2000 (the International Day of the Family), to enable them to receive care and attention and ultimately to be reunited with their families and relatives.*

Article 4 *The parties in this regard undertake to cooperate with UNAMSIL, all agencies concerned with the welfare of children and the war affected and shall assiduously work towards the attainment of goals enumerated in the Declaration.*



Demonstration by schoolchildren to launch CARITAS-Makeni's campaign against the use of child soldiers in Freetown, 22 March 2000 © Amnesty International

Following the signing of the peace agreement in July 1999 Foday Sankoh became the Chairman of the Commission for the Management of Strategic Resources, National Reconstruction and Development, and assumed the protocol rank of Vice-President. Other RUF members also became part of the government by being appointed to ministerial and deputy ministerial positions. The RUF therefore became obliged not only to implement the provisions of the peace agreement which it had signed, but also to implement the government's commitments under the Convention on the Rights of the Child.

Article XXI of the peace agreement stated specifically that all prisoners of war and non-combatants should be released immediately and unconditionally by both parties. This would include the thousands of civilians, including children, who had been abducted by rebel forces. Article XXX of the peace agreement stated that the government of Sierra Leone should give particular attention to the issue of child combatants and should mobilize resources, both within Sierra Leone and from the international community, to address the special needs of former child combatants in the process of disarmament, demobilization and reintegration.

Foday Sankoh frequently denied that the RUF had abducted children. In a meeting with Amnesty International representatives on 25 March 2000 he said that the RUF had not abducted any children but had "rescued" them and was not holding any children captive. He was arrested on 17 May 2000, after more than 20 civilians were shot and killed by his forces during a demonstration outside his house in Freetown on 12 May 2000, and remains in detention. Other prominent members of the RUF are also detained. They are expected to be charged with a number of offences, including crimes amounting to violations of international humanitarian law.

In late April 2000, just before the resumption of hostilities, the government of Sierra Leone agreed to establish a National Commission for War-Affected Children in order to ensure that children's concerns are addressed at the highest political levels. This agreement was reached during a visit to Freetown on 29 and 30 April 2000 of the Special Representative of the UN Secretary-General for Children and Armed Conflict, Olara Otunnu, and the Canadian Minister of Foreign Affairs, Lloyd Axworthy.

Moves by the international community to end the use of child soldiers

The plight of children in Sierra Leone has been highlighted repeatedly by the international community and commitments have been made to assist the children whose lives have been blighted by nine years of conflict. In the Eighth Report of the UN Secretary-General on the

UN Observer Mission in Sierra Leone (then known as UNOMSIL) of 23 September 1999, the Secretary-General stated that "*the plight of children is among the most pressing challenges currently facing Sierra Leone*".[13]

On 25 August 1999 the UN Security Council adopted Resolution 1261 (1999) on children and armed conflict. The Security Council urged States and all relevant parts of the UN: "*to intensify their efforts to ensure an end to the recruitment and use of children in armed conflict in violation of international law through political and other efforts, including promotion of the availability of alternatives for children to their participation in armed conflict*"; and also "*to facilitate the disarmament, demobilization, rehabilitation and reintegration of children used as soldiers in violation of international law.*"

At a debate on children and armed conflict at the UN Security Council on 26 July 2000, Carol Bellamy, Executive Director of UNICEF, said that many of the values, principles and concrete commitments enshrined in the Convention on the Rights of the Child remained unfulfilled, as did those of Resolution 1261 (1999). The Special Representative of the UN Secretary-General for Children and Armed Conflict, Olara Otunnu, said that the use of child combatants must be curbed by mobilizing political pressure, addressing the economic, social and political factors leading to the use of child combatants and increasing capacity on the ground for receiving and rehabilitating child combatants.[14] Commenting on UN Security Council 1314 (2000) on children and armed conflict which was passed of 11 August 2000, UNICEF said that: "*The council has reminded the world that it is both immoral and illegal to make children the victims and protagonists of war... It has helped to maintain awareness of the unacceptability of turning children into soldiers, of forcing millions of children and women to flee their homes, and of subjecting children to forced labour, sexual abuse and the pressure to commit atrocities.*"

Olara Otunnu has visited Sierra Leone on several occasions, most recently in April 2000, and has made recommendations for a special program for assisting children affected by the conflict. Following a visit in late August and early September 1999, he formulated a 15-point agenda for action for children affected by the conflict, which included recommendations in respect of: ending the recruitment and use of child combatants; access to and release of abducted children; demobilization of child combatants; and the establishment of a National Commission for Children in Sierra Leone.

[13]Eighth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1999/1003.

[14]SC/6985, Security Council holds debate on children and armed conflict, 26 July 2000.

UNAMSIL, whose current full strength is 13,000, but which is expected to be increased to 16,500 peace-keeping troops, was deployed to assist with the implementation of the peace agreement, including the disarmament, demobilization and reintegration of former combatants. UN Security Council Resolution 1313 (2000) of 4 August 2000 extended UNAMSIL's mandate until 8 September 2000 and requested the UN Secretary-General to make recommendations for the restructuring and strengthening of UNAMSIL.

The process of disarmament, demobilization and reintegration was first hampered by the failure of large numbers of combatants to disarm and demobilize and then halted by the resumption of hostilities in May 2000. The human rights section of UNAMSIL is providing training in human rights, including children's rights, and international humanitarian law for peace-keeping troops. Since the peace-keeping force comprises troops from several countries with different training and experience, it is essential to ensure that adequate time and resources are devoted to comprehensive human rights training, including in children's rights. A child protection adviser was appointed to UNAMSIL in February 2000 and the UNAMSIL human rights section includes human rights officers with specific responsibilities for children's rights.

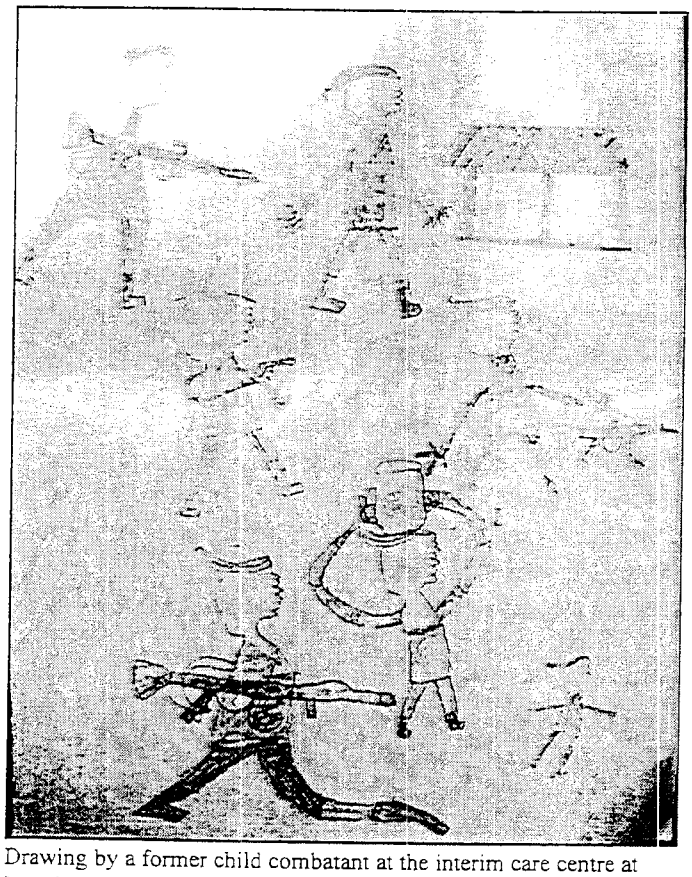
Resolution 1261 (1999) of 25 August 1999 on children and armed conflict specifically requested the UN Secretary-General to ensure that: "*personnel involved in United Nations peacemaking, peacekeeping and peace-building activities have appropriate training on the protection, rights and welfare of children.*" It urged States and relevant international and regional organizations to ensure that appropriate training was included in their program for personnel involved in similar activities.

At the end of the African Conference on the use of Children as Soldiers, held in Maputo, Mozambique, from 19-22 April 1999, participants adopted a declaration against the use of children as combatants. The Declaration calls on all African states to end the recruitment of all children under 18 into the armed forces. The Declaration also condemned the use of children by armed opposition groups and called upon these groups to end the recruitment of children and to demobilize or release into safety children already being used as combatants.

On 27 and 28 April 2000 a West African ministerial conference on war-affected children was held in Accra, Ghana, sponsored and co-hosted by the governments of Ghana and Canada. It brought together ECOWAS foreign ministers, as well as civil society organizations, donor governments, UN representatives, including Olara Otunnu, and children affected by conflict in the region. The primary objective of the event was to mobilize concrete action for child protection in a region whose children have been acutely affected by armed conflict. The conference focused on practical ways to implement and

support international instruments of child protection, such as the African Charter on the Rights and Welfare of the Child and the Convention on the Rights of the Child.

At the end of the conference the delegates adopted and signed a West African Declaration on War-Affected Children which is expected to lead to commitments to: implementation of existing international, regional and local norms; ratification of the Statute of the International Criminal Court; incorporation of child rights and civilian protection into military training; and implementation of early warning/response systems to prevent armed conflict. At the conclusion of the conference, the Canadian Minister of Foreign Affairs said: "*The protection of children affected by war and the promotion of their well-being is a moral, political, social and economic imperative.*" The outcome of the conference will be discussed and developed at an International Conference on War-Affected Children to take place in Winnipeg, Canada, in September 2000.



Drawing by a former child combatant at the interim care centre at Lungi © Amnesty International

While some countries have made commitments towards providing assistance to children affected by the conflict and others have made significant contributions towards the disarmament, demobilization and reintegration of former combatants, the attention of the international community should continue to focus on the needs of former child combatants, both on securing their disarmament and demobilization and also providing the assistance they need to be rehabilitated and reintegrated into their families and communities. All these initiatives will require sustained commitment and resources from the international community.

Amnesty International's recommendations

Amnesty International is urging that the Sierra Leone government, the leaders of the RUF and the international community implement swiftly and effectively the following recommendations in order to end the recruitment and use of child combatants in Sierra Leone and to meet the particular needs of former child combatants.

Recommendations to the Sierra Leone government, including the Chief of Defence Staff, the Deputy Minister of Defence and the leader of the AFRC:

- the highest priority should be given to the immediate disarmament, demobilization and reintegration of child combatants;

- prompt and effective measures should be taken by the government to ensure that no child under the age of 18 is recruited for military service, including by passing legislation raising the minimum age for military recruitment to 18;

- the Chief of Defence Staff should ensure that there is effective chain of command over all forces fighting on behalf of the government to ensure the immediate demobilization and disarmament of child combatants currently serving in these forces and to ensure that no child under the age of 18 is recruited or used in the future;

- the leader of the AFRC should give immediate effect to his condemnation of the recruitment and use as combatants of children under the age of 18 by instructing AFRC forces to release all children, both those used as child combatants or in any way associated with AFRC forces;

- the Deputy Minister of Defence and National Coordinator of the CDF should immediately and unequivocally denounce the recruitment and use of children under the age of 18 by the CDF and instruct all CDF leaders to immediately demobilize and disarm all child combatants serving with the CDF and to cease any further recruitment;

- the government of Sierra Leone should take steps to implement the recommendations of the UN Committee on the Rights of the Child, including by identifying priorities relating to child combatants and defining strategies to implement those priorities;

- the government should ratify without delay the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the African Charter on the Rights and Welfare of the Child, and the Statute of the International Criminal Court;

- the government should take effective measures to end impunity and prosecute those responsible for crimes under international law including violations of international humanitarian law, such as the abduction and forcible recruitment of children under the age of 15.

Recommendations to the leaders of the RUF:

- leaders of the RUF should immediately and publicly condemn and prohibit the recruitment and use of child combatants and RUF forces should immediately cease forcible or voluntary recruitment and use of children under the age of 18;

- RUF forces should be instructed to release immediately all children either used as combatants or in any way associated with fighting forces;

- leaders of the RUF should make a public commitment to observing international humanitarian law, in particular Additional Protocol II of the Geneva Conventions of 1949;

- RUF forces should be instructed to end deliberate and arbitrary killings, rape, sexual abuse and other forms of torture or ill-treatment of all captured civilians, including children;

- RUF forces should also allow immediate, full and unhindered access by child protection agencies and UNAMSIL personnel supervising the disarmament and demobilization program to children who continue to be held;

- RUF forces should allow immediate, full and unhindered access by humanitarian agencies, both national and international, to all civilians, including children, who continue to be held, and the delivery of humanitarian assistance.

Recommendations to the international community:

- the international community should repeat its condemnation of the continuing recruitment and use of children as combatants in Sierra Leone which constitute a crime under international law and a violation of both international human rights and international humanitarian law;

- the highest priority should be given to implementing commitments made to end the use and recruitment of child combatants, including by taking concrete measures to implement UN Security Council Resolution 1314 (2000) of 11 August 2000;

- in all efforts to resolve the political and security crisis in Sierra Leone, including any reconsideration or renegotiation of the peace agreement signed in Lomé, Togo, on 7 July 1999, the needs of children affected by the internal armed conflict, including child combatants, should be given the highest priority;

- all governments should take all possible measures to end military transfers, including arms, ammunition, combatants and training, to rebel forces in Sierra Leone and enact legislation to prevent the trade in diamonds from rebel-held areas of Sierra Leone from facilitating the provision of military assistance to rebel forces;

- those governments which are providing military assistance, including training, arms and ammunition, to the Sierra Leone Army and other forces fighting on behalf of the government should first ensure that stringent safeguards are in place to ensure that this assistance does not facilitate or encourage violations of international human rights and humanitarian law, including the recruitment and use of child combatants; these safeguards should also include effective mechanisms to ensure that arms do not reach combatants under the age of 18; if evidence is found that such assistance facilitates the recruitment and use of child combatants, such assistance should be suspended;

- the international community should provide full and sustained support and assistance to relevant UN agencies and non-governmental organizations, both national and international, in order to strengthen initiatives for child protection, prevent further recruitment and use as combatants of children under the age of 18 and assist the disarmament, demobilization and reintegration of former child combatants, including by addressing their social, psychological and material needs;

- the child protection adviser and human rights section of UNAMSIL must be given full political support and adequate resources in order to undertake their work in relation to child protection;

- the UN should ensure that all troops participating in the UNAMSIL peace-keeping force are fully trained in international human rights and humanitarian law, including children's rights, and that they have training in addressing the specific needs of child combatants;

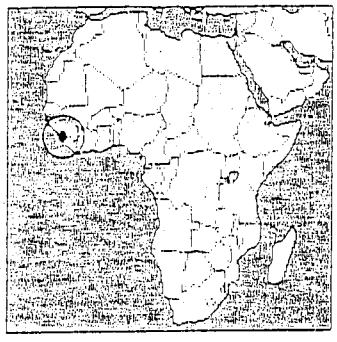
- the international community should ensure that those responsible for grave breaches of international human rights and humanitarian law, including the abduction and forcible recruitment of children, should be brought to justice; this should include provision of the necessary expertise and practical assistance for the independent special court to be established under UN Security Council Resolution 1315 (2000) of 14 August 2000.

1790

© Copyright Amnesty International

annual report 99

AFRICA
regional country index



AI REPORT 1999:
SIERRA LEONE

The Armed Forces Revolutionary Council (afrc) continued to detain prisoners of conscience without charge or trial and was responsible for torture and extrajudicial executions. After their removal from power in February, the afrc and the armed opposition Revolutionary United Front (ruf) killed and mutilated thousands of unarmed civilians. A civilian militia supporting the government of President Ahmad Tejan Kabbah, the Civil Defence Forces (cdf), was also responsible for extrajudicial executions and torture, although on a significantly smaller scale. Hundreds of people alleged to have collaborated with the afrc and ruf were detained without charge by the reinstated government. Thirty-four soldiers were sentenced to death by a court martial which did not meet international standards for fair trial; 24 were executed. Forty-two civilians and the leader of the ruf were also sentenced to death.

The elected government of President Kabbah was reinstated after the afrc was forced from power in February by West African forces deployed in Sierra Leone _ the Economic Community of West African States (ecowas) Cease-fire Monitoring Group (ecomog). The afrc had seized power in a military coup in May 1997 and was joined by the ruf (see *Amnesty International Report 1998*).

During the ecomog offensive on Freetown, the capital, in February, afrc and ruf forces deliberately and arbitrarily killed many civilians. Several hundred others were injured or killed as a result of shelling by both sides, which in some cases appeared to be indiscriminate.

Following their removal from power and throughout the rest of the year, afrc and ruf forces embarked on a systematic campaign of killing, rape, mutilation, abduction and destruction in the east and north of the country. By December rebel forces had advanced towards Freetown and an attack on Freetown appeared imminent. The government of Liberia was widely reported to be providing combatants, arms and ammunition to rebel forces.

In late April President Kabbah announced that the cdf, composed of traditional hunters such as the *kamajors*, had been placed under

the command of ecomog.

On 10 March President Kabbah proclaimed a state of emergency, subsequently ratified by parliament, which included provisions for indefinite detention without charge or trial. Some 2,000 soldiers and civilians suspected of collaboration with the afrc and ruf were detained following the ecomog intervention. Many were suspected of human rights abuses.

In May the government established an independent committee of investigation to review the cases of several hundred detainees and recommend whether they should be charged or released.

Implementation of a comprehensive plan for disarmament, demobilization and reintegration of former combatants, including an estimated 5,000 child soldiers, from the ruf, cdf and national army, was limited because of continuing conflict.

The un and other intergovernmental organizations repeatedly condemned as gross breaches of international humanitarian law the atrocities committed against civilians by rebel forces. The Special Representative of the un Secretary-General for Children and Armed Conflict, following a visit to Sierra Leone in May, called for a more vigorous and concerted response by the international community to the needs of children affected by the conflict.

In July the un Security Council established a peace-keeping operation, the un Observer Mission in Sierra Leone (unomsil). unomsil human rights officers consistently investigated and reported human rights abuses, monitored treason trials and undertook several other important initiatives which contributed to the protection of human rights.

On 30 July the un Secretary-General convened a special conference in New York, usa, attended by representatives of the government of Sierra Leone, intergovernmental organizations including the un, the Organization of African Unity, ecowas, the European Union and the Commonwealth, and humanitarian organizations. The conference agreed to establish an international contact group to coordinate support for efforts to restore peace, stability, democracy and human rights in Sierra Leone. It first met in November.

While in power, the afrc and ruf committed widespread human rights violations, including detention without charge or trial, torture and extrajudicial executions. Among prisoners of conscience detained by the afrc were Sylvanus Kanyako, a journalist on the *Herald Guardian*, and David Kamara, its proprietor, who were arrested in January, held without charge for three weeks, and tortured.

In mid-January in Kenema, Eastern Province, the ruf detained several community leaders accused of supporting the *kamajors*. They were repeatedly beaten and one died as a result. Some were released, but several others remained held, including B.S. Massaquoi, Chairman of the town council. He was killed by ruf forces in February, and his mutilated body was reported to have been found with 35 others in a mass grave near Kenema the following month.

After they were removed from power, afrc and ruf forces killed thousands of unarmed civilians, including many women and

1792

children, in the east and north of the country. The exact number of those killed remained unknown. The town of Koidu, in Kono District, Eastern Province, was virtually destroyed by rebel forces in April, and more than 650 bodies were reported to have been found there. More than 200 unarmed civilians were killed during an attack on Yifin, a village in Koinadugu District, Northern Province, in late April.

As many as 4,000 men, women and children suffered mutilation, crude amputations of their hands, arms, legs, lips or ears; others suffered lacerations and gunshot wounds. Survivors of attacks recounted that many others from their villages had been killed or had fled into the bush where many died of their injuries. They reported that villagers had been rounded up and locked in houses which were then set alight. Women and girls were systematically raped or subjected to other forms of sexual assault. Men who refused to rape members of their own families had their limbs amputated as punishment. Children were ripped from their mothers' backs and killed with machetes. Among the victims who were evacuated to Freetown was a 15-year-old schoolboy from Koidu who had severe lacerations to his right ankle after an attempted amputation; about 50 people with him were killed when they were attacked on 1 May.

Reports of atrocities declined significantly during July, but from August onwards, atrocities by rebel forces in Northern and Eastern Provinces escalated. In early September, for example, at least 40 civilians, including children, were reported to have been killed in Kamalu, Bombali District, Northern Province. Some of those killed had first been tortured and sexually assaulted and others were burned alive. Some 50 civilians were reported to have been abducted in Kamalu.

Hundreds of civilians, in particular children and young men and women, were abducted during attacks by rebel forces. They were forced to fight and used as forced labour; women and girls were forced into sexual slavery. All those abducted were at risk of ill-treatment and deliberate and arbitrary killing. As many as 10,000 civilians in rebel-controlled areas, in particular in Kailahun District, Eastern Province, were effectively held captive.

An estimated 570,000 civilians fled to neighbouring countries to escape the violence or became internally displaced. Many remained at risk of killing, mutilation and abduction. In September rebel forces attacked a refugee camp at Tomandu in Guinea, killing at least seven women refugees and three Guineans and forcing others to carry looted goods across the border. In November, 20 refugees in Tomandu who crossed the border in search of food had their hands cut off by rebel forces. The un High Commissioner for Refugees subsequently moved thousands of refugees from Tomandu to camps further inside Guinea.

In mid-February several foreign humanitarian aid workers were captured and held hostage for two weeks by ruf forces who demanded the release of their leader, Foday Sankoh, who had been detained in Nigeria since March 1997. An Italian priest abducted in Kamalu by rebel forces in November remained held hostage at the end of the year.

The cdf were responsible for extrajudicial executions and torture and ill-treatment of captured combatants and real or suspected supporters of the afrc and ruf. afrc soldiers were summarily executed by *kamajors* in Koidu in February; some were

decapitated, others were doused with petrol or had tyres placed around them and were burned alive. At least 50 people were extrajudicially executed in Kenema in February. Human rights violations by the cdf decreased significantly after June, apparently following intervention by the government and ecomog.

There were some reports that ecomog forces were responsible for illegal detention of civilians and torture and ill-treatment of combatants during surrender or capture. Reports also suggested that ecomog forces handed over some captured rebels to the cdf who then summarily executed them. unomsil also expressed concern that ecomog forces did not consistently respect international humanitarian law in relation to the protection of non-combatants in areas affected by conflict.

Hundreds of people alleged to have collaborated with the afrc and ruf were held without charge under legislation allowing indefinite detention without charge or trial. By December about 100 detainees had been released unconditionally and others were released either on bail or pending further investigation after their cases were reviewed by the independent committee of investigation; in other cases the committee concluded that there was evidence of criminal offences.

In April, 59 civilian prisoners, one of whom later died in detention, were charged with treason and some also with murder and arson. Three separate trials began the following month before the High Court in Freetown. Sixteen defendants were convicted and sentenced to death in August, 11 in October and 15 in November. Seven were sentenced to terms of imprisonment and the others were acquitted. Appeals against conviction and sentence had not been heard by the end of the year. Another 22 civilians were charged with treason in December.

ruf leader Foday Sankoh was returned to Sierra Leone from Nigeria in July and in September brought to trial for treason and other offences. Efforts by the government to obtain legal representation for Foday Sankoh were unsuccessful because lawyers feared reprisals. In October he was convicted and sentenced to death. His appeal against conviction and sentence, during which he was to be represented by lawyers from abroad, had not commenced by the end of the year.

A court martial of 37 soldiers, including prominent afrc members, charged with treason and other offences began in late July. In October, 34 were convicted and sentenced to death; the others were acquitted. Despite a 1975 Appeal Court ruling that the death penalty for treason was discretionary, the court martial refused to accept arguments that the death penalty was not mandatory for these offences. The court martial allowed no right of appeal to a higher jurisdiction, contrary to international standards for fair trial. The convicted soldiers appealed to a special committee for the prerogative of mercy, chaired by the President. Despite calls for clemency by the international community and submissions on behalf of 18 of those convicted to the un Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights, 24 were publicly executed a week later. The others had their sentences commuted to life imprisonment.

In December, two journalists, Winston Ojukutu-Macaulay and Sylvester Rogers, both *British Broadcasting Corporation* correspondents, were arrested. Winston Ojukutu-Macaulay was charged with publication of false news for allegedly publishing false

1794

information about hostilities and failing to check his stories with ecomog, and released on bail. A third journalist was also sought.

Prisoners and detainees were held in conditions which in some cases amounted to cruel, inhuman and degrading treatment. Following large-scale detentions after February, the Central Prison, Pademba Road, in Freetown was severely overcrowded. Conditions were particularly harsh in prisons outside the capital and at the headquarters of the police Criminal Investigation Department and the Central Police Station in Freetown.

Before the afrc and ruf were removed from power, Amnesty International repeatedly appealed for the release of prisoners of conscience and an end to detention without charge or trial, torture and ill-treatment, and extrajudicial executions.

In late February Amnesty International requested that those detained for alleged collaboration with the afrc and ruf be charged and brought to trial in accordance with international standards with a minimum of delay and that those not to be charged be released. The Minister of Justice and Attorney General responded that detainees included prisoners of war and those who had surrendered for their own safety and that criminal investigations were proceeding.

In early May Amnesty International publicized escalating atrocities by rebel forces. It called for an end to human rights abuses against civilians and for the urgent establishment of an independent human rights presence in the country.

An Amnesty International delegation visited Sierra Leone in May and met government officials and members of the military, the legal profession and non-governmental organizations, as well as victims of human rights abuses.

Amnesty International addressed a report to the un special conference in July _ *The United Nations special conference on Sierra Leone: The protection of human rights must be a priority for the international community*. The report called for an end to impunity as a prerequisite for lasting peace and recommended: that unomsil be given the necessary resources to monitor violations of international humanitarian and human rights law; that particular attention be given to the needs of children affected by the conflict; and that assistance be provided to create effective institutions for the protection and respect of human rights.

An Amnesty International representative observed the early stages of the court martial of afrc members in late July. Amnesty International repeatedly urged the government to allow a judicial appeal procedure from the court martial.

Amnesty International appealed to President Kabbah to commute all death sentences and in October condemned the execution of the 24 soldiers.

In November Amnesty International published *Sierra Leone: 1998 _ a year of atrocities against civilians*, which documented in particular the gross human rights abuses committed by rebel forces and made specific recommendations to the government, rebel forces and the international community for ending human rights abuses and ensuring the protection of human rights in the future.

1795

COPYRIGHT NOTICE: This report is an extract from the Amnesty International Report 1998 and is copyright (c) Amnesty International Publications. You may not alter this information, repost or sell it without the permission of Amnesty International. The complete edition of the Report, covering more than 140 countries and territories,is published in several languages and is available from Amnesty International sections or, in case of difficulty, from the International Secretariat. Additional places where you can purchase copies of the Annual Report can be found here.

1999 Annual Report Index | Country Index

Library

The State Department web site below is a permanent electro
information released prior to January 20, 2001. Please see y
material released since President George W. Bush took offic
This site is not updated so external links may no longer func
us with any questions about finding information.

NOTE: External links to other Internet sites should not be c
endorsement of the views contained therein.

U.S. Department of State

Sierra Leone Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected president and a unicameral legislature; however, this democratically elected Government did not control the whole country effectively at any time during the year. In March the Government, led by President Ahmed Tejan Kabbah, who had been elected in 1996, was returned to power after 9 months in exile. The President's party, the Sierra Leone People's Party, has had a majority in the Parliament since 1996. The Government's return followed the February ouster of the Armed Forces Revolutionary Council (AFRC) and Revolutionary United Front (RUF), which had overthrown the Kabbah Government in 1997 and assumed power. The RUF had conducted an insurgency against successive governments; the AFRC originated in a 1997 coup by elements of the Government's armed forces. The AFRC and RUF junta forces were defeated and driven out of Freetown by forces of the Economic Organization of West African States (ECOWAS) Monitoring Group (ECOMOG), led by the armed forces of Nigeria. In February and March there was fierce fighting throughout the country as ECOMOG and members of the Civil Defense Forces (CDF) continued to fight remnants of the AFRC and RUF, particularly in the larger cities outside the capital. However, government and ECOMOG forces failed to gain control of the whole country, and the civil conflict continued throughout the year. In December AFRC AND RUF rebels infiltrated Freetown and, at year's end, controlled areas close to the capital. The officially independent judiciary functioned only in part of the country and only during part of the year, but demonstrated substantial independence in practice when it did function.

Among the Government's security forces, the police officially had primary responsibility for internal order. However, due to the continuing insurgency, the newly constituted army, the CDF and ECOMOG

shared de facto responsibility with the police in security matters. Government forces, particularly poorly trained CDF units that included child soldiers, committed numerous serious human rights abuses, and ECOMOG forces also committed some abuses.

Sierra Leone is an extremely poor country, with a market-based economy and a per capita income of less than $100 per year. It is estimated that only one-fifth of adults are literate. Although it is rich in natural resources and minerals (particularly diamonds, gold, rutile, and bauxite), and has large areas of fertile land suitable for farming, the junta period and the continuing insurgency have brought normal extraction and agricultural production almost to a standstill. There is little manufacturing, and there are few exports; approximately 70 per cent of the Government's budget comes from external assistance. Years of corruption and mismanagement have resulted in a crumbling infrastructure; many schools, hospitals, government buildings, roads, and bridges have been damaged or destroyed in the fighting and through neglect.

The Government's human rights record was characterized by serious problems. Some members of the security forces, including the Civil Defense Forces, committed extrajudicial killings, and tortured and beat suspected rebels and rebel collaborators. Prison and jail conditions remained harsh and sometimes life-threatening. Government forces sometimes interfered with humanitarian relief efforts. The Government arrested and detained persons under emergency decrees approved by Parliament that authorized indefinite detention without trial. Pretrial detention often was prolonged. The Government restricted freedom of speech and of the press, and harassed, arrested and detained journalists for their coverage of security-related issues. Government forces limited movement within the country due to the civil conflict. Violence and discrimination against women, and prostitution remained problems. CDF units inducted child soldiers and female genital mutilation continued to be a widespread practice. Discrimination against ethnic minorities persisted. There was some forced labor in rural areas. Child labor persists. ECOMOG forces operating in support of the Government occasionally beat and detained noncombatants. In the period directly following the removal of the junta from power, there was a significant number of vigilante-style extrajudicial killings by citizens; upon being restored to power, the Government, with EGOMOG support, acted forcefully to end these killings.

Throughout the year, AFRC and RUF rebels committed numerous egregious abuses, including brutal killings, severe mutilations, and deliberate dismemberments, in a widespread campaign of terror against the civilian population known as "Operation No Living Thing." While still in power in January and February, junta forces continued their previous pattern of abuse, which included assaults and other acts of intimidation against political opponents, nongovernmental and other civic and humanitarian organizations, and citizens. During the fighting for Freetown in February, their retreat to the interior in March, and their advance on the capital in December, junta forces were responsible for killings, kidnapings, mutilation, rape, and destruction of property. One particularly vicious practice was cutting off the ears, noses, hands, arms, and legs of noncombatants who were unwilling to cooperate with or provide for the insurgents. The victims ranged from small children to elderly women; in some cases, one limb was cut off, in others two limbs, typically two hands or arms. Rebel forces also detained, decapitated, burned alive, and inflicted bullet and machete wounds on civilians; many died from their wounds before they could obtain any form of treatment. The rebel forces abducted missionaries and aid workers, ambushed humanitarian relief convoys and raided refugee sites. The junta forces continued the long-standing practice of abducting villagers and using them as forced laborers, as sex slaves, and as human shields during skirmishes with Government and ECOMOG forces. Boys were forced to become child soldiers. Rebel forces used rape as a terror tactic against women. Rebel atrocities prompted the internal displacement of hundreds of thousands of civilians. As many as half a million persons fled to neighboring countries to escape the civil conflict, and remain outside the country on their own or in refugee camps, primarily in Guinea and Liberia.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were persistent reports that some elements of the CDF refused to take prisoners and, after torture or other acts of physical abuse and interrogation, often killed captured insurgents and AFRC and RUF sympathizers. In November a senior CDF spokesman confirmed that the CDF had executed seven individuals who had been searching illegally for diamonds in the Tongo fields in the eastern part of the country, an area long contested by both the CDF's Kamajoh militia and the RUF.

In the immediate aftermath of the overthrow of the rebel junta in February, there were dozens of reports of torture and vigilante-style executions in Freetown, Bo, Kenema, and other cities. Some of these abuses were committed by citizens in reprisal against junta members and their alleged supporters. Victims were stabbed, beaten, and in some cases burned to death; there is no evidence that any of those responsible for the deaths were ever formally charged or prosecuted. AFRC and RUF forces also committed such abuses as they were driven out of their strongholds.

Many of the hundreds, if not thousands, of civilians killed by AFRC AND RUF insurgent forces in the conflict were executed deliberately for political motives. In March RUF leader Sam Bockarie summarily executed 10 prominent residents of Kenema, including former cabinet minister Bockari S. Massaquoi and paramount chief Momoh Tarawlie, for opposing the rebels. Also in March, RUF forces executed 32 youths in Koidu for supporting Kamajoh CDF forces that previously had taken the town. In September rebel forces shot 50 individuals execution-style in Kamalu, and on October 4, RUF forces shot and killed contract employees of the International Committee of the Red Cross (ICRC), who were traveling in clearly-marked trucks, in an ambush near Joru. On December 15, rebel forces killed a number of noncombatants in the village of Masiaka on the approach to Freetown.

Government security forces retaking areas discovered mass graves of those killed by rebel forces in Bo (over 100 bodies) and on Bonthe island (more than 550 bodies); the latter had been considered a Kamajoh CDF stronghold, and the killings apparently were reprisals against islanders for supporting the Kamajohs.

There were also several reports of indiscriminate, mass killings as villagers tried to escape from contested towns; for example, 50 persons reportedly were killed while fleeing fighting in Kabala in March, 22 in Malima, and 80 in Ngolahun. In May U.N. Special Representative for Children in Armed Conflict Olara Otunno described the continuing conflict as the "deliberate targeting of civilians," and described that strategy as "part of the objective of conflict fare, not just indiscipline on the part of fighters."

b. Disappearance

AFRC and RUF forces continued the RUF's long-standing practice of kidnapping youngsters and women and compelling them to work for the troops and, at times, act as "shields" in battles with government and ECOMOG forces. Women were also forced to act as sexual slaves. A conference sponsored by the United Nations Children's Fund (UNICEF) noted that the RUF had captured children as young as 4 and 5 years of age. Seven girls between the ages of 7 and 15 were abducted in March from the Ben Hirsh childcare center in Kenema. During the rebels' retreat, the insurgents kidnapped five medical missionaries and two French medical aid workers in the Lunsar area and held them captive for 2

weeks. In November RUF forces kidnapped an Italian priest, father Mario Guerra, from his mission in Kamalu in the Northern District; he still was held at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture; however, some of the security forces, in particular the CDF, routinely tortured suspected insurgents upon capture to gather information.

AFRC and RUF forces continued to use rape as a terror tactic against women. In February during their retreat from Freetown, rebel forces raped female patients at the Lunsar Eye Hospital. In March rebel forces gang-raped several teenage girls in Koidu after retaking the town from Kamajoh control. In May several women who had fled to Guinea reported that they were sexually assaulted by junta forces before they were able to escape. ECOMOG forces operating in support of the government occasionally beat and detained noncombatants. Rebel forces also were responsible for many cases of deliberate mutilation, including the chopping off of hands, arms, ears and legs; attempted decapitations; and severe cuts with machetes. The victims have ranged from babies

10 months old to elderly men and women. Humanitarian organizations estimated that at least 2,000 individuals had one or both limbs amputated, and that for every one of these wounded who eventually succeeded in securing medical aid, at least three or four died en route from their wounds, shock, and the hazards of the journey. Some victims who secured treatment in Freetown indicated that at times the junta members forced civilians to take part in macabre lotteries, in which the victim picked a piece of paper which indicated the sentence--from the loss of one limb to scalping or death. In other cases, rebel forces cut off the arms of men who refused to rape relatives.

The rebel campaign, known as "Operation No Living Thing," drove thousands of persons from their homes into the countryside, where many have died from untreated wounds, disease, and starvation. Over 250,000 citizens crossed the borders of Guinea and Liberia to escape the conflict; many thousands of others were displaced internally, and fled their homes to hide in wooded areas, or to towns where there are security forces and some degree of protection from rebel forces. In November Amnesty International published a report that detailed rebel abuses and atrocities during the first 10 months of the year.

Prison conditions and those in police lockup facilities generally are harsh; at best they are Spartan, and at worst life threatening. The Pademba Road maximum security prison, which was designed for 325 prisoners, housed almost three times that number at year's end. Diet and medical care were inadequate; only a handful of toilets was available for use by the prison population. Although male and female quarters were separate, adults and juveniles were incarcerated together. Convicted felons, those in the middle of the judicial process, and those who had not yet been charged formally also were incarcerated together. Other prison facilities were equally rudimentary; the holding cells in police offices are even further from compliance with international standards.

The Government allowed the ICRC, U.N. human rights officials, and other observers to visit the prisons, assess conditions, and see inmates.

d. Arbitrary Arrest, Detention or Exile

The Public Emergency Regulations enacted by the Parliament in March at President Kabbah's request provide for indefinite detention without trial. In the immediate aftermath of its restoration, the Government arrested and detained without specific charges persons suspected of collaborations in crimes committed by the desposed junta. Although the Constitution and law provide for a speedy trial,

in practice the lack of judicial officers and facilities often produced long delays in the judicial process. Due to the civil conflict, the judicial system did not function in some parts of the country at any time during the year, and functioned in other parts of the country only during part of the year. Many prisoners were held for months on suspicion of criminal activity before their cases were examined or formal charges were instituted.

ECOMOG forces at times detained noncombatants (see Section 1.c.) In January and February, while still in control of the capital, the rebel junta continued its practice of detaining individuals suspected of supporting the Government in exile and criticizing junta policies. The junta arrested three journalists from The Herald Guardian and detained them for several weeks in apparent retaliation for publishing a statement urging children to remain home rather than go to school because of the security situation. Several other persons were released after shorter detentions.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the Government respects this provision in practice.

Although there are often lengthy delays between arrest, detention, the imposition of charges, and judicial proceedings, trials are usually free and fair. Traditional justice systems continued to supplement the central government judiciary extensively in cases involving family law, inheritance, and land tenure, especially in rural areas.

After the overthrow of the rebel junta, the Government detained several hundred individuals on suspicion of treason and other charges stemming from their involvement with the junta. Some eventually were released; some remained in detention at year's end; and at least 103 persons were tried in four civilian trials and one court-martial proceeding. The trials and court-martial were open to the public, and were extensively monitored by U.N. personnel, foreign diplomats, and human rights observers from both within and without the country. Observers generally agreed that these high profile proceedings were conducted in an open and fair manner, and that the defendants had adequate opportunities both for counsel and to make their cases. The verdicts ranged from acquittals on all charges to guilty; the sentences given ranged from 5-years imprisonment to execution. However, some observers from international human rights organizations questioned the appropriateness of the treason prosecutions or death sentences in the cases of five journalists and one 75-year-old woman. Twenty-four former army officers convicted on treason charges subsequently were executed.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution and law prohibit such practices, and government authorities generally respected these prohibitions.

Throughout the year, there were numerous instances in which rebel forces invaded, looted, and destroyed private property and terrorized civilians. Homes and businesses associated with former government members and supporters of the elected Government were particular targets, but many homes of ordinary were citizens also looted, burned, or destroyed.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

During the year, there were reports that government security forces or ECOMOG forces hindered the safe passage of relief supplies on two occasions by commandeering vehicles that belonged to relief organizations. The CDF continued to accept, train, and induct children into its ranks.

AFRC and RUF rebel forces routinely committed numerous serious abuses, and sought to coerce, intimidate, and terrorize those who either refused to cooperate with them or supported the Government. They massacred groups of persons fleeing fighting; maimed and cut off the limbs and ears of noncombatants; kidnapped children and women to work for them, and men to carry equipment; raped women as a means of punishment and to inspire fear and cooperation; forced individuals to commit atrocities under penalty of their own mutilation or death; commandeered relief supplies; and vandalized religious institutions, hospitals, and schools.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights during the year. The Government has attempted to regulate the press through registration, and attempts to control the publication of information on security-related topics.

There are over 50 newspapers published in Freetown alone, covering a wide spectrum of interests. Their number fluctuated weekly; many contained sensational, undocumented stories and repeated items carried by other newspapers. Newspapers openly and commonly criticized the Government and its officials, as well as the rebel forces.

Due to low levels of literacy and the relatively high cost of newspapers and television, radio remained the most important medium of public information. There were several government and private radio and television stations; both featured domestic news coverage and political commentary. The government-controlled Sierratel communications company provided Internet access in Freetown, although the condition of its land lines often made Internet reception problematic.

The Junta arrested three journalists and detained them for several weeks (see Section 1.d.).

The Government generally respected academic freedom. All institutions of higher learning were wholly or partly closed during the year; most had been looted, burned, or used as quarters by rebels.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government respected this right in practice. The Government was not known to deny requests to use public areas for meetings or demonstrations, many of which took place throughout the year. The Constitution provides for freedom of association and the government respected this right in practice. There were numerous civic, philanthropic and social organizations, and the registration system was routine and apparently nonpolitical. There were more than a dozen opposition parties, and there were no known restrictions on their formation or organization.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respected this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. However, numerous ECOMOG and government roadblocks throughout the country due to the security situation hindered free movement. Citizens were required to get a police clearance within the 72 hours before international travel, but such clearances were issued nonrestrictively; the Government did not attempt to limit citizens' departure or return for political or discriminatory reasons. There were reports of attempts by troops manning roadblocks to extort food or money from travelers.

At year's end, more than one million citizens, more than one-quarter of the population, either were displaced internally or had fled the country to escape the continuing insurgency. More than 500,000 persons were in refugee camps in Guinea and Liberia; others had fled to The Gambia, Cote d'Ivoire, and other destinations in Africa, and still others were in countries outside Africa. Although thousands returned from abroad after the restoration of the Kabbah Government, most remained outside the country because of continuing security concerns.

There is no formal process for granting political asylum. The Government cooperated with the United Nations High Commission for Refugees (UNHCR) and other organizations on repatriation matters, and continued to provide first asylum to over 5,000 Liberians who had fled to Sierra Leone because of conflict in their home country in earlier years of the decade. There were no reports of the forced return of persons to countries where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for the right of citizens to change their government, and the 1996 elections won by Ahmed Tejan Kabbah and his Sierra Leone People's Party were the first free and fair multiparty elections held in the country in 30 years. In March the democratically elected Kabbah Government, which had assumed power in 1996 and which was deposed by the combined AFRC and RUF forces in May 1997, was restored to power. Several political parties were represented in the unicameral legislature. Local government was controlled by locally elected councils and a traditional chieftancy system. Preparations for local elections were in progress at year's end.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Representatives of various local and international nongovernmental organizations (NGO's), foreign diplomats, the ICRC, and U.N. human rights officers were able to monitor freely and fully the major treason trials, and visit prisons and custodial facilities.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination against women and provides for protection against discrimination on the basis of race and ethnicity, except for the long-time prohibition against citizenship for persons with a non-African father. This provision effectively blocks citizenship for much of the sizable Lebanese community, and for other persons with non-African fathers.

Women

Violence against women, especially wife beating, is common. Police are unlikely to intervene in domestic disputes except in cases involving severe injury or death. Domestic violence is not recognized as a societal problem. However, rape is recognized as a societal problem punishable by up to 14 years imprisonment. There is a significant amount of prostitution: Many women, especially those displaced from their homes and with few resources, resort to it to secure income for themselves and their children. Rebel forces used rape as a terror tactic (see Sections 1.c. and 1.g.).

The Constitution provides for equal rights for women, but in practice women face both legal and societal discrimination. In particular, their rights and status under traditional law vary significantly depending on the ethnic group to which they belong. The Temne and Limba tribes of the north afford greater rights to women to inherit property than does the Mende tribe, which gives preference to male heirs and unmarried daughters. However, in the Temne tribe, women cannot become paramount chiefs. In the south, the Mende tribe has a number of female paramount chiefs. Women are nevertheless very active in civic organizations and NGO's, and were instrumental in pressuring the previous government to allow free and fair multiparty elections in 1996.

Women do not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas, women perform much of the subsistence farming, and have little opportunity for formal education. The average educational level for women is markedly below that of men; only 6 percent are literate. At the university level, men predominate.

Children

Although the Government is committed to improving children's education and welfare, it lacks the means to provide basic education and health services for them. Schools, clinics, and hospitals throughout the country have been looted and destroyed during the 8-year RUF insurgency, and most have not been replaced. Although in November, the Government began a program to pay the fees for 3 years of schooling for all children, lack of schools and teachers still place even this much education out of the hands of many. Schools are financed largely by formal and informal fees that many families cannot afford.

The recruitment for military service by the CDF and the kidnaping and forced conscription of children into rebel forces were a serious problem; an estimated 5,000 youthful soldiers served alongside adults during the civil conflict. While the CDF forces accept children as volunteers, most children who join the insurgent ranks do so under duress: For years rebels have kidnapped young boys and girls to serve them and augment their forces. In some cases they have forced these children to commit atrocities involving family members. There are now several programs to deal with former child combatants, including those who have escaped from rebel forces. However, even children who escape and wish to leave the ranks sometimes are rejected by their families and communities for their perceived involvement in rebel activities.

Female genital mutilation (FGM), which is condemned by international health experts as damaging to both physical and psychological health, is widely practiced among all levels of society, although with varying frequency. The form practiced is excision. Some estimates of the percentage of women and girls who undergo the practice range as high as 80 to 90 percent. While UNICEF estimates the percentage of females who have undergone this procedure to be as high as 90 percent, local groups believe this figure is overstated. There is no law prohibiting FGM. There are a number of NGO's that are working to inform the public about the harmful health effects of FGM and to eradicate it; however, an active mass campaign by secret societies countered the

well-publicized international efforts against FGM.

Occasional instances of ritual murders of boys and girls, as well as adults, associated with illegal secret societies, have been reported in the past. There were no reported cases this year.

People with Disabilities

Questions of public facility access and discrimination against the disabled have not become public policy issues. No laws mandate accessibility to buildings or provide for other assistance for the disabled. Although a few private agencies and organizations attempted to train the disabled in useful work, there was no government policy or program directed particularly at the disabled. There does not appear to be outright discrimination against the disabled in housing or education. Given the high rate of general unemployment, however, work opportunities for the disabled appear to be few.

Some of the many individuals who were maimed in the fighting, or had their limbs amputated by rebel forces, are receiving some special assistance from various local and international humanitarian organizations. Such programs involve reconstructive surgery, prostheses, and vocational training to help them acquire new work skills.

National/Ethnic/Racial Minorities

The country's population is ethnically diverse, and consists of members of at least 13 ethnic groups. These groups generally all speak distinct primary languages and are concentrated regionally outside urban areas. However, all ethnic groups use Krio as a second language, there was little ethnic segregation in urban areas, and interethnic marriage is common. The two largest ethnic groups are the Temne in the northern part of the country and the Mende in the southern part; each of these groups is estimated to make up about 30 percent of the population.

Ethnic loyalty remained an important factor in government, the military, and business. Complaints of corruption within ethnic groups and ethnic discrimination in government appointments, contracts, military commissions, and promotions were common. There did not appear to be a strong correspondence between ethnic or regional and political cleavages. Ethnic differences also did not appear to contribute appreciably to the RUF rebellion, the 1997 coup, or the civil conflict during the year. There was no identifiable ethnic or regional base of voluntary popular support for the rebels, who controlled territory by terror and coercion rather than by popular consent.

Residents of non-African descent face institutionalized political restrictions. The Constitution restricts citizenship to persons of patrilineal Negro-African descent. This constitutional restriction effectively denies citizenship to many long-term residents, notably the Lebanese community.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of association and, in practice, under the restored Government, workers had the right to join independent trade unions of their choice. About 60 percent of the workers in urban areas, including government workers, are unionized, but there has been little success in organizing agricultural and mine workers. All labor unions by custom join the Sierra Leone Labor Congress (SLLC), but such membership is voluntary.

The Trade Union Act provides that any five persons may form a trade union by applying to the Registrar of Trade Unions, who has statutory powers under the act to approve the creation of trade unions. The Registrar may reject applications for several reasons, including an insufficient number of members, proposed representation in an industry already serviced by an existing union, or incomplete documentation. If the Registrar rejects an application, his decision may be appealed in the ordinary courts, but applicants seldom take such action.

There is a right to strike, although the Government can require 21 days' notice. Union members may be fired for participating in even a lawful strike. There were no reported strikes during the year.

Unions are free to form federations and to affiliate internationally. The SLLC is a member of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively

The Regulation of Wages and Industrial Relations Act provides the legal framework for collective bargaining. Collective bargaining must take place in trade group negotiating councils, each of which has an equal number of employer and worker representatives. Most enterprises are covered by collective bargaining agreements on wages and working conditions. The SLLC provides assistance to unions in preparations for negotiations; in case of a deadlock the Government may intervene.

No law prohibits retribution against strikers. An employee fired for union activities may file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against trade unions are made to a tribunal. Individual trade unions investigate alleged violations of work conditions to try to ensure that employers take the necessary steps to correct abuses.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced and bonded labor, including that by children. However, under the Chiefdom's Council Act, compulsory labor may be imposed by individual chiefs, who may require members of their villages to contribute to the improvement of common areas. This practice exists only in rural areas. There is no penalty for noncompliance. The last Saturday in each month is declared a National Cleanup Day; in Freetown traffic is proscribed before 10:00 a.m. so that everyone may clean their immediate area. There have been reports of security forces publicly humiliating citizens to ensure compliance; however, social and community values and pressures largely unrelated to the State were chiefly responsible for widespread compliance. There were no legal or formal governmental consequences of noncompliance.

The AFRC and particularly RUF rebels forcibly impressed young boys and girls into their ranks and forced them into involuntary servitude, and to perform as sexual slaves. Many later become fighters with the rebel forces

(see Section 5).

d. Status of Child Labor and Minimum Age for Employment

The minimum age for employment is officially 18 years, but in practice there is no enforcement of this law because there is no government entity charged with the task. Children routinely assist in family

businesses and work as petty vendors. In rural areas, children work seasonally on family subsistence farms.

Because the adult unemployment rate remains high, few children are involved in the industrial sector. Children have been hired by foreign employers to work as domestics overseas at extremely low wages and in poor conditions. The Department of Foreign Affairs and International Cooperation is responsible for reviewing overseas work applications to see that no one under the age of 14 is employed for this purpose.

School attendance through primary school is required by law. However, there is a shortage of schools and teachers, due both to inadequate government funding of public education, and to widespread destruction of educational facilities by rebel forces. Consequently, a large number of children receive little or no formal education. Many consequently enter the workforce with few skills and with limited, if any, literacy. The Constitution prohibits forced and bonded labor, including that by children; however, there was some compulsory labor possibly including labor by children in rural areas (see Section 6.c.).

e. Acceptable Conditions of Work

There is no minimum wage. Purchasing power continues to decline through inflation. Most workers support an extended family, often including relatives who have been displaced by the insurgency in the countryside, and it is common both to pool incomes and to supplement wages with subsistence farming.

The Government's suggested work standard is 38 hours per week, but most workweeks for those who are employed exceed that figure. Although the Government sets health and safety standards, it lacks the funding to enforce them properly.

Trade unions provide the only protection for workers who file complaints about working conditions. Initially, a union makes a formal complaint about a hazardous working condition. If this complaint is rejected, the union may issue a 21-day strike notice. If workers remove themselves from dangerous work situations without making a formal complaint, they risk being fired.

[end of document]

Return to 1998 Human Rights Practices report home page.
Return to DOSFAN home page.
This is an official U.S. Government source for information on the WWW. Inclusion of non-U.S. Government links does not imply endorsement of contents.

SIERRA LEONE

REPUBLIC OF SIERRA LEONE
Head of state and government: Ahmad Tejan Kabbah
Capital: Freetown
Population: 4.4 million
Official language: English
Death penalty: retentionist

The political and human rights crisis deepened as rebel forces attacked Freetown in January 1999. Thousands of unarmed civilians were deliberately and arbitrarily killed, mutilated, raped or abducted. Although conclusion of a peace agreement in July provided opportunities to end human rights abuses, the political and security situation remained precarious and human rights abuses against civilians continued. The peace agreement included a general amnesty which provided impunity for human rights abuses, including war crimes and crimes against humanity, committed during the conflict.

Background

Rebel forces of the Revolutionary United Front (RUF) and the Armed Forces Revolutionary Council (AFRC) attacked Freetown on 6 January and committed large-scale atrocities against civilians. Extensive destruction of property made as many as 200,000 people homeless. Although rebel forces were forced to retreat by forces of the Economic Community of West African States (ECOWAS) Cease-fire Monitoring Group (ECOMOG), fighting continued in other parts of the country and some towns, including Makeni in Northern Province, remained under rebel control. Liberia was widely accused of providing military support to rebel forces, in violation of a UN Security Council resolution.

A cease-fire was agreed in May, and a peace agreement — signed in Lome, Togo, in July — provided for an immediate cessation of hostilities and disarmament and demobilization of former combatants. RUF and AFRC members were appointed to ministerial positions in a government of national unity in October and the RUF became a political party. RUF leader Foday Sankoh, with the status of vice-president, chaired a commission to manage mineral resources and post-conflict reconstruction, and Johnny Paul Koroma, leader of the AFRC, a commission to oversee implementation of the peace process.

Implementation of key provisions of the peace agreement, including disarmament and demobilization, release of captured civilians and unhindered humanitarian access, was, however, limited. Full deployment of a UN peace-keeping force to monitor the cease-fire and assist with disarmament and demobilization was delayed. By the end of 1999 only some 3,500 of an estimated 45,000 combatants had been disarmed and demobilized. Despite the appointment of their leaders to official positions, political rivalry between AFRC and RUF forces resulted in heavy fighting, in particular in Makeni and Lunsar in October. Rifts also emerged between Foday Sankoh and other rebel leaders who had yet to disarm, and doubts remained about the commitment of the RUF to the peace process. Parts of the north and east of the country, including strategic diamond-mining areas, remained inaccessible.

Abuses by rebel forces

RUF and AFRC forces committed gross human rights abuses on a large scale. AI repeatedly called for an end to abuses and to transfers of arms, ammunition and combatants to rebel forces.

Despite improvement after the signing of the peace agreement, there was a marked increase in attacks on civilians from October in areas west of the Occra Hills and in Northern Province, in particular around Makeni, Lunsar, Port Loko, Kamb a and Kabala, and a pattern of deliberate intimidation and terrorizing of civilians re-emerged. From November such attacks, often during raids for food, money and other goods, occurred almost daily in Northern Province.

Deliberate and arbitrary killings

Although it was impossible to ascertain the exact number of deaths during the rebel incursion into Freetown, an estimated 5,000 people, at least 2,000 of them civilians, were killed. Medical authorities subsequently put the figure at over 6,000. Although most killings were arbitrary, some individuals and groups — including government officials, journalists, lawyers, human rights activists, prison officials and police officers — were deliberately targeted. For example, more than 200 police officers and eight journalists were reported to have been killed.

After being forced from Freetown, rebel forces continued to commit atrocities. In Masiaka, east of Freetown, civilians accused of sympathizing with government forces were killed or mutilated. In one incident in a village between Masiaka and Mile 38, several babies and young children were reported to have been killed. Deliberate and arbitrary killings of civilians continued after the peace agreement, particularly in Northern Province.

Torture, including mutilation and rape

As rebel forces retreated from Freetown, they mutilated civilians by cutting off limbs, most frequently hands and arms. In February reports indicated that some 500 victims of mutilation who required surgery were being treated in Freetown hospitals. Among the youngest recorded victims was a six-year-old girl whose left arm had been severed. It was probable that many other victims failed to reach medical help and died from their injuries.

Amputations and others forms of torture continued to be reported after rebel forces retreated from Freetown, although on a lesser scale. In May boys and young men in the area around Masiaka were seen with the letters RUF carved across their chests. In an attack

ISBN: 0 86210 290 1
AI index: POL 10/001/00

www.amnesty.org
© Copyright Amnesty International Publications 2000

on a village near Port Loko in October there were cases of attempted amputation of limbs, and burns inflicted by molten plastic.

Rape and other forms of sexual abuse of women and girls were systematic and widespread. During the rebel incursion into Freetown, women and girls were rounded up and gang-raped, often in public. More than 90 per cent of women and girls abducted and held captive were believed to have been raped: many were forced to submit to rape or be killed. Many girls subsequently released were pregnant, had given birth or had contracted sexually transmitted diseases. Rape of women and girls caught up in the fighting between AFRC and RUF forces in Makeni and Lunsar in October was common.

Abduction of civilians

Rebel forces abducted several thousand civilians, including children, from Freetown in January. Some of those abducted were subsequently killed. Some were selected for training as fighters, others used as porters to carry looted goods. Abducted women and girls were forced into sexual slavery and retained to cook and undertake other tasks. Up to 4,000 children were reported missing from Freetown, most of them abducted.

A small number of prominent Sierra Leoneans, including the Roman Catholic Archbishop of Freetown, and foreign nationals, including priests and nuns, were also abducted. At least eight were killed and two others seriously injured. Others, including the archbishop, either escaped or were released.

Although the peace agreement provided for the release of captured civilians, only some 1,000 adults and children, a comparatively small number, had been freed by December. Many of those released suffered from malnutrition and disease. The release of girls and young women was particularly difficult to secure. Some 2,400 children, most of them girls, abducted from Freetown remained missing.

As attacks against civilians increased from October, the number of civilians being abducted exceeded those released.

Hostage-taking

AFRC forces captured more than 30 UN military and civilian personnel who had gone to the Occra Hills in August with an ECOMOG escort to supervise the release of abducted civilians. Their captors claimed that Johnny Paul Koroma was held under duress by RUF forces and that the peace agreement disadvantaged AFRC forces. All were released after six days.

In December RUF forces captured two foreign nationals working for an international humanitarian organization, Medecins sans frontieres (MSF-France), in Kailahun District, Eastern Province, and held them hostage for 10 days in protest against disarmament and demobilization being supervised by UN peace-keeping forces and ECOMOG troops.

ECOMOG and Civil Defence Forces

ECOMOG forces were commended by the international community for their role in Sierra Leone. They and the civilian militia supporting President Ahmad Tejan Kabbah, the Civil Defence Forces (CDF), however, also committed human rights violations.

During the rebel incursion into Freetown, large numbers of captured or suspected rebels were extrajudicially executed by ECOMOG and the CDF, often without any real attempt to establish guilt or innocence. Children, including an eight-year-old boy caught in possession of a gun, were among the victims. Ill-treatment, including beatings, whippings and public humiliation, was common at ECOMOG and CDF checkpoints.

At least 10 Sierra Leonean staff of humanitarian organizations and the International Committee of the Red Cross were detained by ECOMOG forces in January; most were beaten. Although accused of cooperating with rebel forces, these allegations were unfounded.

Indiscriminate aerial bombardments on densely populated areas of Freetown during the rebel incursion resulted in large numbers of civilian casualties.

AI called for strict compliance by ECOMOG forces with international human rights and humanitarian law. In April the ECOWAS Executive Secretary called for an investigation into extrajudicial executions by ECOMOG forces but none took place. A committee subsequently established to monitor relations between ECOMOG forces and the civilian population failed to function effectively.

Reports of harassment and ill-treatment by ECOMOG forces continued in the months which followed. Detainees held by ECOMOG forces and the CDF were ill-treated, including by being beaten and having arms and hands tied extremely tightly. Civilians and humanitarian convoys travelling along major roads were frequently harassed.

Child combatants

Several thousand children under the age of 18 fought with rebel and CDF forces. An estimated 10 per cent of rebel forces who attacked Freetown were children, many of them previously abducted and frequently under the influence of drugs. Some were responsible for killings and mutilations.

Before the peace agreement, widespread recruitment of children by the CDF in Southern and Eastern Provinces continued. The peace agreement specified that particular attention be given to the issue of child combatants and the government made repeated commitments to end recruitment of children. Although the CDF subsequently demobilized some child combatants, it admitted in November that some 200 children aged between 15 and 18 were in its forces in the Kabala region and that there had been no effort to demobilize them.

In September the UN estimated that 5,400 child combatants were awaiting disarmament and demobilization; the real number, however, was likely to be much higher. Child combatants, including those who had been abducted, were still engaged in combat; in October a number of boys were among those injured in

ISBN: 0 86210 290 1
AI index: POL 10/001/00

www.amnesty.org
Copyright Amnesty International Publications 2000

fighting between rebel forces.

AI called for priority to be given to disarmament, demobilization and reintegration of child soldiers and for adequate resources for agencies, including UNICEF, specifically helping them.

Refugees and internally displaced people

More than a million people were internally displaced and half a million were refugees, most of them in Guinea. Often still at risk of human rights abuses, they also suffered acute hardship including shortage of food and basic health care. In some areas up to 80 per cent of internally displaced people were reported to be children, many unaccompanied.

Delays in disarmament and demobilization, continuing insecurity and lack of access to parts of the country limited the return of internally displaced people and refugees.

Intergovernmental organizations

Human rights abuses and violations of the peace agreement by rebel forces were repeatedly condemned by the international community which took major initiatives to establish peace and security. An international contact group bringing together intergovernmental organizations and key governments met in April and July. AI called on the international community, including the UN and the World Bank, for protection and respect of human rights to be at the centre of efforts to resolve the political crisis and during post-conflict reconstruction.

A Human Rights Manifesto for Sierra Leone was adopted during a visit by the UN High Commissioner for Human Rights in June. It included commitments to promote children's rights and to raising the age of military recruitment to 18 years. It also pledged UN support for a Truth and Reconciliation Commission and a National Human Rights Commission, both subsequently included in the peace agreement.

In September, after visiting Sierra Leone, the Special Representative of the UN Secretary-General for Children and Armed Conflict proposed specific measures to meet the needs of children affected by the conflict.

In October the UN Security Council authorized the deployment of an international peace-keeping force of 6,000 troops as part of the UN Mission in Sierra Leone (UNAMSIL). The force, to include a substantial number of troops from ECOWAS countries, was to be deployed for an initial period of six months to help implement the peace agreement, in particular monitoring the cease-fire and the disarmament and demobilization of former combatants. The full complement of troops, however, had not been deployed by the end of 1999. A reduced ECOMOG force was to remain to maintain security and help implement the peace agreement with UNAMSIL. Subsequent plans to withdraw ECOMOG troops, however, prompted a recommendation by the UN Secretary-General in late December for a substantial increase in UNAMSIL troops. The UN peace-keeping force was mandated to protect civilians under imminent threat of physical violence, within its capabilities and areas of deployment.

Following the peace agreement, the UN Security Council agreed to expand the human rights section of UNAMSIL, including by appointing advisers on child protection. The human rights section monitored and reported abuses and promoted respect and protection of human rights. It was actively involved in securing the release of prisoners and captured civilians and in assisting in the establishment of the Truth and Reconciliation Commission and the National Human Rights Commission. It also provided human rights training for police and UN military observers and support for Sierra Leonean human rights groups. AI called for the human rights section to receive full political support and adequate resources.

In November the African Commission on Human and Peoples' Rights decided to send a delegation to Sierra Leone in early 2000.

Impunity

The peace agreement provided for a general amnesty for all acts undertaken in pursuit of the conflict. The Special Representative of the UN Secretary-General for Sierra Leone, signing the peace agreement as a moral guarantor, added a disclaimer that the UN did not recognize the amnesty as applying to genocide, crimes against humanity, war crimes, and other serious violations of international humanitarian law. It remained unclear, however, how impunity for such abuses would be addressed. While the Truth and Reconciliation Commission provided by the peace agreement could examine human rights abuses committed during the conflict, it could not alone establish full accountability because of the amnesty.

Shortly after the peace agreement was signed, the UN High Commissioner for Human Rights called for an international investigation into human rights abuses during the conflict and the UN Secretary-General acknowledged that the amnesty was difficult to reconcile with the goal of ending impunity. He suggested to the UN Security Council that it consider measures to ensure accountability for serious violations of human rights and humanitarian law, including the establishment of an international commission of inquiry. While noting the views of the Secretary-General, the Security Council neither explicitly supported nor endorsed such a commission, judging that insistence on accountability for human rights abuses at that stage would undermine the peace process.

In a letter to the Security Council in July, AI urged that it recommend an effective international mechanism for investigating human rights abuses and for bringing those responsible to justice. Although the High Commissioner's Office established a study on the possible relationship between the Truth and Reconciliation Commission and an international

ISBN: 0 86210 290 1
AI index: POL 10/001/00

www.amnesty.org
© Copyright Amnesty International Publications 2000

commission of inquiry, no recommendations were known to have been made by the end of the year.

AI country reports

- Sierra Leone: Escalating human rights crisis requires urgent action (AI Index: AFR 51/001/99)
- Sierra Leone: UN human rights presence reduced as abuses worsen (AI Index: AFR 51/003/99)
- Sierra Leone: Recommendations to the international contact group on Sierra Leone, New York, 19 April 1999 (AI Index: AFR 51/005/99)
- Sierra Leone: Mary Robinson's visit to Freetown – placing human rights centre stage (AI Index: AFR 51/006/99)
- Sierra Leone: A peace agreement but no justice (AI Index: AFR 51/007/99)
- Sierra Leone: The Security Council should clarify the United Nations' position on impunity (AI Index: AFR 51/010/99)
- Sierra Leone: Amnesty International's recommendations to the Commonwealth Heads of Government Meeting, Durban, South Africa, 12–15 November 1999 (AI Index: AFR 51/011/99)
- Sierra Leone: Escalating human rights abuses against civilians (AI Index: AFR 51/013/99)

ISBN: 0 86210 290 1
AI index: POL 10/001/00

www.amnesty.org
Copyright Amnesty International Publications 2000

AMNESTY INTERNATIONAL PRESS RELEASE

AI Index AFR 51/075/2000 - News Service Nr. 164
Embargoed for : 31/08/2000 00:01 GMT

Sierra Leone: Action needed to end use of child combatants

"The abduction and forcible recruitment of children in Sierra Leone must be stopped and those responsible brought to justice", says Amnesty International in a report released today.

More than 5,000 children under the age of 18 have fought in Sierra Leone's internal armed conflict that began in 1991. They have been recruited by both the armed opposition and forces allied to the government. Most of the children fighting with rebel forces were abducted and forced to fight. Many have become perpetrators of human rights abuses themselves, killing and mutilating under the influence of drugs, alcohol or simply out of fear. A similar number of children, both boys and girls, have also been used by rebel forces to carry goods and cook. Girls have been raped and forced into sexual slavery.

"Childhood has been a casualty of this long and brutal conflict", said the human rights organization."Former child combatants may not be able to regain their youth but they can reclaim their lives if concerted action is taken immediately."

Since 7 July 1999 when the government of Sierra Leone and the armed opposition Revolutionary United Front (RUF) signed a peace agreement in Lomé, Togo, efforts have been made by the United Nations (UN) and non-governmental organizations to disarm and demobilize child combatants. However, the political and security situation in Sierra Leone deteriorated in May 2000 and these programs have been suspended.The recruitment of children as combatants by both rebel forces and government-allied forces has continued.

Rebel RUF forces, which control parts of the north and east of the country, are reported to have forcibly recruited child combatants again in Kambia District and other areas in Northern Province. Previously disarmed and demobilized child combatants with the government-allied Armed Forces Revolutionary Council (AFRC) have been re-enlisted. And there are reports that children continue to be recruited by the Civil Defence Forces (CDF), the government-allied civilian militia based on societies of traditional hunters, such as the *kamajors*, particularly in Bo and Moyamba Districts in Southern Province.

In March, June and July 2000 Amnesty International delegates in Sierra Leona obtained graphic testimonies from former child combatants with the RUF, AFRC and CDF. Many described how they were forced to drink alcohol and take drugs before combat. Some children have acknowledged that, often heavily drugged with cocaine, they were extremely brutal, as reports from the United Nations High Commission for Refugees (UNHCR) have also noted. For example Sayo (not his real name), now aged 14, who was abducted by AFRC forces in 1998 in Makali, Tonkili District, told Amnesty International, "*When I go into the battle fields, I smoke enough. That's why I become unafraid of everything. When you*

refuse to take drugs, it's called technical sabotage and you are killed."

The recruitment of children under the age of 15 as combatants is prohibited by both international human rights law and international humanitarian law. It violates the rights enshrined in the UN Convention on the Rights of the Child of 1989 which was ratified by Sierra Leone in 1990.

Traffic in small arms and light weapons also facilitates and encourages the use of child combatants. Arms and ammunition reaching rebel forces inevitably fall into the hands of the children they have abducted and forcibly recruited. Amnesty International is calling for the cessation of all military assistance to rebel forces in Sierra Leone, including the provision of arms, ammunition, combatants and training. There must also be effective mechanisms to monitor the distribution of arms and ammunition to the government of Sierra Leone to ensure that these do not reach combatants under the age of 18. In particular, President Ahmad Tejan Kabbah must be held to his assurances that arms and ammunition supplied by the UK government will not be used by child soldiers, and he should ensure that the government forces cease recruiting and using child soldiers.

Amnesty International's report makes specific recommendations to all groups involved in the recruitment and use of child combatants in Sierra Leone and to the international community. These include a call for the immediate release of all children held by the RUF and a cessation of the recruitment and abuse of children by opposition forces. Child protection agencies and personnel supervising the process of disarmament, demobilization must be given unhindered access to children who continue to be held. Urgent action should be taken by the government of Sierra Leone to follow up on its repeated commitments to demobilize all combatants under the age of 18 and to raise the minimum age of recruitment to 18. The international community should also provide full and sustained support to help meet the social, psychological and material needs of demobilized child combatants.

Finally, all those responsible for these grave breaches of international human rights and humanitarian law, including the abduction and forcible recruitment of children, should be brought to justice. The international community must provide the necessary expertise and practical assistance for the independent special court for Sierra Leona to be established under UN Security Council Resolution 1315 (2000) of 14 August 2000, provided that it meets strict international standards for fair trial and excludes the possiblity of the death penalty.

"Regardless of their current political position or allegiance, those who have forcibly abducted children and forced them to commit many of the worst atrocities in this horrendous conflict must be held to account," says Amnesty International.

\ENDS
public document
****
For more information please call Amnesty International's press office in London, UK, on +44 20 7413



Sierra Leone

- INTRODUCTION
- AFRICA
- AMERICAS
- ASIA
- EUROPE AND CENTRAL ASIA
- MIDDLE EAST AND NORTH AFRICA
- SPECIAL ISSUES AND CAMPAIGNS
- UNITED STATES
- ARMS
- CHILDREN'S RIGHTS
- WOMEN'S HUMAN RIGHTS
- APPENDIX

Human Rights Developments
- Defending Human Rights
The Role of the International Community

COUNTRIES
Angola
Burundi
The Democratic Republic of Congo
Ethiopia
Kenya
Liberia
Mozambique
Nigeria
Rwanda
Sierra Leone
South Africa
Sudan
Uganda
Zambia

CAMPAIGNS
Stop the Use of Child Soldiers
Abduction and Enslavement of Ugandan Children
Human Rights Causes of the Famine in Sudan

Human Rights Developments

In early February, troops of the Economic Community of West African States Cease-Fire Monitoring Group (ECOMOG) ousted the government of the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) from Freetown. This ended their nine-month rule, characterized by widespread human rights abuses and a complete breakdown of the rule of law. For the past seven years a vicious civil war has engulfed Sierra Leone, characterized by atrocities against civilians, often committed by the RUF, a rebel group formed in 1991 with support from the National Patriotic Front of Liberia (NPFL).

Upon taking power on May 25, 1997, the AFRC suspended the constitution, banned political parties and public meetings, and announced rule by military decree. The AFRC, created by a group of senior military officers, soon joined forces with the RUF. During their joint rule, many judges, lawyers, and police fled the country, causing a total collapse of the judicial system. The AFRC/RUF government arbitrarily arrested and detained its suspected opponents and critics, including students, journalists and human rights advocates, causing thousands to seek asylum.

On March 10, the Nigerian-led ECOMOG reinstated President Tejan Kabbah, first elected in March of 1996, who subsequently declared a state of emergency. After losing political power, the AFRC/RUF alliance engaged in a war of terror against civilians, committing widespread and egregious atrocities in an attempt to regain power. Between February and June 1998 alone, its members raped, deliberately mutilated, or killed outright thousands of Sierra Leonean civilians. The AFRC/RUF abducted men, women and children, probably numbering in the thousands, for use as combatants, forced laborers, or sexual slaves. Women were actively targeted through sexual violence, including rape and sexual slavery. In addition to various forms of physical abuse, innumerable civilians suffered psychological trauma from the rebels' choice of tactics and extreme cruelty—like the severing of limbs—to compound the horror of their attacks.

Civilian Defense Forces (CDFs), civilian militias who supported the Kabbah government, also committed numerous abuses, including indiscriminate killings and torture, but on a significantly smaller scale than those carried out by the AFRC/RUF. The CDFs were created in order to provide local security and targeted for abuse those they claimed

1813

were AFRC/RUF combatants or their supporters. The largest and most powerful of the CDFs, the Kamajors, were responsible for the majority of abuses committed by those fighting on behalf of the Kabbah government. In addition to killings and torture, Kamajors also obstructed humanitarian assistance and extorted money or other payment at roadblocks.

Children were victims of gross violations of human rights committed by both sides to the conflict. The AFRC/RUF abducted an unknown number of children—probably in the thousands—for use as laborers, fighters, and in the case of girls, sexual prisoners. Many girls were forced to work for the AFRC/RUF combatants until they reached sexual maturity, when they would be assigned to a fighter as a "wife." There were also many child soldiers among the Kamajors, and despite promises by the government to demobilize all combatants under the age of eighteen, the CDFs continued to recruit children at least until July.

The United Nations estimated that over 416,000 Sierra Leoneans fled the fighting as refugees to neighboring Guinea and Liberia or to internally displaced camps. Conditions for both internally displaced persons (IDPs) and refugees were often severe due to a lack of access to camps and poor security conditions. In particular, the close proximity of the camps in Guinea and Liberia to the Sierra Leonean border and the presence of former combatants among the refugee population in Liberia jeopardized humanitarian assistance and protection. Many refugees and IDPs suffered from a host of problems including high levels of malnutrition and disease, as well as occasional attacks from the RUF/AFRC.

The government made repeated gestures in support of human rights, such as its pledge to provide amnesty for child soldiers and intermittent appeals to combatants to lay down their arms in exchange for amnesty. In a climate of public hatred for individuals associated with the AFRC/RUF, the Kabbah government initiated legal proceedings against fifty-eight civilians in regular courts and thirty-eight former soldiers before a military court on a range of charges including treason and murder. In hearings in August and October, the High Court of Sierra Leone sentenced to death twenty-seven civilians convicted of treason, including five journalists and a seventy-five-year-old woman. International observers questioned the appropriateness of the treason charges for the journalists, and criticized the lack of a right to appeal sentencing by the military court. On October 19, the government of Sierra Leone executed by firing squad twenty-four of the soldiers who had been sentenced to death one week earlier. The trials constituted the first major test under the Kabbah government of a justice system which lacked basic infrastructure and support. Many of the over 2,000 prisoners in Sierra Leone were held under the 1998 Public Emergency Regulations, introduced by President Kabbah on March 16 and ratified by parliament, which provided for indefinite detention without trial. Prisons were often overcrowded, unsanitary, and lacking in health care and the regular provision of food.

BACK TO TOP

Copyright © 1999
Human Rights Watch

1814

Section 13 of the Public Emergency Regulations declared that "disturbing reports" by the media were punishable offences. On June 24, Minister of Information and Cultural Affairs Dr. Julius Spencer stated that any information regarding the security situation must be approved by ECOMOG before publication. Journalists complained further that taxes had been unjustly imposed upon newspapers in an attempt to limit their ability to publish.

1815

HUMAN RIGHTS WATCH

HOME
CONTRIBUTE
COMMUNITY
NEWS RELEASES
CURRENT EVENTS
PUBLICATIONS
ABOUT HRW
INFO BY COUNTRY

- Africa
- Americas
- Asia
- Europe/Central Asia
- Middle East/N. Africa
- United States

GLOBAL ISSUES

- Arms
- Children's Rights
- HIV/AIDS
- International Justice
- Prisons
- Refugees
- Women's Rights
- More...

CAMPAIGNS
BOOKSTORE
FILM FESTIVAL
PHOTO ESSAYS
SITE MAP
CONTACT US

SEARCH
GO

hrw.org | DEFENDING HUMAN RIGHTS WORLDWIDE

PORTUGUÊS FRANÇAIS РУССКИЙ
ESPAÑOL 中文 العربية

HRW World Report 2001: Sierra Leone

FREE Join the HRW Mailing List

Sierra Leone: Most Serious Attacks in Months

Human Rights Watch Interviews: Victims and Witnesses

(July 24, 2001)

'Abu,' was shot in his abdomen and through both legs, during the June 17, 2001 attack on Yiraia by CDF militiamen. He described how he and his ten-year-old son, shot through the knee, hid under the bed while the attackers looted their house. Abu, also lost also lost his mother, father, five-year-old son and twenty-eight-year old sister in the attack:

When we heard the gunshots my children yelled, 'father, they're going to kill us.' I had all my family stand behind me and cracked open the door to make sure it was safe for us to run. But as I did, I saw three Kamajors standing in front of our door and just seconds later they opened fire. I fell down and together with my young son, slithered on my back into the bedroom and under the bed. As I did I saw my mother and sister lying there struggling to die. I heard my father, who is blind, yelling, 'they're killing me.' We hid there for almost an hour listening to the gunfire and sounds of them singing and clapping. They one yelled, 'ceasefire,' and shortly after I heard footsteps coming into the house. My son, who'd been shot through the knee, was crying from the pain but I told him if he didn't be silent they'd kill us. Thank God they didn't find us. Some time later my brother came into the house and pulled us out but a few meters from the house I found my fathers body. I guess he'd tried to find his way out of the house and was caught. My brother and I cried as we passed by his body; he was lying on his back and it looked like his stomach had been cut open.

Related Material

Sierra Leone: Most Serious Attacks in Months
Press Release, July 24, 2001

No "Safe Passage" Through Rebel-Held Sierra Leone
Human Rights Watch Press release, Freetown, Sierra Leone, April 3, 2001

Guinean Forces Kill, Wound Civilians in Sierra Leone
Human Rights Watch Press Release, February 28, 2001

They put my son and I down next to some other wounded. A few yards away they were laying down the bodies of the dead. Over the next hour they kept bringing more and more bodies from all over the village. I counted twenty-four dead including two RUF combatants. I knew every one of them.

'Sara,' age twelve, was left for dead during the Yiraia attack, after they cut at least five gashes around her neck with a machete. Her mother was shot and killed just meters away. She described:

As my mother and I tried to run out of the house we saw about eight Kamajors. Most had guns and a few had machetes. My mother dashed down the verandah but they caught her and then shot her. She fell about five meters from the house. By this time several of them had surrounded me. They ordered me to sit down and one held me tight by the head while the other cut my neck with his machete. I tried to protect my neck with my left hand but they slashed it. They said in the Kono language, 'you'll be dead - all of you are RUF wives.' After cutting me, I lie still, pretending to be dead. I was bleeding so much. After a while I heard them say, 'she done die.' Then I crawled into the bush and hid until my family came to help me.

'Aminata,' who had just given birth three days before a June 17, 2001 attack on the town of Worodu, described seeing her younger sister shot as the CDF militias attacked

the town:

I was lying in bed with my newborn baby. I'd sent my younger sister Fina to go tend to the rice field earlier in the morning. Suddenly, Fina came running into the house and said the RUF had told all civilians to leave the town because the CDF were about to attack. As I struggled to get up we started hearing gunfire. I started gathering my things but Fina said, 'leave everything, let's go.' 'As we neared the end of the village I was in terrible pain and insisted that we hide in a nearby house. Fina wanted to keep going and as we were arguing, a bullet caught her. I yelled, 'Fina, Fina, get up,' but she died quickly. I rushed over to get Fina's three year old girl who'd been strapped to her back and only then did I see that the same bullet had also gone through both of the child's legs.' I saw the CDF clapping and singing as they approached the town and ran quickly into the house to hide. The wounded girl cried but I told her to shhh. Later we slipped out the back and into the bush.'

'Mani,' a twenty-four-year old coffee farmer from Sukudu village in Kono District, had recently returned to his village after spending three years as a refugee in Guinea. He described how he was shot through both legs by CDF-militiamen during an attack on his village on July 11, 2001, and was accused by the CDF of being an RUF combatant:

At around 7:00 am I was getting ready to go spend the day in the fields when I heard a few gunshots. At first I thought it was the RUF who hang around our village letting off a few rounds. There were usually four RUF rebels who're based in our village and besides making us give them rice, they pretty much leave us alone. Then, as I was leaving my house I started hearing more firing and suddenly saw a Kamajor standing about ten meters in front of me. As I tried to run I saw him aim his gun directly at me and fire. The bullet went through both of my legs. Then as the firing was going on, the Kamajor ran into the town and I pulled myself into the bush to hide. They looted our village; my brother was abducted by them to carry away the loot. After walking to their base in a village called Yaradu-Sandor, he was let go. Now we have nothing and I can't walk. We came back from Guinea because we heard there was a ceasefire and that everything would be ok. I came as a refugee with practically nothing and now I have even less.

In the first week of July, RUF rebels attacked the village of Porpon, killing at least three children and wounding several more civilians. AN elderly man, also interviewed by Human Rights Watch, hac his left ear cut off. At least sixteen civilians were abducted to carry away looted property. One of the abducted described the brutal killing of the children and explained why he believed the RUF's attack was retaliation for the June 17 attack on the village of Yiraia.

It's farming season and on the day of the attack I was in the fields with six of my friends and family members, including three children. At around 10:30 a.m. I suddenly saw nine armed men; some in uniform and some in civilian dress. Five had guns and the rest were with machetes. We know the RUF and I recognized at least three of them. We've been living with them for years and since the ceasefire hadn't had too many problems except their system of forced taxation for money and rice. We tried to run but they caught five of us, including the children aged ten, five and about two. They tied us together at the waist and told us to start walking. One of the RUF was carrying the two year old. They said, 'today some of you will die; you people are Kamajors.' As we walked the children were crying and slowing us down. The commander was complaining and about half an hour later, he ordered us to halt and then took his machete and started hitting us. First he hit me twice on the head and on my left arm, and then he started hitting the children one after the other. It was pathetic. The children were crying and begging but he killed them anyway. We had to leave them right there by the side of the path. Then we walked into Porpon where I saw other RUF's had captured seven more of us from the village. After giving us all loot to carry, they walked us to Yiraia where we saw RUF big man Demba Marrah who started accusing us of being Kamajors. He was angry because some weeks earlier the Kamajros had attacked his village and killed many of his people including his mother. But we have nothing to do with it. The Kamajors have never even come to our village. He told us to strip off our clothes and then put us in a house and there we found even more people from our village. The RUF would always come around and tell us we were going to be

1817.

killed. Two days some shots were fired, and in the panic I was able to run away.

Home | Current Events | News | Publications | About HRW | Documents by Country | Global Issues | Campaigns | Contribute | What You Can Do | Community | Book Store | Film Festival | Search | Site Map | Contact Us | Press Contacts | Privacy Policy

© Copyright 2002, Human Rights Watch 350 Fifth Avenue, 34th Floor New York, NY 10118-3299 USA

1818

Recent Abuses Documented by Human Rights Watch

(New York, November 30, 2000) Since the resumption of hostilities in May 2000, Human Rights Watch has taken scores of testimonies from victims and witnesses of abuses taking place within Port Loko, Kambia, Makeni, Lunsar, Kono, Kenema and Kabala districts. While our research suggests that the RUF continue to commit the overwhelming majority of atrocities -- including rape, murder, abduction, forced conscription, and amputation -- we note with concern the rising number of serious abuses by the Civil Defense Forces (CDF, primarily the Kamajors and Gbithis) including rape, systematic extortion, looting of villages, commandeering of vehicles, recruitment of children, and torture and summary execution of suspected rebels. We have also documented RUF attacks on Guinean villages and civilians.

The following is a chronology of some of these violations and atrocities documented by Human Rights Watch in both Sierra Leone and Guinea since May 2000.

Abuses by Revolutionary United Front in Sierra Leone:

August 9-10: RUF rebels conducted a recruitment operation in villages around the northern town of Kabala in which some forty civilians, mostly young men, were rounded up and "tattooed" with the letters R-U-F by a rebel commander. The tattooing was done by cutting 1-2 inch letters into the upper chest with a razor blade or knife. Human Rights Watch interviewed twelve of those, including three adolescent girls, who managed to escape after being "tattooed." Victims described the rape of at least eleven girls by the RUF during the operation.

July 28: A family from a small village in diamond-rich Kono district were "tried" and brutally "punished" for having defied the rebels' authority over mining and other issues. In the attack, one woman and two adolescents were executed, the hand of another woman was amputated, and yet another was gang-raped by the four RUF rebels perpetrating the attack.

Related Material

New Evidence of Atrocities in Sierra Leone
Human Rights Watch Press Release, November 30, 2000

Letter to Kofi Annan
Human Rights Watch letter, November 30, 2000

Sierra Leone: A Call for Justice
Human Rights Watch Photoessay 2000

July 12-15: Civilians fleeing Makeni in July described two waves of forced recruitment by the RUF. In the first stage, which began around July 12 and lasted for three days, hundreds of men and adolescent boys were seized in marketplaces, taken off trucks, or abducted from their homes. In the second wave starting July 21, the elders and chiefs from around Makeni were summoned for a meeting and told they had two weeks to provide thirty males from each of their chiefdoms. Forced conscription has also been reported around Kabala, Kono and Kambia Districts. Several witnesses said the RUF told the new recruits they were later to be sent to wage war against Guinea.

July 3-5: Elders from villages around the town of Magbele, in Port Loko District described seeing the bodies of seven men who had either been hung or had their necks broken through torture, during a series of rebel attacks. Several other witnesses described the abduction of six women and one young man during the same attack. Three of these women, including one who was eight pregnant, were raped.

July 3: A 25-year-old women was one of nine women raped by rebels, including boy soldiers, during an attack on the town of Madigba, Port Loko District. She had been pregnant and lost the baby after being raped by five men.

Late June: A 33-year-old mother of six described how her husband was executed and decapitated by RUF rebels after he tried to stop them from abducting their 15-year-old daughter. Eleven other youths were abducted in the attack which took place as the civilians tried to flee the rebel-held town of Makeni.

1819

Mid-June: A 45-year-old mother of eight saw her 21-year-old daughter and her newborn gunned down in front of her during an RUF attack on the town of Funkun, in the Northern Kambia District. They were, according to several witnesses, among seven civilians killed and over thirteen abducted in the same mid-June raid. Nine of those who were abducted were adolescents.

Mid-May: A 12-year-old girl from Mange-Burre in Northern Kambia District had her left hand amputated by RUF rebels after being captured along with some ten other village girls and adolescents while washing clothes in a stream.

Abuses by RUF in Guinea:

September 15: A 15-year-old boy recuperating in a Freetown hospital described how he was wounded and five young men were killed by RUF combatants when they attacked the Guinean town of Kolakuri. The victim said the RUF fired directly into a house in which he and nine of his friends were hiding.

September 6: Several residents of the Guinean border town of Pamelap verified the involvement of RUF combatants, including high-level commanders, in an attack on the town. One man interviewed by Human Rights Watch witnessed an RUF combatant gun down two Guinean traders and one Guinean policeman. Other witnesses saw the bodies of at least fifteen other victims and verified the abduction of up to fifteen Guinean women who were later taken into Sierra Leone by the retreating RUF. One Sierra Leonean refugee living in the town witnessed the abduction by the RUF of two Italian Catholic priests who are still in their custody at this writing.

Abuses by Civil Defense Forces

October 10: A local journalist was abducted from his office and taken away in a car with tinted windows to a Kamajor base in Freetown. Inside this base, he was beaten by Kamajor officers who accused him of having written unfavorable articles about the Kamajors, and in particular about their leader, Deputy Minister of Defense, Chief Sam Hinga Norman. The journalist was held for two days before being freed.

August 16: An official convoy carrying Chief Norman and the Sierra Leonean Vice President, Joe Demby, was briefly delayed crossing a damaged bridge near the southern town of Mabang by a public bus which had gotten stuck by a broken plank. Human Rights Watch researchers spoke with five witnesses who described how Chief Norman personally ordered his security detail to open fire on the bus after becoming irritated at having to wait for it to be removed from the bridge. While the bus was empty at the time, the ricocheting bullets wounded two civilians. Chief Norman later refused to take the wounded to Freetown for treatment.

August 14: A 45-year-old truck driver was severely beaten and lost several teeth, and another was beaten and held "prisoner" for several hours in a closed storage container by Kamajors controlling an extortion racket on a key bridge leading to the Southern and Eastern Provinces. The Kamajors manning the Mabang bridge routinely extort large sums of money from anyone wanting to take a vehicle across and subject drivers to excessive brutality if they are unable to pay their "tax." Human Rights Watch researchers visiting the area spoke with several drivers who had waited up to three days to cross the bridge because they could not produce the amount required by the Kamajors.

Mid-July: Three women described being raped by Kamajor fighters in the Southern town of Moyamba after the mini-bus in which they were traveling was detained and all the occupants "accused" of transporting goods to rebel held areas. One of the women interviewed was raped by one of the Kamajor commanding officers and others were raped within the CDF headquarters in Moyamba Town. Another was severely beaten on the head with a flashlight while resisting the sexual assault.

July 19: A 29-year-old RUF "Discipline Officer" interviewed by Human Rights Watch inside a jail in Kenema, described being tortured by Kamajor militiamen after his capture. He said the Kamajors dropped burning pieces of plastic on his left arm, and cut him on the legs and shoulders with a knife. Human Rights Watch verified the injuries described.

1820

July 17: A civilian from the northern town of Batkanu described seeing the head of a young RUF combatant on a stick at the entrance to the town. The RUF fighter had earlier that day been executed by Gbethi CDF militias who accused him of spying. The young RUF fighter had allegedly tried to surrender.

July 15: Villagers fleeing RUF repression and forced conscription in the town of Gbendembu described being later captured, tortured, and robbed by CDF Gbethi fighters who accused them of being rebel sympathizers. Many residents of Makeni who in June and July fled forced RUF recruitment and attacks by the government helicopter gunship, described similar incidents. In one such incident on July 18, a young man who sold cigarettes in Makeni market was executed.

July 15: An elder from Kangahun village, 12 miles from Moyamba, described how Kamajor fighters raided the village of Kangahun (Moyamba District.) In the attack the Kamajors beat up several residents, rounded up and stole all the livestock, and extorted money from the villagers.

July 12: A Sierra Leonean Army vehicle carrying an army paymaster with 9 million leones ($3,830 USD) in salaries was robbed by Kamajor fighters near Moyamba Junction. The money was shared among nine Kamajors and the local commander. The Kamajor authorities received considerable pressure to return the money to the army and some of it eventually was.

Early June: A Kamajor fighter described how militiamen from his unit raped two village girls they had come across in the bush while patrolling near Rogberi Junction. He said the fighters accused the girls of being rebel sympathizers.

Child Combatants:
Human Rights Watch and other credible witnesses and organizations have verified the continued use of child and adolescent combatants by Kamajor and Gbethi militias. Numerous children and adolescents, as young as 11, have been spotted manning checkpoints along the Freetown - Mile 91 highway, and around the towns of Moyamba, Yele and Bo.

Sierra Leone Army (SLA) Abuses:
A 24-year-old farmer from the Northern village of Alikalia described being tortured by an SLA lieutenant who accused her of being an RUF rebel. The woman had earlier this year been abducted and briefly held by the RUF. After being detained at a checkpoint outside of Kabala, she was severely beaten in the body and face, whipped and bound by wire at the elbows.

1821

Sierra Leone Government Bombing Causes Civilian Deaths

"It is unacceptable for the Sierra Leone government to start dropping bombs on a crowded market place in the hope of hitting a small number of rebels. The pro-government forces in Sierra Leone need to do more to minimize the impact of their military actions on the civilian population."

Peter Takirambudde Executive Director for Africa at Human Rights Watch

(New York, July 12, 2000)—Human Rights Watch today expressed concern that the Sierra Leone government has caused civilian casualties and massive civilian displacement in helicopter gunship attacks against suspected rebel positions. The attacks took place during the months of May and June in the towns of Makeni, Magburaka and Kambia and have resulted at least 27 civilian deaths and some 50 wounded civilians, as well as the displacement of tens of thousands of civilians. Human Rights Watch called on the Sierra Leone government and its British military advisors to ensure that government forces respect international humanitarian law and take the necessary precautions to protect civilians.

"It is unacceptable for the Sierra Leone government to start dropping bombs on a crowded market place in the hope of hitting a small number of rebels," said Peter Takirambudde, Executive Director of the Africa Division of Human Rights Watch. "The pro-government forces in Sierra Leone need to do more to minimize the impact of their military actions on the civilian population."

Peter Bouckaert of HRW on BBC Online - Real Audio - 28 K



Lungi, Sierra Leone - A fifteen-year-old woman and her nine-month-old daughter in Caritas' camp for demobilized child soldiers. The mother lived with the rebels for two and a half years, giving birth in the bush with the help of a midwife.
©Molly Bingham May 2000

Displaced civilians from Makeni, located some 120 miles north-east of Freetown, and Magburaka, located fifteen miles southeast of Makeni, have described several air attacks on public places, including crowded markets. The actions of the helicopter caused a massive civilian exodus which emptied entire towns and villages. Aid workers and credible sources said the number of Sierra Leoneans seeking refuge in nearby Guinea doubled from 100 to 200 per day in mid-June following attacks around the Northern town of Kambia. Witnesses maintain the rebel Revolutionary United Front (RUF) sustained few casualties in the raids.

In Makeni, the Government MI-24 gunship on May 31 dropped leaflets warning the RUF of a future air attack but attacked the center of town just minutes later. Witnesses told Human Rights Watch that between seven and nine people were killed when a government helicopter attacked the central lorry park with bombs and gunfire. The victims included a pregnant woman; a

Related Material

Decisive U.N. Action on Sierra Leone Urged
Press Release, June 20, 2000

Letter to U.N. Security Council
June 20, 2000

Memorandum on Sierra Leone: Priorities for the International Community
June 20, 2000

More..

1822

twenty-nine-year-old pharmacist called Umar Bongo; Alhadji Jallo, aged thirty-three; and Ibrahim Conte. Some had rushed to collect the leaflets which had just been dropped.

It is possible that there may have been a legitimate military target near the market place shortly before the attack. Witnesses told Human Rights Watch that they saw senior RUF commanders as well as RUF vehicles, including one with a mounted anti-aircraft gun, in the vicinity of the market place just before the bombing.

Protocol II additional to the Geneva Conventions prohibits attacks targeting civilians and requires that armed forces take precautions to limit the dangers of attacks to civilian populations. 'Acts or threats of violence the primary purpose of which is to spread terror among the civilians population' are prohibited. Military actions should be guided by the principle of proportionality; the attacker should refrain from launching an attack if the expected civilian casualties would outweigh the importance of the military target.

Forty-year-old Zainab from Makeni described seeing the bodies of four men and three women after the helicopter gunship attacked the crowded lorry park in the center of town on May 31. "The bodies were torn apart, I could see that one of the women was pregnant. These bombs never hit [RUF] soldiers because they know by now how to hide from it. It only kills civilians. The rebels run to surrounding villages and hide, they mix with civilians."

Khalil, a thirty-one-year old vendor, described the May 31 attack in Makeni and related how rebels later forced him to bury the civilian dead, "Close to where I was staying a house was hit. I went out and just near the house were the bodies of two young boys between the ages of twelve to sixteen. I then went out to the lorry park and saw the dead body of a man who used to sell tires at the Makeni market. Then about fifteen rebels approached me and a few others and ordered us to bury the dead. When we arrived at the graveyard after carrying two bodies, I saw four others bodies of civilians lying there waiting to be buried."

Seventeen-year-old Sahr was selling mangos when the gunship attacked Magburaka on June 7: "The bombs and the leaflets came at just about the same time. I fled into a neighboring house to seek shelter. The bombardment seemed to last for about thirty minutes and when it was finished I went back to the market to take a look. I saw nine dead bodies; men and women and one child, a baby. I saw about eight injured people as well."

As the military effort in Sierra Leone is being advised, trained, and in some cases directed by British military forces on the ground, Human Rights Watch urged Britain to take a proactive role in ensuring that international humanitarian law is respected by the pro-government forces. In particular, parties of the conflict must distinguish at all times between civilians and combatants and take the necessary precautions to protect civilians from attack.

Human Rights Watch also strongly condemned the continuing practice of both pro-government and rebel forces to extort "taxes" from fleeing civilian populations. All witnesses interviewed by Human Rights Watch reported that they had been forces to pay a "tax" to pro-government Civil Defense Forces (CDF) before entering the town of Mile 91, and civilians who fled through RUF-held territory described how they were forced to hand over personal belongings and money at RUF-controlled territory.

1823

"It is unconscionable that pro-government and rebel forces are stealing the last possessions from frightened, fleeing people," said Takirambudde. "The government of Sierra Leone needs to act immediately to stop theft and extortion by forces loyal to the government, particularly the Civil Defense Forces."

1824

SIERRA LEONE

TIME FOR A NEW MILITARY AND POLITICAL STRATEGY

11 April 2001

ICG Africa Report N° 28
Freetown/London/Brussels

MAP OF SIERRA LEONE i

EXECUTIVE SUMMARY AND RECOMMENDATIONS ii

I. INTRODUCTION 1

II. ROOT CAUSES OF THE CONFLICT 4

A. Bad Government 4

B. Unaccountable Military 5

C. Ethnic Politics and Exclusion 9

D. Militarisation of Youth 9

III. THE FAILURE TO ACHIEVE PEACE 10

A. The Futility of Negotiations and the Failed Peace Accords 10

B. The RUF - No Credibility or Legitimacy 13

C. Conflicting Agendas and Military Deadlock 16

1. The African Response 17
2. The United Nations 19
3. The UK Role 22
4. Harmonising Objectives 23

IV. CONCLUSIONS 24

APPENDICES

A. Political Background to the Crisis

B. Acronyms

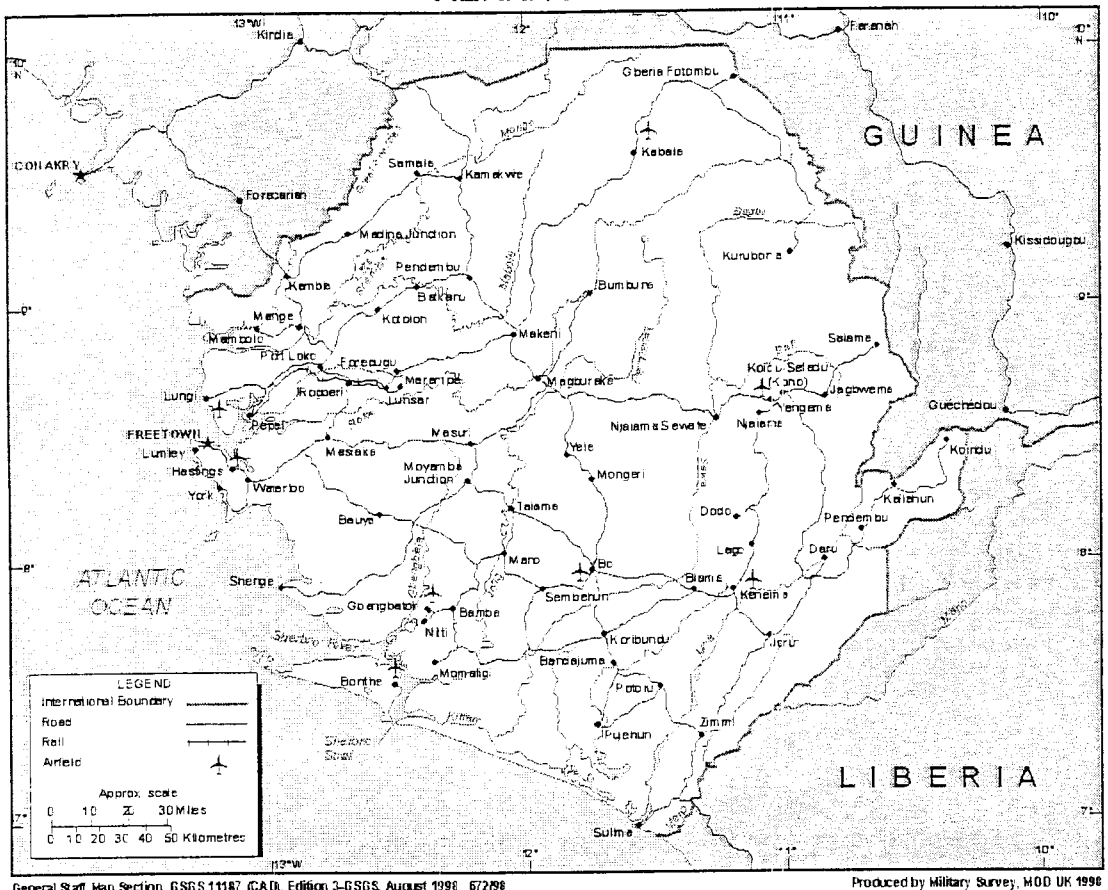
C. Chronology

D. About the International Crisis Group

E. ICG Reports and Briefing Papers

F. ICG Board Members

SIERRA LEONE



General Staff Map Section, GSGS 11187 (CAD), Edition 3-GSGS, August 1998 672/98

Produced by Military Survey, MOD UK 1998

Users should note that this map has been designed for briefing purposes only and it should not be used for determining the precise location of places or features. This map should not be considered an authority on the delimitation of international boundaries nor on the spelling of place and feature names. Maps produced by Military Survey (UK) are not to be taken as necessarily representing the views of the UK government on boundaries or political status. © Crown copyright 1998



SIERRA LEONE

TIME FOR A NEW MILITARY AND POLITICAL STRATEGY

EXECUTIVE SUMMARY

Sierra Leone is a human tragedy of massive proportions that is rapidly becoming a security nightmare for all West Africa. Two-thirds of Sierra Leone's population are thought to have been displaced during the ten-year civil war. Another 600,000 have become refugees in neighbouring countries. The war is spilling over into Guinea, where heavy fighting since September 2000 threatens the collapse of the government and has already produced a massive, new refugee problem. In effect, Sierra Leone is now at the heart of a series of conflicts that risk forming an arc of violence from southern Senegal to the Ivory Coast.

ICG believes the international community needs to take a radically different approach to that in which it has engaged so far. There should be no further negotiations with the Revolutionary United Front (RUF) other than for its complete disarmament and demobilisation. The RUF has blatantly used negotiations for the purpose of rearming. It has consistently shown bad faith in the string of agreements it has signed in Abidjan, Conakry, Lomé and Abuja. The RUF has no meaningful political constituency. Its main backer is Charles Taylor, the president of Liberia, who uses it as a proxy army to pursue his drive for regional hegemony: not for nothing is Taylor known widely as the Milosevic of West Africa. And, of course, the RUF has committed heinous atrocities qualifying as war crimes.

This report reaches the conclusion, stark, but we believe unavoidable -- that the international community must help Sierra Leone take decisive military action against the RUF. There are two vital conditions.

First, it is urgent to harmonise the divergent approaches of the UK government, which is arming, retraining and re-equipping the Sierra Leone army (SLA) for a serious campaign, and the UN military mission (UNAMSIL), which is still trying to implement the compromise provisions of the Lomé agreement. The international community cannot run two or more strategies in Sierra Leone simultaneously. Working against each other with conflicting mandates will only fuel the conflict and invite warring factions to exploit differences. Achieving a common approach will require much diplomacy, especially with West African nations that are hesitant about a muscular policy in which a former colonial power takes a prominent role.

Those in the RUF who refuse to demobilise should be defeated militarily. The military option could be spearheaded by UK trained and led Sierra Leone armed forces, with UNAMSIL securing the areas regained. The UK should provide military and intelligence backup to guarantee the safety of UN forces. The Civil Defence Force (CDF) could provide additional security for local villages and settlements.

Secondly, military action must be co-ordinated with a coherent political strategy accepted by all the key international actors and the Sierra Leone government. This will involve some form of UN-endorsed commitment to an international effort that may need to last five years or more, in order to help Sierra Leone re-establish good governance and reconstruct its shattered society. Without such a political effort, even military victory over the RUF would be pointless since the resulting power-vacuum would soon be filled by more violence from government and pro-government forces, new rebels and predatory neighbours.

The specific recommendations that follow will be difficult to implement. If the international community does not make a substantial commitment to help Sierra Leone resolve both its military and political problems now, however, it is all too easy to foresee the contagion of violence spreading out of control in West Africa much as has happened in Central Africa.

RECOMMENDATIONS

To the UN Security Council

1. Abandon the Lomé Agreement and make no further deals with the RUF.

2. Call for immediate surrender of the RUF and, against those who refuse, support the threat and eventual use of military force by the Sierra Leone army, supported by the UK.

3. Give UNAMSIL a tougher mandate to occupy and protect areas liberated by the SLA and harmonise its objectives with the UK and with West African heads of state.

4. Impose targeted sanctions on Charles Taylor's regime in Liberia -- involving visa restrictions, freezing of bank accounts and the like -- in order to persuade it to end its support for the RUF.

5. Provide adequate financing so that the Special Court established under UN Security Council Resolution 1315 of August 2000 can begin to investigate and prosecute those responsible for war crimes and a Sierra Leone Truth and Reconciliation Commission can start operations.

6. Support Demobilisation and Reintegration Programs for RUF and government militia (CDF) combatants.

7. Commit to a continuing international role in Sierra Leone, which may need to last five or more years, to assist the Sierra Leone government constitute a more reliable army, re-establish good governance, and restore its shattered society.

Freetown/Brussels/London, 11 April 2001



international
crisis group

SIERRA LEONE

TIME FOR A NEW MILITARY AND POLITICAL STRATEGY

I. INTRODUCTION

Sierra Leone has become a tragedy of massive proportions. Moreover, the civil war in that country has now spilled into neighbouring Guinea, where heavy fighting since September 2000 threatens to produce the collapse of another West African government. In effect, Sierra Leone is at the heart of a series of conflicts that risk spreading an arc of conflict from southern Senegal to the Ivory Coast.

Radical action is urgently needed if the further spread of war is to be avoided. The experience since the first international intervention in neighbouring Liberia in 1990 has demonstrated that neither the United Nations nor regional groupings can achieve this unaided, not least because conflicts in this part of Africa make a unanimous approach by the local countries impossible. The presence of an 800-strong British military force in Sierra Leone is an important new factor. However, if lasting peace is to be established in Sierra Leone and destabilisation of the region halted, it is essential that the British role and other forms of international intervention be harmonised. The International Crisis Group believes that further efforts to achieve a workable negotiated agreement between the parties to the Sierra Leone war would be fruitless. Rather, what is needed is broad international consensus on the military measures required to save the country from further agony and prevent violence from extending further throughout the region, and support for a complementary political strategy to rebuild the devastated country's institutions.

The modern republic of Sierra Leone grew out of an eighteenth-century settlement on the West African coast for black people from Britain, some of them former slaves. Starting with the colony of Freetown, British rule eventually extended into the hinterland. The country remained under British rule until independence in 1961. From the beginning, Sierra Leone's political parties vied for dominance at any cost. In 1967, the Sierra Leone People's Party (SLPP), that had led the country since independence, was narrowly defeated by the All People's Congress (APC) led by former trade union leader Siaka Stevens. The latter was prevented from taking power immediately by a military coup, but in 1968 Stevens became head of state. His APC party quickly consolidated power, and in 1978 it formally established a one-party state. Its notoriously corrupt government made extensive use of patronage and eventually undermined all the principal institutions including parliament, police, and civil service, resulting in chaos.

The past twenty years have seen a succession of bad governments, both military and civilian, all in one way or other dependent upon or involved in the trade in diamonds, which are Sierra Leone's most valuable resource. In the last decade the diamond trade has helped destroy Sierra Leone. Financial, military and diplomatic crime have characterised the country, as Lebanese, Israeli, Russian and other traders have competed for gems, and various military forces have fought for control of the diamond fields.[1]

Diamonds have also fuelled the terrible civil war in which a nihilistic movement known as the Revolutionary United Front (RUF), led by a former corporal, Foday Sankoh, has battled against every government that seized or otherwise obtained power in Freetown since 1991. Sankoh, widely thought to be a psychopath, has repeatedly committed atrocities against civilians. He has been supported in his ambitions by the equally brutal and unscrupulous Charles Taylor, now president of Liberia. Taylor won power in Liberia through war and now seeks to dominate the Mano River basin, which includes Liberia, Sierra Leone and Guinea.

Throughout the 1990s, Sierra Leone has had only one period of relative peace, in 1995-1996. South African mercenaries from an organisation known as Executive Outcomes were hired by the NPRC in April 1995. With a force of less than 200, they drove the RUF away from Freetown, secured the diamond fields and many other areas, and enabled a peaceful democratic election to be held in 1996. This was won by Tejan Ahmed Kabbah, a former UN official. Unwisely, Kabbah thought that Foday Sankoh could be persuaded to reasonable compromise. In one of several peace agreements ultimately broken by the RUF, Kabbah agreed that Executive Outcomes should leave. As a result, he was overthrown by a military coup and exiled in May 1997.

Nigerian forces, deployed under the banner of the Economic Community of West African States Cease-Fire Monitoring Group (ECOMOG), eventually restored Kabbah but they were unable to defeat the RUF, which invaded Freetown again in January 1999, killing, mutilating and abducting thousands of people. It was this awful event – coinciding with the Kosovo crisis – that finally compelled the broader international community to act. At that stage, the refugees in and from Sierra Leone were double those of Kosovo. Around 600,000 persons have fled the country - mainly to Guinea - and two-thirds of Sierra Leone's population of almost five million are thought to have been internally displaced.

The question was what to do. Nigeria, now under the democratic rule of Olusegun Obasanjo, wished to withdraw, and no other country wanted to take its place. Consequently, President Kabbah was pressured by the U.S., the UK and his neighbours to make another peace agreement with Sankoh, in Lomé in July 1999. Under this, Sankoh was, astonishingly, given the status of vice president and put in charge of the strategic minerals, including diamonds. The RUF were amnestied for their crimes. A UN mission (UNAMSIL) was dispatched to implement the accord.

[1] See Appendix 1: Detailed Background to the Political Crisis.

The Lomé agreement collapsed in May 2000. The RUF was chiefly to blame, sabotaging the peace process by capturing 500 UN peacekeepers and their equipment. The peacekeepers were eventually released through the intervention of Liberia's Taylor, and Sankoh was arrested. He faces the prospect of trial by the special tribunal established under UN Security Council Resolution 1315 of August 2000 for war crimes committed after the signature of the Lomé agreement, if international funding for that tribunal and political will can be found. Nevertheless, the RUF still controls 50 per cent of the country, including the diamond areas. From those areas it continues to make incursions across the border into Guinea, which is growing ever more unstable.

The collapse of the peace process has left the United Nations and its member states floundering for a response. Neither the amnesty offered to all combatants by the Lomé accord nor the deployment of what is already the UN's largest current peacekeeping force has been sufficient to keep the peace process on track. A decade after the end of the Cold War, Sierra Leone provices a sobering reminder of how little progress has been made on forging appropriate international responses to conflict. A further international failure in Sierra Leone will have catastrophic consequences for West Africa and grave implications for future international peacekeeping.

Throughout the last decade, international initiatives in Sierra Leone have been marred by divergent and competing agendas. Too often, mediators have staked their credibility on negotiated settlements in which rival warring groups are treated as potential political players, even allies in a coalition government. The notion of bringing rebel groups into government, which has been successful in some countries and some situations, however, has proved utterly misguided in Sierra Leone. The Lomé accord, the most recent agreement to disintegrate, was a vain exercise motivated largely by international expediency. It attempted to elevate those responsible for the deaths of thousands of innocent civilians into statesmen even though they lacked a coherent political agenda and almost any political base.

The collapse of Lomé means that the international community and the Sierra Leone government must rethink their approaches. There are key questions that need to be resolved before it will be possible to embark on a new strategy based on more than short-term expediency: what issues underlie the war? who are the key players, including in the international community? what assumptions are behind the failed peace initiatives? what new approaches are viable? The situation is so desperate and so unusual that new approaches are certainly necessary.

The answers do not lie in futile pursuit of yet another negotiated settlement with forces that have shown no interest in adhering to accords. The RUF plays a long game and uses peace agreements as stepping stones towards its ultimate goal of power. Its strategy is at the expense of democracy and the country's citizens. For the commanders of the RUF and its chief puppeteer, President Taylor, peace offers little reward; war presents greater opportunities to extend their influence.

ICG believes that there is no other real option than to take military action against the RUF. We do so, however, with the vital proviso that this must be associated with a coherent political strategy agreed among the key international actors and with the Sierra Leone government. The type of political strategy sketched here is

an unusual one. It will require significant international commitment to Sierra Leone for five years or more. In the particular case of Sierra Leone, the decision already made to establish an international tribunal to try Foday Sankoh and others accused of war crimes is a significant marker of the willingness of national and international forces to work together.

The necessity for a coercive military response has been recognised by the UK, which has been supporting the Sierra Leone government's need to reform and strengthen its armed forces to defeat the RUF on the battlefield since last summer. The UK and the U.S. have also supported a complete embargo against diamonds from Liberia in order to cut the RUF's revenue. The prospect of such a military policy, which conflicts with the UN's propensity towards impartiality, being applied without broader international agreement causes deep consternation in West Africa for understandable reasons. It must acquire the commitment of key regional and other international players if it is to succeed. Most importantly, a military policy will not succeed in isolation but must be coupled with a political strategy that addresses the conflict's underlying causes and has broad support inside Sierra Leone and within the region. Without international consensus around these linked objectives, real peace is unlikely, and the people of Sierra Leone, who have been victims for so long, will continue to suffer.

In short, Sierra Leone needs radical solutions involving the serious use of force complemented by extended international political commitment. The use of military force should always be a last resort, but ICG believes the crisis is so grave that this option must now be seriously pursued.

II. ROOT CAUSES OF THE CONFLICT

Amidst the turbulence of Sierra Leone's conflict, the underlying causes are frequently overlooked. These include corrupt and unaccountable government, ethnicity that has been manipulated for political ends, and alienated youth. Peace cannot be sustained without addressing all these factors.

A. Bad Government

Sierra Leone's problems are rooted in its history. Since independence in 1961, Sierra Leone has never experienced truly democratic, accountable government.[2] Independence was preceded by lengthy colonial rule which, although including a strain of authentic democratic tradition, was characterised by patronage and authoritarian government, especially in rural areas.

The habits of trust and accountability between people and rulers are often absent. There is little general awareness of the duties and responsibilities of government as these are accepted internationally. Politicians have for decades squandered the country's resources, which include good land and rich mineral deposits. Diamonds provide easily transportable and lucrative returns for people who enjoy good connections with or within the government. A medley of politicians, businessmen, soldiers and civil servants have formed networks of patronage or commerce,

[2] See Appendix 1: Detailed Background to the Political Crisis.

spread as far as the Middle East, the U.S. and Europe, that have undermined state institutions. Unsurprisingly, within a few years of the RUF's appearance, the rebel group's primary focus had become the occupation and control of diamond areas as a source of funds for weapons. The link between diamonds and corruption, conflict and weapons is a central feature of Sierra Leone's war.[3]

Sierra Leone desperately needs to establish a government that is both legitimate and accountable. The events of the last five years have shown that free elections alone are no guarantee. President Kabbah's SLPP government was democratically elected but is now widely regarded as corrupt. It is highly dependent on armed support from forces over which it has no control. President Kabbah has spent much of his life outside the country, is often perceived as detached from the population, and does not demonstrate the requisite level of influence over all members of his government. He has also shown poor judgement. Following his return to office in February 1998, for example, he unwisely oversaw a policy that led to the execution of people associated with the military junta and convicted of treason. This and other policies heightened animosity towards his administration and undoubtedly contributed to the intensity of the horrific revenge killings and abuses during the January 1999 RUF attack on Freetown.

Elections in 2001? There is widespread support among Sierra Leone citizens for new elections this year. Although they would be insufficient in themselves, they could be a vital element in creating a new legitimate government and underpinning reforms. New elections were due in March 2001 but were postponed by the government due to insecurity in parts of the country. They are unlikely to be held soon as around 50 per cent of Sierra Leone's territory is controlled by the RUF and two-thirds of its population is displaced.

The constitution provides conditions under which elections can be postponed: if Sierra Leone is fighting a war affecting the national territory; if the president concludes that under such circumstances it is not practicable to hold an election and proposes postponement to the parliament; and if the parliament so decides. If these conditions are met, the president's tenure may be extended for a maximum of six months at any one time. The number of extensions is unlimited.

There are other practical problems. The 1996 elections cost around U.S.$10 million. Unless similar funding is forthcoming from donors, there is little possibility of organising new elections. Voter registers will need to be revised, constituency boundaries delineated, and hundreds of thousands of refugees repatriated. This will not be cheap.

B. Unaccountable Military

President Kabbah's most immediate problem is control of the armed forces. Under President Siaka Stevens, the armed forces remained small, around 3,000, sufficient to quell minor uprisings but not to pose a threat to the government. President Stevens did, however, establish an Internal Security Unit, from which the Special

[3] For a full account, see *Report Of The Panel Of Experts Appointed Pursuant To UN Security Council Resolution 1306 (2000), Paragraph 19 in Relation To Sierra Leone* (December 2000).

Security Division (SSD) was created in 1972. This notorious, 500-strong unit was effectively a private army for his APC party.

In 1991-92, to counteract emergence of the RUF, the security forces were expanded to around 13,000. (The exact figure has never been determined because of the large number of 'ghost' soldiers, who drew salary and rations.) Recruitment attracted street boys and unemployed youth. Coupled with poor leadership, training and equipment, the rapid expansion led to disillusionment among front-line soldiers and the emergence of what became known in Sierra Leone as 'sobels' – 'soldiers by day, rebels by night'.[4] During 1994 and 1995, violence against civilians was often blamed on combatants believed to be part of the security forces. Difficulty in identifying the attackers fostered a belief that both sides – army and rebels - were equally to blame.

The 'sobel' phenomenon and collapse into gang-like tactics had several causes. Soldiers were unprepared to risk their lives to serve corrupt masters in Freetown, particularly as their salaries and rations were frequently missing. That led to collusion with the RUF to avoid battle. There was evidence of large-scale transfers of arms and ammunition from the army to the RUF. Also, soldiers discovered the lucrative returns that could be made by mining diamonds or simply looting civilian property.

Substantial commonality of interest gave the army and the RUF further incentive to cooperate. During 1995, terror tactics – which included amputation and carving messages into the chests and backs of victims – were often designed to deter the population from the democratisation process that was gathering momentum. Both the RUF and the armed forces recognised that elections were against their interests. The armed forces – which held power throughout the NPRC military administration headed by Valentine Strasser – stood to lose their ruling position. For the RUF, elections threatened further exclusion at home and internationally since a democratic government would gain international recognition and credibility. It has been alleged that the practice of cutting off the hands of civilians at random dates from this period and was originally an attempt to deter voting: the official election slogan was 'The future is in your hands'. Such terror tactics, however, failed to deter. The parliamentary and presidential elections held in February 1996 had widespread support. People saw the elections as a chance to express dissatisfaction with both the military government and the RUF and bring about permanent change.

While the initial success of the elections was astonishing, the Kabbah government failed to inspire extensive loyalty. It favoured a Mende militia in the form of the *Kamajors* (later the central element in the Civil Defence Force, CDF). Latent discontent within the army intensified, resulting in the coup of May 1997. The immediate spark was a government proposal to slash spending on the military and use the savings for the CDF, turning it into a private army for the ruling SLPP or factions within it. Johnny Paul Koroma, the head of the AFRC, justified his coup by noting that:

[4] ICG Interviews with residents of Bo and Kenema, November 1995.

'the SLPP tribal hunter militia, the Kamajors, received logistics and supplies far beyond their immediate needs. This was enough indication of the preference for the private army over our Armed Forces, foreshadowing the ultimate replacement of the Constitutional Defence Force by Mr Kabbah's hunters.[5]

The AFRC junta, which took power in May 1997, may have had some desire to end the war by inviting the RUF to join it in power, but it also sought to protect army privileges. At a more basic level, the administration reflected the battlefield collusion between the two sides. However, the army underestimated the strength of the RUF and quickly found itself a hostage of the rebel movement.

When a Nigerian military assault in February 1998 pushed AFRC and RUF forces out of Freetown, their common front ended. What was left of the alliance wreaked terror against civilians, particularly in the Northern Province.[6] Some former military filtered back into Freetown while others joined the RUF and yet others continued nominally as the AFRC or joined splinter groups such as the West Side Boys who set up base in the Okra Hills outside Freetown. In August 2000, this faction kidnapped eleven British soldiers, ultimately leading to its elimination during a rescue by British special forces.

With its entry into Freetown in February 1998, the Nigerian-dominated ECOMOG contingent effectively became Sierra Leone's military. President Kabbah was reinstated, and Nigerian Brigadier-General Maxwell Khobe, who had led the assault on Freetown, was seconded to be the country's defence chief. General Khobe was in theory answerable simultaneously to the Nigerian and Sierra Leone governments.

The New Sierra Leone Army. Sierra Leone has a long history of private armies formed by particular parties or factions, degenerating into banditry, and official security forces being abused for private interest. The British decision to revive the Sierra Leone army as the core of a new military thus carries significant risks.

In September 1999, the SLA consisted of around 6,300 troops of which 2,000 were new recruits, the others the rump of the AFRC with little loyalty to the elected government and with a lamentable human rights record.[7] The military is highly politicised. Maintaining an ethnic balance will be essential if it is to be impartial. The military is also riddled with corruption. Sierra Leone has a long history of coups, and for nearly a decade the army has taken power on a whim. Inculcating values of professionalism, discipline and service to the state and eliminating corruption will require long-term training.

Finally, the success of security sector reform requires not only the remodelling and retraining of soldiers into an accountable force, but also a guarantee that they will be adequately paid and equipped. Sierra Leone's resources are limited and the government has no revenue base adequate to finance an efficient army in the

[5] In letter from Johnny Paul Koroma to ECOWAS, August 1997. Available at www.sierra-leone.org/koroma0897.html.

[6] Amnesty International, *Sierra Leone: Childhood – a Casualty of Conflict* (Amnesty International, AFR 51/69/00, London, 31 August 2000), p.7.

[7] Comfort Ero, *Sierra Leone's Security Complex* (Centre for Defence Studies, King's College London, 2000), p.41.

short or medium term. Donors have traditionally been reticent to fund the security sector, although since last May the UK has increased bilateral defence assistance to Sierra Leone.

The Civil Defence Force. Apart from the considerable difficulty in organising the SLA into a responsible force, there remain other security forces of dubious nature within the government camp. Most notable is the Civil Defence Force. The CDF began as an initiative to protect civilians from the ravages of both RUF and SLA but its current strength and composition may exacerbate rather than improve the internal security situation.

Currently, the CDF consists of some six different groupings, representing the main ethnic groups in Sierra Leone. The most powerful, however, are the *Kamajors*. These were originally a guild of hunters among the Mende people in the southeast of the country. They defended their villages and hunted game with home made shotguns. As RUF and army looting intensified, traditional chiefs, many supporting the SLPP, which is regarded as a Mende-dominated party, recruited young men to be initiated into the *Kamajor* movement to defend their communities. The success of the *Kamajors*, supposedly equipped with extraordinary spiritual powers, stimulated similar defence forces, also purportedly traditional in nature, in other parts of Sierra Leone. These were loosely organised under the CDF umbrella.

On balance the CDF has been highly successful at protecting some communities, particularly when supported by good logistics and elite troops such as the South African military company Executive Outcomes. The CDF alone, however, is generally unable to resist a concerted RUF attack. Over time, the CDF has evolved into a force which itself contains the seed of destabilisation. The mistrust and hostility that has existed between CDF and army for six years has not evaporated with creation of the 'new' SLA. Towns like Lunsar have been lost to the RUF reportedly because of fighting between the coalition of forces that support the government. Some CDF commanders admit they now exist to guard against the SLA as much as against the RUF. CDF fighters are bitter that they receive fewer rations and weapons than the SLA. They argue the CDF stayed loyal to the democratic government and fought the RUF in the bush while the SLA colluded with the rebels. That loyalty, they argue, should be rewarded.

To a large degree, the CDF's future depends on the ambitions of Chief Hinga Norman, the Deputy Defence Minister, who is the nominal leader of all CDF and exercises real control over some *Kamajor* forces. Norman, formerly a professional army officer, was imprisoned in the late 1960s for planning a military coup on behalf of the SLPP, the party which is today in power. There is sometimes speculation that he may attempt a coup again, although this appears unlikely. However, Chief Norman may be a candidate in the next presidential election, in which case his influence among the CDF will be of real political value, especially if the CDF were to be seen as instrumental in the war against the RUF. There are also splits emerging in the CDF. Chief Norman is said to be losing control of the *Kamajors* in the regions of Kenema and Pujehun and Moyamba district to another leader, Eddie Massally.

There is a risk of wider ethnic instability if the SLPP, whose core support is among the Mende, were to lose forthcoming elections. The Mende component of the CDF – the *Kamajors* – are seen by many as guarantors of Mende power. Controlling the CDF – and giving it an effective role, such as local territorial force as is being mooted - is a major challenge facing the Sierra Leone government and its British military advisers.

C. Ethnic Politics and Exclusion

Ethnic balance, most particularly in the reorganised armed forces, will play a large part in rekindling people's confidence in institutions of government. Ethnic relations have been a persistent undercurrent in Sierra Leone's modern history, although there is not a history of enmity comparable to that in the Balkans or Rwanda, nor has widespread violence been conducted on a plainly ethnic basis.

The first seven years of Sierra Leone's independence were dominated by the SLPP, which attracted support predominantly from the Mende people in the south. Under the All People's Congress (APC) led by Siaka Stevens, power shifted to northern groups, principally the Limba and Temne. Stevens' dictatorship ensured that this dominance, reinforced by ethnic favouritism in the security forces, continued until the transfer of power to Joseph Momoh in 1985.

When the SLPP in 1996 won office for the first time in nearly 30 years, it was widely perceived as the return to power of a Mende constituency. But Kabbah tried to heal ethnic divisions by bringing representatives of other parties into his government. The dominance of northerners in the army remained a legacy from Stevens' time. Hence, the military coup of May 1997 also reflected some shift in the ethnic complexion of power.

Yet ethnicity is not necessarily all-pervasive. Ethnic factors appear to have played little role in the formation of the RUF or in its later manoeuvres. RUF combatants come from all parts of the country, many of them recruited by force. In its first months, the RUF attempted to rally support not on grounds of ethnic favouritism but in protest against social and political exclusion, a result of corrupt central power of whatever form.

D. Militarisation of Youth

'Central to an understanding of the war in Sierra Leone is the role of alienated youth ... for whom combat appears a viable survival alternative in a country with high levels of urban unemployment'.[8]

Sierra Leone's future will depend on ensuring that youth do not join military factions. That in turn largely depends on having an economy able to absorb an expanding young work force. This is a challenge that is not unique to Sierra Leone. Throughout Africa, poorly educated, unemployed youth are the excluded and disenfranchised outcasts created by corrupt governments. In Sierra Leone,

[8] Ibrahim Abdullah and Patrick Muana, 'The Revolutionary United Front of Sierra Leone', in Christopher Clapham (ed.), *African Guerrillas* (James Currey, Fountain Publishers and Indiana University Press, Oxford, Kampala & Bloomington, 1998), p.172.

frustrated urban and rural youth formed a veritable reserve army. The RUF's simplistic messages offered the possibility of reversing the social hierarchy through violence. Quick wealth was also an attractive incentive.

Although many joined the RUF for these reasons, young people with an identical profile in 1992 joined the army to fight the RUF. It is perhaps unsurprising that ill-equipped, poorly-trained, ill-paid army recruits colluded with the rebels. The more structured CDF, by contrast, recruited a greater concentration of rural youth through the patronage networks of chiefs. More recently, recruitment into the CDF has been less discriminate.

For the young, therefore, ethnic differences have been less important than finding a remedy to feelings of dispossession and alienation or, more positively, achieving a sense of purpose. Policies that do not address these fundamental issues are unlikely to provide long-term remedies for Sierra Leone's problems.

III. THE FAILURE TO ACHIEVE PEACE

While the underlying causes of Sierra Leone's war can be traced to different roots, the resolution of the conflict has been hampered by a number of issues. First, the RUF has shown little sign of wanting peace. The international community has confused the signing of agreements with achieving peace. Lomé and earlier negotiations need to be understood as interludes within a wider strategy of war through which the RUF bought time to seize power. A new peace agreement that relies on the RUF being a cohesive force willing to adhere to a document is pointless. Finally, the response of the international community has been uncoordinated and has shown lack of resolve. Its competing interests have hampered the search for a consistent strategy.

A. The Futility of Negotiations and the Failed Peace Accords

Early Attempts at Negotiation (1992 -1996). Few chances for negotiation were taken during the early years of the war. When the National Provisional Ruling Council (NPRC) military junta came to power in 1992, the RUF sought a negotiated settlement but the NPRC spurned the offer as it was confident of military victory. Its counteroffer to the RUF was tantamount to a demand for unconditional surrender and was rejected by Sankoh.[9] Instead, the RUF consolidated its weak position and realigned its rhetoric.[10] As the military situation began to turn during 1994 and early 1995, the RUF's desire to negotiate lessened further.

The NPRC and RUF re-established communication toward the end of 1995 when the NPRC offered a coalition government of 'national unity'. But Sankoh, still confident he could win militarily if foreign forces left (specifically the Executive Outcomes mercenaries), refused to compromise. According to senior diplomatic

[9] Paul Richards, *Fighting for the Rain Forest: War, Youth and Resources in Sierra Leone* (James Currey and Heinemann, London and Portsmouth NH, 1996), pp.10-11.
[10] For further information on the NPRC, see appendix 1.

sources, he demanded the presidency, but the NPRC was willing to concede only the vice-presidency.[11]

Faced with Sankoh's unwillingness to compromise, the NPRC stepped up its military attacks through Executive Outcomes. EO deployed a helicopter gunship and tactics that included concentrated mortar fire and ground attacks by approximately 120 soldiers. It rolled the RUF back in a number of battles, taking the Kono diamond fields in late 1995 and enabling a number of diamond companies, including Branch Energy, a firm with close links to EO, to resume mining. During the later battles, it conducted combined operations with the *Kamajors* and occasionally with the Sierra Leone armed forces, though these were often hampered by intelligence leaks.

In January 1996, following a campaign that destroyed a key RUF base in the Kangari Hills, the RUF dropped its demands, agreed to a ceasefire, and began unconditional negotiations for the first time. It was this that created the period of relative stability that enabled the elections in February 1996 to proceed.

The Abidjan Accord (1996). The election of a civilian government undermined any legitimacy the RUF might have claimed and relegated it to an insurgent threat. But the army was also threatened by civilian government as it lost political and economic privileges. When Sankoh, after weeks of talks in the Ivory Coast, reneged on his promise to sign a peace accord, President Kabbah authorised EO and the Kamajors, supported by the SLA, to assault RUF positions. A few days after they destroyed the RUF headquarters southeast of Kenema in November 1996, Sankoh agreed to sign the Abidjan peace accord. A senior diplomat in Freetown noted that, 'always military pressure was needed to be put on before negotiations could succeed'[12].

Unsurprisingly, Sankoh insisted that the Abidjan agreement include EO's departure. Unwisely, Kabbah agreed. In its place a UN peacekeeping force was to be established but never arrived. Donors were not willing to meet the U.S.$ 47 million bill for 700 soldiers, and Sankoh continued to dispute the agreement, maintaining that the UN presence should be less than 100. Nevertheless, EO was finally asked to leave by President Kabbah, who believed the RUF was sincere about peace. Three months later, without any external force to defend his government, he was deposed in another military coup led by the Armed Forces Revolutionary Council (AFRC).

The Conakry Accord (1997). The AFRC was not recognised by any foreign government or by the Sierra Leone people. After extensive bloodshed and destruction, the Conakry Accord was signed in October 1997 by a delegation sent by the AFRC leader Johnny Paul Koroma. It was intended to restore the Kabbah government. But it clearly became a ploy to buy time in the face of international pressure and a domestic boycott by government employees, who refused to work under the AFRC regime and shut down key government functions. Under cover of the accord, the AFRC stockpiled weapons and attacked remaining ECOMOG positions at the country's international airport at Lungi.

---

[11] Confidential interview, 24 April 1997.
[12] ICG Confidential interview, 24 April 1997.

The Lomé Accord (1999). A Nigerian/ECOMOG offensive retook Freetown in February 1998, forced the AFRC out of the city and reinstalled President Kabbah. In January 1999, however, the RUF rampaged through Freetown, killing and maiming until Nigerian troops drove them out. Seven months later, the Lomé Accord was brokered by the UN under the auspices of Francis Okello, special representative of the UN Secretary General, as well as by the UK, the U.S. and regional states. Lomé was an act of expedience. ECOWAS states – particularly Nigeria – wanted to withdraw. Nigeria claimed it was spending U.S.$ 1 million a day and had been actively fighting for over two years. Other than from the UK, there was little Western assistance for the Nigerian operations, and there was scant prospect of any replacement force or backing from Western states. Lomé was the child of stalemate. For the UN, striving for continued relevance as a peace-brokering body after being sidelined in Kosovo by NATO, the stakes were high. In October 1999, the Security Council authorised the establishment of UNAMSIL.

The international desperation to reach an agreement and 'create' peace enabled the RUF to negotiate very favourable terms. Donor countries, for their part, invested more heavily in the Lomé process than in past agreements and made important concessions to push the accord through. The U.S. hoped that the agreement would usher Sierra Leone off the international agenda at minimum cost. President Clinton's special envoy to Africa, Jesse Jackson, helped persuade Sankoh. At a critical point, Sankoh received a call from Clinton. Sankoh was reportedly jubilant. 'What rebel leader gets called by the president of the United States?' he asked. 'I only got that call because I fought in the bush for so many years'.[13]

Under Lomé the RUF was brought into the government, gaining four cabinet positions, heading a number of public sector directorships, and filling some ambassadorial posts. Most controversially, there was a blanket amnesty for all crimes committed during the war, however terrible. At the last moment however, the UN dissociated itself from the amnesty for crimes against humanity. In November 1999, a UN spokesperson stated that the amnesty would not cover 'the most flagrant' human rights abuses, and there would be a Truth and Reconciliation Commission. In February 2000, the Sierra Leone parliament approved legislation to create such a commission. However, it has not begun to function.

Lomé also achieved one of the RUF's central goals – exit of the Nigerians. Foday Sankoh was rewarded with the status of vice president and chairmanship of the Strategic Mineral Resources Commission, effectively giving him access to the country's diamond resources. Diamonds have been the main source of revenue for the RUF in its nine years' bush war. When Sankoh was imprisoned in May 2000, documents were discovered in his house that allegedly prove he continued to export diamonds illegally while in government.

Given the extent of concessions to the RUF, President Kabbah, was reluctant to sign. He buckled under international (particularly U.S.) pressure.

---

[13] Steve Coll, 'The Other War', *Washington Post Magazine*, 9 January 2000, p.26.

The Abuja Agreement (2000). Within days of the last ECOMOG troops' departure in May 2000, the RUF took 500 members of UNAMSIL hostage and seized their vehicles and weaponry. Charles Taylor, increasingly recognised as the real power behind the RUF, came under strong international pressure to secure the eventual release of these hostages. He claimed this result proved his desire to broker a peace; it also showed his power over the RUF. Subsequently, Sankoh was arrested in Freetown, and a powerful UK force was dispatched to Lungi airport to provide security for the capital after the UN debacle. This intervention was crucial in again changing the military balance inside Sierra Leone.

In August, the Security Council approved the creation of a Special Court for war crimes. In November a cease-fire was agreed in Abuja between the RUF and the government, which was followed by a break in fighting. However, the RUF continues to commit atrocities against the civilian population and to block UN deployment. Furthermore, the fighting has spread to Guinea, where the RUF is backing rebels.

B. The RUF - No Credibility or Legitimacy

For the most part the RUF has agreed to negotiations when it faces military disadvantage and has then broken the resulting agreements after rearming. Negotiated peace settlements with the RUF, unless they provide for its complete demobilisation and disarmament, are, therefore, extremely suspect.

Moreover, the RUF lacks any independent political legitimacy. It is effectively controlled by Liberia's President Taylor, who uses it to advance his regional ambitions. The RUF has become an army of Taylor's convenience, so negotiations with the RUF's leadership ignore the real power behind its operations. These factors, discussed in more detail below, point to the need for a coercive military strategy that also provides opportunities for RUF combatants to demobilise voluntarily.

A Proxy for Charles Taylor's Political Ambitions. Taylor was elected Liberia's president in 1997 after a campaign of terror. He runs Liberia as his own personal fiefdom. He has a personal stake in every major business and personally directs all financial and security services. For Taylor, there is limited advantage at best in ending the Sierra Leone war. Disorder enables the RUF to control the diamond fields and gives Taylor access through northern Sierra Leone to attack Guinea. Both the RUF and his own elite forces have been trained by Fred Rindel, formerly with the South African special forces. Associated with Rindel are several South Africans, formerly of Executive Outcomes, who have effectively changed sides. Rindel is believed to have markedly improved the RUF's military capabilities. A state of war also provides a pretext for Taylor to quell domestic opposition.

President Taylor is not just interested in money and diamonds. Resources are simply a means to his political goals. As one senior Liberian commentator put it, 'he's in Sierra Leone not for the money but for his political agenda.'[14] Although the

[14] ICG interview, 3 November 2000.

Sierra Leone diamond revenues are a key source of funds, the Liberian president has never been short of money. While head of the NPFL, in control of 90 per cent of the country, he was estimated by the former U.S. ambassador to Liberia, William Twaddell, to be earning U.S.$ 75 million a year from taxes on the passage of diamonds, timber, rubber and iron ore through his territory.[15]

Taylor is determined to attain power throughout the region. Since the mid-1980s he has relied heavily on personal links with Ivory Coast, Burkina Faso and Libya. He attended the Libyan training camps that 'became the 'Harvard and Yale of a generation of African revolutionaries'[16] where he first met Foday Sankoh. Now unchallenged in his control of Liberia, he has a grander design to control the Mano River countries. However, his desire to destabilise Sierra Leone and Guinea also reflects personal grudges. He was angered that West African ECOMOG forces occupied Monrovia in 1990 and foiled his initial attempt to seize power.

An uncompromising report by the UN in December 2000 identified President Taylor as the principal culprit behind the Sierra Leone war and linked him with diamond smuggling and arms trading. It noted that he 'is actively involved in fuelling the violence in Sierra Leone, and many businessmen close to his inner circle operate on an international scale, sourcing their weaponry mainly in eastern Europe'. It added:

'In short, Liberia is breaking [UN] Security Council embargoes regarding weapons imports into its own territory and into Sierra Leone. It is being actively assisted by Burkina Faso. It is tacitly assisted by all the countries allowing weapons to pass through or over their territory without question, and by those countries that provide a base for the aircraft used in such operations.[17]

An Unpopular Movement. The RUF has no discernible popular following. The 1996 elections were essentially a protest vote against the RUF and the Sierra Leone government of the day. While there was some initial sympathy for the RUF's aims – opposition to corruption in government – that has long since evaporated.

From its beginning the RUF relied on terror and brutality, summarily executing leaders believed to support the government, including chiefs, government officials and village elders. It has carried out widespread and indiscriminate campaigns of terror, mutilating thousands of people, often at random. It has received little support from the more settled rural communities, the population of which has often preferred to flee the 'freedom fighters'. Consequently, there has been 'little scope for the transformation of political dissent in these areas into revolutionary fervour'.[18]

An Ideological Vacuum. The simplistic ideology the RUF once enunciated is no longer a real influence on its actions. It has been replaced by a triangle of profit,

---

[15] Stephen Ellis, *The Mask of Anarchy: the Destruction of Liberia and the Religious Dimension of an African Civil War*, (C. Hurst and New York University Press, London and New York, 1999), p.90.
[16] Ellis, *The Mask of Anarchy*, ibid, p.72.
[17] Report of the UN panel on illicit diamond and arms dealings in Sierra Leone, December 2000.
[18] Abdullah and Muana, 'The Revolutionary United Front', p.179.

power and brutality. The overwhelming view in Sierra Leone is that the RUF is criminal.

The main RUF propaganda tract, 'Footpaths to Democracy: Toward a New Sierra Leone', quotes copiously from foreign revolutionary documents and essentially calls for a return to multi-party democracy, a fair sharing of resources, reform of education and an end to Lebanese domination[19]. This bears no relation to RUF practice. The RUF has not focused on building a political base in the countryside among the peasantry that might have been its natural following but has sought only to terrorise. Sankoh is a militaristic despot and, like Charles Taylor, is intent on taking power by whatever means. He executed his two main internal rivals, Rashid Mansaray and Abu Kanu in 1992, apparently for objecting to his tactics, and thereby eliminated any threat to his command.

The RUF concentrates upon making money, obtaining power, punishing those who are perceived as opponents, and perpetuating the privileges of gangland authority. Since Sankoh's imprisonment, it has continued to mine diamonds but the proceeds have gone to other senior leaders and Taylor. Miners work most commonly on a 'split pile' arrangement whereby they keep diamonds from one pile, and the other is taken by the RUF. Most reports indicate that any larger stones are taken by the RUF with the largest going to Liberia[20].

Forcible Recruitment of Young Fighters. Many, perhaps most, RUF fighters were forcibly recruited. Many are child soldiers who were kidnapped from their homes and fed on a diet of drugs. Former child combatants report using marijuana or *djamba* (often spiced with gunpowder to make it stronger), homemade alcohol, and various tablets. Cocaine and heroin are also taken, but less frequently.[21] Children say they took drugs because it made them 'fearless'. They 'no longer saw people as people but as animals, and they could do anything they had to do, the implication being that drug taking made it possible to commit atrocities such as killing family members and cutting off peoples' limbs'.[22]

There are many accounts of children forced to commit atrocities against their home villages. This transforms them into pariahs in their own communities and makes it impossible for them to return. Others are tattooed with RUF symbols so they cannot go home even if they had the chance to escape. Former combatants also relate that they would be beaten if they returned from raiding expeditions against civilians with nothing, and several tell of seeing friends shot by commanders if they did not follow orders.[23]

War Crimes and Terror as a Means of Control. The RUF has committed heinous atrocities that qualify as war crimes. Indeed, the main tactic used to control territory is intimidation through violence. A RUF hallmark is amputation. Since the mid-1990s hundreds of people have had hands hacked off. The most

[19] The economic influence of the Lebanese communities in West Africa is often seen as imperialistic by local populations.
[20] *Report Of The Panel Of Experts Appointed Pursuant To UN Security Council Resolution 1306 (2000).*
[21] Sue Loughlin, 'A preliminary assessment of past and current drug use among former child ex-combatants in Sierra Leone', Report for UNICEF, August 2000, p.4.
[22] Ibid., p.6.
[23] Ibid.

dramatic orgy of violence occurred in January 1999 when the RUF, supported by disgruntled members of the former army, infiltrated Freetown, attacked Nigerian troops from ECOMOG, killed several thousand civilians and amputated limbs of over 800 people.[24] More than anything, it was these well-documented atrocities that forced Western governments to take notice of Sierra Leone.

Internal Divisions within the RUF. There appear to be splits within the RUF. These are not new. In April 1997 one group of senior RUF members denounced Sankoh's leadership because he did not support the Abidjan Accord. They were taken prisoner and tortured. Some never reappeared. It is unclear whether the RUF now operates cohesively as a single unit. Junior members were sent to sign the November 2000 cease-fire, for example. It is uncertain exactly who has authority to represent the movement and ensure that it adheres to a peace agreement.

With Sankoh's imprisonment, the RUF appears to have come more directly under President Taylor's control. Issa Sesay has been announced as 'interim leader', although it is not clear on whose authority. The 'interim' nature of the appointment is presumably meant to indicate that Sankoh remains in theory the overall leader despite his imprisonment. Sesay's appointment appears not to have total support but is most likely backed by President Taylor. Some leaders, such as Dennis 'Superman' Mingo, have opposed Sesay's more moderate line, while there are reports that Sam 'Mosquito' Bockarie may be trying to exert more influence after disagreeing with Sankoh and taking refuge in Liberia. But Bockarie's position is uncertain since it was reported in January 2001 that Taylor had expelled him from Liberia, probably to distance himself from visible connections with the RUF.

Further confusion has fuelled uncertainty about who speaks for the RUF. On 22 November 2000 media reports quoted RUF spokesperson Gibril Massaquoi as alleging that the RUF was divided over the cease-fire signed earlier in the month, and the majority of combatants no longer took orders from Sesay. This was later denied. The RUF appears broadly divided into two commands. The eastern command has two main brigades, one centred around Kono and Tongo diamond areas to secure those resources and the communication routes to Liberia. The northern command, with four brigades, is located in the Magburaka, Makeni area. The division poses difficulties for obtaining full RUF acquiescence to any peace agreement.

C. Conflicting Agendas and Military Deadlock

Intransigence and a lack of legitimacy and integrity have been the hallmarks of the RUF but the RUF has also capitalised on the absence of international resolve and the multiplicity of international agendas. The result has been a series of weak accommodations engineered by the international community that have perpetuated rather than resolved the war.

The UK intervention to retrain the SLA with a view to conducting a more coercive strategy is a break with the past. It contains risks given SLA unreliability but it

[24] 'Getting Away with Murder, Mutilation and Rape: New Testimony from Sierra Leone', *Africa Rights Watch*, Vol. 11, No. 3(A), June 1999.

recognises that there is little chance of permanent peace through negotiations. The UK stance has been met with scepticism and a degree of resentment in Africa. The UN has tended to favour another series of negotiations, in large part because UNAMSIL is incapable of robust action.

1. The African Response

Nigeria. A small Nigerian unit has been in Sierra Leone since the mid-1990s. Nigerian troops have served under both ECOMOG and the UN. The initial Nigerian role was to assist Sierra Leone during the Liberian war when it was clear Charles Taylor was helping the RUF. A large ECOMOG force held parts of Liberia and was frequently in conflict with Taylor's NPFL faction. Conversely, one militia recruited from Liberian refugees (ULIMO) was helping the Sierra Leone army against the RUF.

In Sierra Leone, the ECOMOG force was usually small and restricted to guarding key installations. When confronted with the AFRC/RUF forces during the coup in May 1997, the Nigerians were forced into an embarrassing retreat to the international airport. Their failure was exacerbated by the fact that Nigeria had also signed a defence agreement with the Kabbah government in March 1997 which promised to provide presidential protection, training for the Sierra Leone military and strategic support for the regime.

That blow to Nigerian pride, added to impatience at the intransigence of the AFRC/RUF junta, was a key reason for the Nigerian assault that took Freetown and restored Kabbah to power in February 1998. Intervention also suited General Sani Abacha's military government. Nigeria needed – and still needs – to be seen as a powerful player and a positive force for regional stability. For Abacha the intervention was an opportunity to divert the increasing international pressure on Nigeria to improve its human rights situation and hold elections. The West was obliged to recognise Nigeria's involvement in Sierra Leone because no other state was willing to fulfil this role.

More than any other nation, Nigeria has committed itself militarily to the resolution of Sierra Leone's war. Without its involvement it is likely the RUF would have consolidated its power. But it also locked Nigeria into a long-term fight against the RUF, which retreated into the hinterland. On assuming office in early 1999, the newly elected Nigerian president, Olusegun Obasanjo, stated that one of his main foreign policy priorities was to reduce the cost of Nigerian troops in Sierra Leone. Prior to the Lomé agreement, there was a clear feeling among Nigerian politicians that it was time the UN pulled its weight in Africa by sending more peacekeepers or at least paying for ECOMOG.

Today Nigeria's continued presence risks degenerating into collaboration with its supposed enemies. Something similar happened earlier in Sierra Leone and in Liberia where international peacekeepers often collaborated with various armed factions. During the Liberian war, timber and minerals were transported across the frontlines between rival forces, earning ECOMOG the synonym of 'Every Car Or Moving Object Gone'. In September 2000, some

Nigerian soldiers were accused by the Indian UN Force Commander, General Jetley, of collaborating with the RUF to mine and trade diamonds. This is an accusation with which most independent observers in Sierra Leone concur. The economic ambitions of senior Nigerian officers are worrying, especially since, as part of UNAMSIL, Nigerian troops are likely to reoccupy the diamond mining areas

Positioning Nigerian forces in the diamond areas could prolong an intractable conflict. Added to the U.S.$ 1,000 per month that Nigeria receives for each soldier it contributes to UNAMSIL (under ECOMOG all costs were borne by West African states and so overwhelmingly by Nigeria), the fear is that some commanders have little incentive to seek an end to the conflict.

When a UN Security Council mission visited Liberia in October 2000, President Taylor stated he would prefer Nigerian forces to be based in the diamond fields and to guard the Liberian border. This contrasts to statements during the Lomé negotiation when he insisted that ECOMOG withdraw. His change is clearly linked to what he judges would give him best advantage. Within days of ECOMOG's departure in April 2000, the RUF took UN peacekeepers hostage. Now with the threat of the UK-trained force on the horizon, Taylor is courting Nigeria and attempting to drive a wedge between Nigeria and the UK so as to maintain his stronghold. On 21 November 2000, for example, he called for withdrawal of UK forces if they were not brought into UNAMSIL. Clearly, Taylor believes he can do business with the Nigerians.

Liberia and Guinea. West African conflicts are too frequently compartmentalised into state specific insurgencies, ignoring regional implications. Sierra Leone's war was perceived as a local conflict until its regional ramifications recently became only too obvious. Clearly, the RUF has support from Liberia and, indirectly, Burkina Faso. There has been significant fighting along the Sierra Leone-Guinea border between RUF and Guinean troops and also between Liberian and Guinean security forces along the Guinea-Liberia border around the Guinean town of Guéckédou where there are approximately 200,000, mainly Sierra Leone, refugees.

Liberia and Guinea have accused each other of territorial violations and harbouring dissidents. Liberia has charged that more than four attacks on its territory in two years were carried out with the acquiescence of Guinea, which it alleges trained and armed Liberian insurgents.

Guinea claims the Liberian government supports incursions into its territory from Sierra Leone and Liberia. Guinea has carried out several bombing raids of Sierra Leone territory, claiming they were in pursuit of dissidents who were attacking Guinean towns and villages. Fighting in Guinea's forest region has created a humanitarian crisis involving over 300,000 Sierra Leone and Liberian refugees, who have fled the wars in their countries. The conflict has seriously affected the ability of aid agencies to reach desperate refugees. The UNHCR describes the crisis as its biggest humanitarian emergency.

Charles Taylor is widely regarded as supporting RUF attacks against Guinea. There are fears that these attacks could provoke more widespread conflict and instability within Guinea, a country of over seven million considered close to collapse from internal strife and the misgovernment of President Lansana Conte's regime.

In addition to Taylor, another name consistently linked with the incursions into Guinea is that of Mohammed Touré, son of Guinea's first post-colonial leader, Ahmed Sékou Touré. Mohammed Touré is believed to be close to Taylor and working alongside the RUF to exploit its control of territory adjacent to Guinea's long border with Sierra Leone. Ethnicity also plays a leading role in this instability since there are mixed populations along the border.

Many of the same factors in Sierra Leone and Liberia's wars are present in Guinea. Poverty and corruption have resulted in high levels of youth unemployment. Unsurprisingly, students and disgruntled young people are at the vanguard of protests and most likely to take up arms. Unfortunately, Guinea's mineral wealth, including one third of the world's bauxite reserves[25], significant iron ore and gold and an estimated 300 million carats in diamond reserves, could prove to be a source of instability.

2. The United Nations

Military Role. ICG believes that there is a need for military coercion against the RUF but UN forces can not do this. Increasing their numbers in the expectation that more will prove better could lead to further UN humiliation.

The UN's mandate permits peacekeepers only to protect themselves when threatened and to protect civilians in 'imminent threat of physical violence' in areas of UNAMSIL deployment. Thus, in practice, the issue of where and when to use force to protect civilians is open to inconsistent interpretation and is ultimately at the discretion of the field commander. UNAMSIL's evacuation of Kenyan peacekeepers from Kabala when the town came under RUF attack in early June 2000 demonstrated the lack of clarity and vulnerability inherent in the current 'Chapter Six and a Half' mandate. Many argue that UNAMSIL needs more extensive powers so as to be better prepared if attacked or deployed in dangerous areas. Under a stronger Chapter VII mandate, it would be more easily held accountable for any failures.[26]

However, even a more robust mandate will not change the reality that the UN force is ill-suited to wage war in Sierra Leone. It cannot be expected to launch offensives. To protect civilians effectively, UNAMSIL requires not only a robust mandate, and the political will to hold UN field commanders and their units accountable, but also serious military capability.

---

[25] Guinea's production represents 11 percent of the world's production.

[26] See U.S. Committee for Refugees http://www.refugees.org/news/fact_sheets/faq_sierraleone.htm

Regrettably, much of the current UNAMSIL force is inadequate, and its soldiers are not willing to put their lives at risk in a conflict in which they have no direct interest. The standard of many of the African forces that form the bulk of UNAMSIL is woeful. Poorly briefed, ill-equipped and unable to operate cohesively, they are unprepared to cope with the tactics of the armed groups. Peacekeepers in May 2000 put up little resistance to RUF attempts to disarm them in Makeni. Rather than disarming combatants, they contributed a significant array of weaponry and equipment to the arsenal of the RUF. An informal poll of the rules of engagement by various contingents revealed that they would return fire if under attack but that they considered themselves under no obligation to go to the rescue of another country's soldiers in UNAMSIL.

The U.S. supports a more forceful UNAMSIL approach and advocates that the force be strengthened. It favours a redrafting of the UN mandate to allow UNAMSIL to impose peace and has threatened to withhold funding if that does not happen. The U.S. has started training five Nigerian, one Ghanaian and one Senegalese battalion to join UNAMSIL and enforce a more aggressive mandate.[27] But there is little guarantee that this diverse force could retake much territory. Experience suggests that the successful use of force requires a single cohesive military unit.

Furthermore, adopting a more robust Chapter VII approach would deter potential troop-contributing countries. They question why their soldiers should fight a war to which Western governments are unprepared to commit troops. UN Secretary-General Kofi Annan was unusually frank during the hostage crisis of May 2000: 'We would have liked to see some of the governments with capacity, with good armies and well-trained soldiers, participate but they are not running forward to contribute to this force'.[28]

For developing countries, the opportunity to earn hard currency has become a compelling reason for contributing peacekeepers. UN peacekeeping forces in Africa – especially in unresolved internal conflicts – are rapidly turning into a third world army paid by the West. Whereas five years ago, Western governments formed the backbone of UN deployments, today they shun such involvement. Lakhdar Brahimi, the Algerian diplomat who led a UN panel on the reform of peacekeeping, recently lamented 'you can't have a situation where some people contribute the blood and some contribute the money.'[29]

India's withdrawal of its 3,000 soldiers and Jordan of its 1,800 at the end of 2000 is linked in part to their reluctance to provide peacekeeping forces to areas where Western troops refuse to go. But there was also considerable hostility between Nigeria and India over Gen. Jetley's remarks concerning Nigerian diamond interests. The two most senior Nigerian officials implicated in the report - Mr Annan's special representative in Freetown, Ambassador

[27] The U.S. partnership with Western African armies to support UN operations in Sierra Leone is called "Operation Focus relief".

[28] UN press release SC/6857, 11 May 2000.

[29] Colum Lynch, 'U.S. and Europe Shift UN Peacekeeping Burden to Poor Nations' Troops', *Guardian Weekly*, 14 December 2000, p.29.

Oluyemi Adeniji, and Gen Jetley's immediate subordinate, Brigadier-General Mohammec Garba - both denounced Gen. Jetley's memorandum.

After that incident, future co-operation between these two major contributors, each with three battalions, was untenable. General Victor Malu, the Nigerian chief of staff, demanded Gen. Jetley's immediate removal. 'We are not going to serve under that man in whatever circumstances. If he is not removed, he will not get our co-operation, and we are the largest contingent in the force,' he said.[30]

Although two Bangladeshi battalions and further troops from Zambia and Ghana will partly fill the gap, the departure of the Indians is a major blow to UNAMSIL's viability; the Indian forces were its best troops.

International Tribunal. 'The Lomé peace agreement entrenched the impunity enjoyed by perpetrators of human rights abuses throughout Sierra Leone's eight-year conflict. By including an amnesty for all activities undertaken in pursuit of the conflict, the peace agreement granted impunity for some of the worst human rights abuses, including crimes against humanity and war crimes.'[31]

The Security Council has resolved (Resolution 1315 of 14 August 2000) to create an international tribunal to prosecute those who have committed crimes against humanity. The tribunal or special court will try 'persons who bear greatest responsibility' for 'crimes against humanity, war crimes and other serious violations of international law, as well as crimes under relevant Sierra Leonean law, committed within the territory of Sierra Leone'. Unlike the Tribunals of Rwanda and Former Yugoslavia, the court is to be a mixed effort between the international and Sierra Leone justice systems.[32] Although the Lomé accord of July 1999 included a comprehensive amnesty, it would be possible to prosecute people who have committed crimes since that date, including Foday Sankoh. Moreover, it is sometimes argued that RUF failure to respect Lomé terms has rendered the amnesty null and void, thus enabling prosecution also of earlier crimes.

The tribunal is needed. Those who have committed abuses must be brought to trial. That will go some way to ending impunity for perpetrators on all sides of human rights abuses. But there has been little material support for its establishment. In January 2001, Secretary-General Kofi Annan cautioned the Security Council against moving ahead without proper funding. He noted that the court might encounter financial problems unless provided three years of operational funds before its inception.

---

[30] Chris McGreal and Ewen MacAskill, 'UN to Bolster Peacekeeping Force by 7,000. Decision to Send Extra Troops Could Solve Dilemma about Leadership', special report: Sierra Leone, *The Guardian* (London), 13 September 2000.

[31] Amnesty International, *Sierra Leone: Ending Impunity - an Opportunity Not to be Missed* (Amnesty International, AFR 51/60/00, 6 July 2000), p. 2.

[32] See letter from the Secretary-General to the President of the Security Council dated 12 January 2001, S/2001/40.

There is also need for legal improvements within Sierra Leone. Administration of justice, both civil and criminal, is barely functional. Judicial institutions 'lack the necessary personnel with the appropriate training in international criminal law, financial support, equipment and the necessary legal tools to conduct trials of those accused of crimes under both national and international law'[33]. Furthermore, Sierra Leone law does not currently extend to crimes under international law, including crimes against humanity and war crimes.

The Lomé Accord also mandated a Truth and Reconciliation Commission (TRC) and a national human rights commission but little progress has been made toward establishing either. The TRC was to be established 90 days after the signing and to submit its report twelve months later. However, the government stated that it did not want the TRC to begin until disarmament and demobilisation of combatants were complete. Recently, UNAMSIL has assisted the government to draft legislation to establish a human rights commission, but funding is lacking. A workshop by the UNAMSIL human rights office in November 2000 also laid out some issues for the establishment of a Truth and Reconciliation Commission.

3. The UK Role

The UK has maintained an interest in Sierra Leone since independence. It contributed the bulk of the funding to the February 1996 election. The so-called Sandline Affair (known also as the 'Arms to Africa Affair') and the publicity surrounding atrocities in Sierra Leone intensified British interest. In March 1998 it was reported that the British private security company Sandline (an associate of Executive Outcomes) had violated an arms embargo on Sierra Leone. Sandline had purchased weapons and provided a small number of personnel and a helicopter in support of the February 1998 Nigerian assault on Freetown to reinstate President Kabbah. Sandline, dubbed 'mercenaries' in the British press, claimed that the UK government had known of its intention to assist Kabbah. While the Labour government condemned the affair as an affront to ethical foreign policy, it appeared to many that the company was supporting the restoration of democracy against a barbarous AFRC/RUF junta and could, therefore, be seen as being on the 'right' side in Sierra Leone's war.

Sandline's intervention raised a more fundamental issue. In the absence of other international assistance, President Kabbah had little choice other than to arrange a commercial deal to obtain the funds to pay Sandline for its support and to request the help of Nigeria, which then was under the dictatorial rule of Sani Abacha. The international media coverage of atrocities when the RUF entered Freetown in January 1999 fuelled further pressure on the UK to assist in resolution of the Sierra Leone conflict. These events resulted in a marked increase of UK funds to restructure the Sierra Leone armed forces in 1999.

---

[33] Amnesty International, *Sierra Leone: Ending Impunity*, p.3.

As noted earlier, the UK's policy to train and equip SLA troops to inflict a military defeat on the RUF is high-risk. A military offensive against the RUF may be essential given the failure of Sierra Leone's elected government to stabilise the country and end the war but if pursued in the absence of an appropriate political strategy it could prove disastrous. Even if a reorganised SLA, supported by British troops, could decisively defeat the RUF, the consequence might be further regional destabilisation since RUF forces could regroup in Liberia and renew their offensive in Guinea. Moreover, SLA forces, unless regularly paid and effectively commanded, might well begin to live off the land as so many troops in Sierra Leone have done in the past. Finally, a British withdrawal after a comprehensive military victory over the RUF would tip the balance of military power and risk restarting the war, as happened after the withdrawal of Executive Outcomes in 1997. All the problems which helped create the war in the first place remain present, aggravated by the events of the past ten years.

It is obvious, despite Whitehall denials, that British involvement in logistics and training will need to continue for a long time. Habits of ill discipline and corruption are endemic in the Sierra Leone armed forces, and many of the same soldiers are being recycled. Familiar problems – especially 'lost' wages and rations – are re-emerging as soldiers are placed under Sierra Leone command following their UK training. To reorient the SLA, it needs to know it is being effectively led. For that to happen, British officers must be placed in the chain of command, probably as deep as the rank of major. That step, while believed essential by British officers on the ground, is politically risky for a Blair government already accused of 'mission creep' by its political opponents. It would also create unprecedented dependence by an African country on a former colonial power.

The necessity for outside commitment to Sierra Leone goes further than the military sphere. In effect, a military option alone is doomed to failure in the sense that it cannot by itself stabilise Sierra Leone and could cause serious military repercussions throughout West Africa, further destabilising a troubled region. A military option, while necessary, can only achieve stability if it is part of a medium-term political strategy.

4. Harmonising Objectives

There is mounting unease in West Africa at the British approach to arm, retrain and re-equip the Sierra Leone army with the objective of defeating the RUF. The show of British strength in November 2000, including deployment of warships, attack helicopters and marines, may have been comforting for Sierra Leone citizens, but it was condemned by the acting UN commander, a Nigerian, who considered it overly aggressive and declared it might undermine any peace agreement.

The Nigerian position - which has great resonance in UNAMSIL - is that international and Sierra Leone government forces should push into the interior, persuading, not compelling, the RUF to stand aside. Multinational forces, given their composition and mandate, actually have few other options. UNAMSIL continues to hold one-on-one conversations with the RUF,

entreating its leaders to keep the Lomé accord, which in reality has already failed.

The UK mission is distinct from that of the UN, and there are risks of serious disagreement. The new appointments of Force Commander Major-General Daniel Opande (Kenya), Deputy Force Commander Major-General Martin Agwai (Nigeria) and a British Chief of Staff, Brigadier-General Alastair Duncan, may help bridge some of the gaps. But the question remains how mediation aimed at forging a consensus favoured by UNAMSIL can mesh with the more aggressive stance taken by the Sierra Leone government and its UK backers.

Nevertheless, the two international forces need each other. UNAMSIL relies on the guarantee of forceful UK intervention. Without it, UNAMSIL risks once again being humiliated by the RUF as in May 2000. At the same time, the UK plan presumably requires UNAMSIL to occupy areas that the SLA takes, especially given the nature of Sierra Leone troops. That strategy, however – appearing to take sides against the RUF – does not coincide with the UN approach.

The UN also worries that, should the SLA be defeated by the RUF, its soldiers will retreat into UNAMSIL bases, effectively placing them on the front line and compromising their 'impartiality'.

The international community cannot run two or more strategies in Sierra Leone simultaneously. Working against each other with conflicting mandates will only fuel the conflict and invite warring factions to exploit differences. The former Yugoslavia and Somalia provide clear examples that strategic coherence is fundamental to success.

IV. CONCLUSIONS

There are no simple solutions to the Sierra Leone war. The task is to make the best policy from the possibilities and players available. The international community must not repeat its mistakes by believing that a quick-fix negotiation will resolve the conflict. This time around, Sierra Leone deserves reassurance that the international community will fulfil its commitment to restore and uphold peace for as long as needed. That first aspect -- to restore peace -- involves a militarily robust response.

The Lomé peace agreement is dead and should be abandoned. It was broken by the RUF in the first months after its signature. The most recent blatant demonstration of bad faith came in December 2000 with the long awaited hand-over of weapons and equipment taken from UNAMSIL in May 2000. A total of eleven armoured vehicles were returned on 11 December 2000 but they had been stripped of all mounted weapons and equipment. No other weapons or ammunition were turned in, despite commitments to do so. Furthermore, the RUF banned UNAMSIL from entering areas it controlled until certain 'non-negotiable' conditions were met, including the release of Foday Sankoh.

Since bringing the RUF into negotiations has not aided peace, the UN should call for the RUF's immediate 'surrender'. The RUF is not a cohesive movement. It lacks ideology or popular support. It is an armed gang, ultimately controlled by President Charles Taylor.

RUF combatants wanting to demobilise should be helped to do so quickly and in safety, with well planned and designed re-integration programs to entice them out of the bush. Delays in providing re-integration programs will result in many youths being recycled as further recruits for President Taylor and his security forces.

Those in the RUF who refuse to demobilise should be defeated militarily. The military option could be spearheaded by UK trained and led Sierra Leone armed forces with UNAMSIL securing the areas regained. The UK should provide military and intelligence backup to guarantee the safety of UN forces. The CDF could provide additional security for local villages and settlements.

Such a military strategy, while essential, clearly requires a shift in international perceptions and agreements.

A forward military strategy requires rapid harmonising of international positions. It is unlikely to succeed while the UN-West Africa alliance pulls in a different strategic direction from the UK-Sierra Leone government alliance. The international community must quickly find a united way forward or it will witness another intervention disaster in Africa.

It is essential that the UN Security Council upgrade the UNAMSIL mandate. This will require a concerted effort by permanent Security Council members including the U.S., UK and France. The UK is already committed to such a course. The U.S. also supports redrafting the UN mandate. Its role as a funder of the operation and its training function with various West African armies give the U.S. considerable influence. France is understood to be considering a British request to take a more positive approach to military interventions in West Africa. An incentive for France to do this could come from its relations with Ivory Coast, the government of which is threatened by a further spread of violence in the region and has closed its territory to arms transfers from Burkina Faso to Liberia.

It is also vital that other West African governments identify themselves with such an approach. This is perhaps the hardest diplomatic task. It would effectively legitimise a position already taken by the UK that has never been the subject of any international mandate. It would require resolution of deep differences between West African governments.

The most important actor in this respect is Nigeria. A guarantee of further international funding for African troops in UNAMSIL would have to be part of a comprehensive diplomatic agreement that would also include an enhanced mandate for UNAMSIL and agreement by ECOWAS on an aggressive stance towards the RUF. Importantly, Ivory Coast might now be expected to support such a position given its vulnerability. France might also be prevailed upon to intercede with its regional allies and is already considering British requests for support for joint border operations between Sierra Leone and Guinea. This would be welcome if agreed by key regional actors, especially Nigeria and Ivory Coast. Other African

governments should be asked for support. Little can be hoped for from the Organisation of African Unity, which is too large and disparate, but some gesture of support for robust international action might be obtained from South Africa, which has good relations with both Britain and the U.S. Although South Africa is not militarily involved in West Africa, its influence and its rhetorical commitment to the notion of an African renaissance make its position important.

If Charles Taylor is not stopped from fuelling the Sierra Leone conflict, he is likely to encourage formation of a new rebel group should the RUF be defeated. This tactic was often seen during the earlier war in Liberia. The conflict must be examined in its regional context and Sierra Leone's neighbours need to be made accountable for their role in it. The use of targeted sanctions – visa restrictions, freezing bank accounts and the like -- against key members of President Taylor's power structures and their families would be extremely effective. To keep Taylor's threat at bay these sanctions could be extended to Taylor's business partners in the region and in the United States. A key element would include logging activities, which enrich Taylor's immediate circle and are frequently associated with arms shipments. ECOWAS is already considering such sanctions against Liberia.

Funding is needed to start the Special Court, which has already been formally established. While the pitfalls of the Rwandan tribunal need to be heeded, the instigators of violence such as Foday Sankoh and key members of the RUF hierarchy should stand trial. This is essential to stop the cycle of impunity.

Parallel support is needed to re-establish basic judicial functions within Sierra Leone and to bring into play a Truth and Reconciliation Commission in a form appropriate to the Sierra Leone situation. The latter would seek to produce a degree of healing between those who have committed crimes at a lower level, and their victims.

The underlying causes of Sierra Leone's war are frequently forgotten in the face of the immediate conflict. These include corrupt and unaccountable government, manipulated ethnicity and alienated youth. Peace cannot be sustained without addressing these factors.

Demobilisation and reintegration campaigns that collapsed in May 2000 should be rejuvenated to provide an incentive for soldiers to give up their weapons. Even before May 2000, only a minority of those who demobilised were RUF.

The CDF needs to be brought under more accountable control, possibly as part of local territorial units. Currently, it is an extra-state force, answerable to Chief Hinga Norman, who runs it as his own military. The CDF's future needs to be resolved quickly and decisively. While it has been effective in keeping the RUF at bay, it is a wild card in the peace process and risks deteriorating into a new RUF. The UK and Sierra Leone governments have developed an apparently sound concept to formalise the CDF's existence and bring it under state control. It envisages the CDF serving as a smaller territorial force that could be mobilised in response to local security threats. Its weaponry could conceivably be stored in one central arsenal.

Improving governance in Sierra Leone is the most difficult problem of all but it is essential if there is to be a lasting peace. The civil war is rooted in four decades of bad government and a longer colonial history of indirect rule. Elections in 1996 produced a government which was democratically chosen but soon demonstrated itself incapable of governing well or installing peace. It failed to address many of the fundamental problems that have underpinned the war. New elections are needed. They should be run by the UN, as in Cambodia and elsewhere.

However, there is no reason to believe that a government elected in the immediate future would do any better unless rooted in a clear partnership with the international community. This means the Security Council making a clear commitment to a continuing role for the international community in Sierra Leone for a long enough period, probably five years or more, to complete essential contributions not only to rebuilding Sierra Leone's army but also to re-establishing the judicial system and other elements of good governance, including a national system of education.

The whole strategy proposed, with both its military and civilian support dimensions, would need to be the subject of negotiation with key political actors in the country, and discussed and, as far as possible, endorsed by key regional actors, especially Nigeria. It would surely be supported by the overwhelming majority of the Sierra Leone population.

Regarding the international half of this partnership, the single most eligible actor to play a leading role is the UK government, which is the only potential peacemaker that has shown the will and ability to intervene decisively. Its authority, however, would need to be confirmed in some form and complemented by the UN, with respect to both military and political strategy. It needs to be emphasised again that a purely military strategy, without a real political commitment by the international community, would likely only further destabilise the region, as many West Africans fear, regardless of the fate of the RUF.

These are unusual and radical recommendations. They will be difficult to implement. However, if the international community were to leave Sierra Leone quickly, even in the event of the military defeat of the RUF, violence would likely resume at once as the consequent power-vacuum attracted intervention from Liberia and Burkina Faso. The results would almost certainly include a collapse of government in Guinea and spread of the zone of conflict throughout much of West Africa in a manner comparable to what has happened in Central Africa. In other words, without an unusually intense and protracted international commitment in Sierra Leone, the prospects are terrible.

Freetown/London/Brussels, 11 April 2001

Appendix A: Political Background to the Crisis

The modern republic of Sierra Leone grew out of an eighteenth-century settlement on the West African coast for African and Carribean Slaves and free citizens from Britain, some of them former slaves. Starting with the colony of Freetown, British rule eventually extended into the hinterland. The country area remained under British rule until it gained independence in 1961. From the beginning Sierra Leone's political parties vied for dominance at any cost. In 1967, the Sierra Leone Peoples Party (SLPP), that had led the country since independence, was narrowly defeated by the All People's Congress (APC) led by former trade union leader, Siaka Stevens. The latter was prevented from taking power immediately by a military coup but in 1968 Stevens became head of state. His APC party quickly consolidated power and in 1978 formally established a one-party state. This notoriously corrupt government made extensive use of patronage.

In 1985, the 80-year old Stevens handed over power to his hand-picked successor, General Joseph Momoh. Momoh cracked down on prominent Lebanese businessmen who controlled the Sierra Leone diamond trade and had become politically powerful under APC rule. These businessmen used their wealth to finance the civil war then raging in Lebanon itself and their influence with the government to encourage diplomacy helpful to one or another Lebanese faction. However, President Momoh became increasingly dependent in his own turn on Israeli traders and diplomatic and security networks and on Russian criminals with interests in the diamond trade. Such webs of international influence, in which criminal, financial, military and diplomatic interests are inextricably linked, have characterised Sierra Leone ever since.

Sierra Leone's war began in March 1991 when a small armed contingent known as the Revolutionary United Front (RUF), accompanied by Liberian fighters and Burkinabe soldiers, entered south-eastern Sierra Leone from Liberia. Foday Sankoh and other leading figures in the RUF had been involved with Charles Taylor and other insurgents from various West African countries in training camps in Libya and Burkina Faso in the 1980s. They said they intended to overthrow the APC government of President Momoh and claimed their larger goal was a radical, pan-African revolution.

The RUF was heavily dependent on Taylor, then the leader of a military faction in the civil war that had begun in neighbouring Liberia in 1989. Taylor and Sankoh sometimes claimed that their alliance was based on pan-African revolutionary solidarity. Taylor was also motivated by a desire to punish the Sierra Leone government for its participation in the West African intervention force in Liberia, known as the Economic Community of West African States Cease-fire Monitoring Group (ECOMOG) and led by Nigeria. That intervention in 1990 had prevented Taylor's National Patriotic Front of Liberia (NPFL) faction from taking control of Liberia. As time went by, Sierra Leone and Liberian forces became increasingly embroiled in one another's affairs, and Taylor supported the RUF to prevent Sierra Leone from being used by his Liberian opponents as well as to acquire diamonds and other plunder.

On 29 April 1992, President Momoh was overthrown in a military coup by young officers disillusioned with his government. Many of these officers had battlefield experience of the burgeoning two-country war. The coup was overwhelmingly popular among Sierra Leone citizens, many of whom regarded the old administration as incorrigibly corrupt. But the new National Provisional Ruling Council (NPRC) administration, consisting of eighteen military officers and four civilians, headed by Captain Valentine Strasser, soon adopted a style reminiscent of its predecessors. It also suffered a series of defeats

against the RUF. Despite military government and the expansion of the Sierra Leone army from 3,000 to over 13,000, the RUF advanced within a few kilometres of Freetown. Moreover, it became increasingly apparent that the government army often avoided fighting the RUF. Army and rebel commanders even reached informal understandings not to confront one another. Both sides lived off the countryside, plundering and abusing unarmed civilians. In desperation the government hired a private military company, Executive Outcomes, mainly comprised of former South African soldiers. This more disciplined and experienced force, which was supported by local armed militias, reversed the tide of war and pushed the RUF from most strategic areas.

The subsequent lull in fighting afforded sufficient stability – coupled with international and local pressure for democracy – for elections to be held in February 1996. These were conducted reasonably well and were won by the SLPP party led by Ahmed Tejan Kabbah, a former international civil servant with the United Nations.

The new government continued the policy of encouraging some local communities to recruit their own armed militias, officially called the Civil Defence Force but often known as *Kamajors*. It signed a peace settlement with RUF leader Foday Sankoh in Abidjan in November 1996, as part of which Kabbah was obliged to terminate Executive Outcomes' contract at the beginning of 1997. This proved a mistake that crucially changed the balance of military force and upset whatever basis had existed for political accord.

Three months later, President Kabbah was overthrown in a coup led by his own army, which had grown dissatisfied with the new government's curtailment of its privileges and its increasing use of the Civil Defence Force as, in effect, a private army. Kabbah and his government were forced into exile in Conakry. The new Armed Forces Revolutionary Council (AFRC) invited the RUF to join a coalition government.

A bizarre alliance of former foes, the AFRC/RUF administration was characterised by the total absence of the rule of law. There was widespread violence, rape and looting. The military regime was shunned by the international community. Many Sierra Leone civil servants boycotted their government jobs. Under international and domestic pressure, the AFRC/RUF agreed in Conakry in October 1997 to return power to the democratically elected Kabbah government. But almost immediately the AFRC/RUF administration showed increasing reluctance to adhere to its pledges.

Nigerian forces, present under an older defence agreement, continued to hold the international airport at Lungi even after the May 1997 overthrow of Kabbah. In February 1998 these troops, now technically part of ECOMOG, attacked Freetown, ousting the AFRC government. Most RUF fighters returned to the interior and resumed guerrilla war. Many Sierra Leone soldiers who had served the AFRC junta also fled to the interior and lived off the land, making common cause with the RUF. Pitted against them were 10-12,000 mainly Nigerian troops, under the banner of ECOMOG. These worked closely with the armed civilian militias, especially the *Kamajors*.

Horrific atrocities against civilians in rural areas were reported throughout 1998. In many cases these seem to have been perpetrated by the RUF and former soldiers seeking to impose their will in the countryside, but there were also reports of atrocities by the *Kamajors*. In effect, Sierra Leone was prey to a variety of armed groups, some having little coherence and no formal status. Its government, although internationally regarded as legitimate by virtue of its electoral mandate, was actually dependent on Nigerian troops and local militias. Several local forces recruited Liberians who had come to Sierra Leone either as refugees or as military adventurers. Some of these retained

links to Liberian military factions. There were many reports of collusion between groups officially opposed to one another, especially in diamond-marketing.

In July 1998, the UN established UNOMSIL, a 40-strong observer force.[34] But in January 1999, AFRC and the RUF infiltrated and nearly seized control of Freetown. Appalling atrocities were inflicted on civilians including rape, the random amputation of limbs from men, women and children, and kidnapping. Three thousand people are believed to have been murdered or abducted and many hundreds mutilated before ECOMOG again consolidated and pushed the RUF out of the capital.

ECOMOG, overwhelmingly Nigerian, was incapable of inflicting a lasting military defeat on the RUF, which continued to be supplied from Liberia by President Taylor. Nigeria wanted to withdraw, especially once Olusegun Obasanjo was elected as head of a civilian government in 1999. With few other states showing interest in sending troops and under international pressure to take even cosmetic action, another peace agreement was signed between the government and the RUF in Lomé just six months after the January 1999 atrocities.

Under Lomé the RUF gained positions in the government, and Foday Sankoh was given the status of vice president and made responsible for diamond marketing. To replace departing ECOMOG forces the UN Security Council also agreed to establish a 6,000-strong peacekeeping force, recently raised to 17,500. The new UN force, known as UNAMSIL, was empowered under Chapter VI of the UN Charter 'to ensure the security of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under immediate threat of violence, taking into account the responsibilities of the Sierra Leone government and ECOMOG'. Half of the 6,000 troops were expected to be provided by ECOWAS countries.[35]

But within days of the last ECOMOG troops' departure in May 2000, the RUF took hostage 500 members of UNAMSIL and seized their vehicles and weaponry. Charles Taylor, increasingly recognised as the real power behind the RUF, came under strong international pressure to secure the eventual release of these hostages. He claimed this result proved his desire to broker a peace; it also showed his power over the RUF. Subsequently, Sankoh was arrested in Freetown, and a powerful UK force was dispatched to Lungi airport to provide security for the capital after the UN debacle. This intervention was crucial in again changing the military balance inside Sierra Leone.

By December 2000, a vague west-east front line divided the warring factions. Since then there has been little fighting inside Sierra Leone itself. To the north of this front line, the RUF remains dominant except for isolated army deployments around Kabala and Bumbuna. In the south, especially around Freetown, some 13,000 UNAMSIL peacekeepers, predominantly African and dominated by three Nigerian battalions, are stationed in camps. Between them, and operating completely independently, is the Civil Defence Force (CDF), an exceedingly loose militia group of up to 40,000 fighters nominally under the control of the Deputy Minister of Defence, Hinga Norman. The training and strength of the militia is highly variable though many have modern automatic weapons.

---

[34] This was renamed UNAMSIL in October 1999, initially with some 6,000 troops.

[35] John L. Hirsch, *Sierra Leone: Diamonds and the Struggle for Democracy* (International Peace Academy Occasional Paper Series, Lynne Rienner publishers, Boulder and London, 2001), p.127.

APPENDIX A

The new Sierra Leone army, which will ultimately number 8,500, is becoming a more powerful force. Under the direction of several hundred UK soldiers, 3,000 have now completed basic training. A British rapid reaction force has been stationed offshore, presumably ready to intervene should the RUF become a major threat once again. A key concern to many observers, however, is that among the troops deployed in support of the government are many who could carry out future abuses. The new, retrained Sierra Leone army appears to contain individuals who were themselves responsible for human rights abuses in previous years. If they are not well led, there may be more abuses. The CDF has also been responsible for many abuses; some of its fighters are reported to have served previously with other militias in Sierra Leone or in Liberia.

Appendix B: Acronyms

- AFRC: Armed Forces Ruling Council. A military junta established after a coup in 1997, which was driven from power by Nigerian forces operating under the umbrella of ECOMOG in February 1998. Troops loyal to the AFRC retreated to the countryside and continued to operate as armed opponents of the restored democratic government.

- APC: All People's Congress. A political party formed by the late Siaka Stevens, which held power until a military coup in 1992.

- CDF: Civil Defence Force. Officially a government-aligned militia force of about 40,000, the name is given to a number of local militias, most notably the *Kamajors*, which are in fact largely independent of government control.

- ECOMOG: ECOWAS Cease-Fire Monitoring Group. Originally organised in 1990 to intervene in Liberia, it has evolved into an umbrella for various regional interventions in which Nigeria has played a leading role.

- ECOWAS: Economic Community of West African States. A regional economic grouping which has become a key diplomatic forum for organising regional military interventions in Sierra Leone, Liberia and elsewhere.

- EO: Executive Outcomes. A South African security company run by former members of the South African Special Forces. Employed by the Sierra Leone government in 1995-6, it decisively altered the military balance. Its contract was terminated under the terms of the Abidjan peace agreement in early 1997. EO has subsequently been dissolved, but some of its associates have recently worked for President Taylor of Liberia and have aided the RUF.

- NPRC: National Provisional Ruling Council. A military junta established after a coup in 1992 chaired by Valentine Strasser. It ceded power to an elected government in 1996.

- RUF/SL: Revolutionary United Front/Sierra Leone. A revolutionary group formed by Sierra Leone citizens in Libya in the late 1980s and led by Foday Sankoh. It began its armed campaign in March 1991. It is particularly known for its use of terror tactics such as amputation and mutilation.

- SLA: Sierra Leone Army. The armed force of the Sierra Leone government.

- SLPP: Sierra Leone People's Party. A political party which held power immediately after independence and again since 1996. Regarded as having a power-base particularly among the Mende people, one of the country's largest ethnic groups.

- ULIMO: United Liberation Movement for Democracy. A militia established in 1991 by Liberians opposed to Charles Taylor, at that time Liberia's main rebel leader. ULIMO was employed as an auxiliary force inside Sierra Leone, fighting against the RUF, before pushing its way into Liberia. It subsequently split into rival factions, some supported both by the Nigerian faction in ECOMOG and the government of Guinea. ULIMO has used Guinean territory to launch attacks on President Taylor's Liberia and appears to have played a role in recent fighting inside Guinea.

- UNAMSIL: United Nations Mission in Sierra Leone, established by UN Security Council Resolution 1270 of October 1999.

Appendix C: Chronology[36]

1961	Sierra Leone is declared independent on 27 April. Its first prime minister is the leader of the Sierra Leone People's Party.
1967	All People's Congress party leader Siaka Stevens wins elections. He is prevented by a coup from taking office.
1968	Non-commissioned officers stage Sierra Leone's third coup in thirteen months. Siaka Stevens assumes power.
1978	The APC adopts a one-party constitution.
1985	Military force commander Major-General Joseph Momoh succeeds Stevens as president.
1990	Momoh supports return to multiparty constitution. Elections scheduled for 1992.
1991	March 23. Around 100 fighters, including Sierra Leone citizens, Liberians loyal to Charles Taylor, and some Burkinabe mercenaries, attack Sierra Leone in the name of the Revolutionary United Front (RUF), led by Foday Sankoh, a former army corporal once detained for his part in a coup attempt.
1992	April 29. Junior officers carry out a coup and establish the National Provisional Ruling Council with Captain Valentine Strasser as chairman.
1994	September. Sierra Leone and Nigeria sign a mutual defence agreement.
1995	February. An RUF advance on Freetown is stopped by pro-government forces including some 2,000 Nigerian soldiers.
1995	March. Strasser signs a contract with the South African security company Executive Outcomes.
1996	January 16. Brigadier-General Julius Maada Bio replaces Strasser as NPRC Chairman in an internal coup.
1996	February 26-27. Presidential and legislative elections are held with the participation of thirteen political parties. No presidential candidate receives the required 55 per cent vote.
1996	March 15. Ahmad Tejan Kabbah of the SLPP wins a runoff.
1996	March 29. Kabbah is sworn in as president.
1996	November 30. Kabbah and Sankoh sign the Abidjan Peace Agreement.

[36] Adapted from Hirsch, *Sierra Leone: Diamonds and the Struggle for Democracy*, pp.113-34.

1997 January 31. Executive Outcomes officially leaves Sierra Leone under the terms of Abidjan.

1997 May 25. A military coup installs the Armed Forces Revolutionary Council, chaired by Major Johnny Paul Koroma. President Kabbah flees to Guinea.

1997 June 1. Major Koroma invites the RUF to join the ruling junta.

1997 October 8. UN Security Council Resolution 1132 establishes an embargo on selected items. ECOWAS is empowered to enforce the embargo.

1997 October 23. In negotiations in Conakry between the junta and ECOWAS, the AFRC/RUF agree to restore President Kabbah within six months.

1998 January 15. Nigerian troops operating with ECOMOG attack Freetown.

1998 February 15. The AFRC/RUF leave Freetown, which is taken by Nigerian troops.

1998 March 10. President Kabbah returns to Freetown and is reinstated as president.

1998 July 13. UN Security Council 1181 establishes the UN Observer Mission in Sierra Leone.

1999 January 6. AFRC/RUF forces re-enter Freetown by force. They inflict major destruction and widespread atrocities.

1999 May 25. Negotiations begin on a new peace agreement.

1999 July 7. The Lomé peace agreement is signed by President Kabbah and Foday Sankoh. The UN Security Council welcomes the agreement.

1999 October 22. UN Security Council Resolution 1270 establishes the UN Mission in Sierra Leone, now known as UNAMSIL.

2000 February 7. The Security Council adopts Resolution 1289 which expands UNAMSIL from 6,000 to 11,100 military personnel and revises its mandate to include additional tasks, like providing security at key locations and ensuring the free flow of people and goods on specified routes.

2000 May 6. After several incidents indicating its non-compliance with the peace process, the RUF takes 500 UN peacekeepers hostage.

2000 May 8. RUF fighters in Freetown fire on a demonstration, killing seventeen people.

2000 May 9. ECOWAS appoints Charles Taylor to ensure that the RUF complies with the terms of the Lomé peace agreement and frees the estimated 500 UN peacekeepers hostages.

2000 May 17. Foday Sankoh is captured by a crowd in Freetown, turned over to government authorities, and imprisoned.

2000 May 19. UN Security Council resolution expands UNAMSIL to 13,000.

2000 May 29. An ECOWAS summit approves a proposal to send 3,000 West African troops to Sierra Leone.

2000 June 10. A team of British military trainers arrives in Freetown.

2000 July 5. The UN Security Council imposes an eighteen-month trade ban on uncertified diamonds from Sierra Leone in a bid to stop their sale from funding the RUF rebellion (Resolution 1306).

2000 August 1. The UN Security Council Sanctions Committee announces the composition of a panel to look into possible violations of sanctions and the link between trade in diamonds and arms.

2000 August 4. The UN Security Council extends UNAMSIL's mandate and agrees to a reinforcement of its military component (Resolution 1313).

2000 August 14. The UN Security Council adopts Resolution 1315 that recommends the setting up of a Special Court, which would have jurisdiction over suspected perpetrators of war crimes and human rights violations and would operate under both Sierra Leonean and international law.

2000 August 28. Kofi Annan recommends that UNAMSIL be increased to 20,500 troops, which would cost $305 million more, bringing the UNAMSIL annual budget to $780 million.

2000 September 20. India announces its intention to withdraw troops from UNAMSIL, soon followed by Jordan.

2000 November 10. Sierra Leone's government and the RUF agree to a cease-fire and to resume the peace process. They also agree that the UN Mission will be allowed to deploy freely in rebel held areas in order to supervise the cease-fire.

2000 December 20. The UN panel investigating illicit arms and diamond dealings with anti-government forces in Sierra Leone recommends a complete embargo on all diamonds from Liberia.

2001 January 1. The British announce that their troops will remain in Sierra Leone "until the RUF has been defeated by war or diplomacy".

2001 January 17. Kofi Annan cautions the Security Council that the Special Court has not yet received adequate funding from UN member states.

2001 January 30. Presidential and parliamentary elections are postponed because of the continuing insecurity in parts of the country.

2001 March 30. UN Security Council Resolution 1346 authorises the extension of UNAMSIL by six months and increases its military strength to 17,500.

About the International Crisis Group

The International Crisis Group (ICG) is a private, multinational organisation committed to strengthening the capacity of the international community to anticipate, understand and act to prevent and contain conflict.

ICG's approach is grounded in field research. Teams of political analysts, based on the ground in countries at risk of conflict, gather information from a wide range of sources, assess local conditions and produce regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports are distributed widely to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's internet site, www.crisisweb.org . ICG works closely with governments and those who influence them, including the media, to highlight its crisis analysis and to generate support for its policy prescriptions. The ICG Board - which includes prominent figures from the fields of politics, diplomacy, business and the media - is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; former Australian Foreign Minister Gareth Evans has been President and Chief Executive since January 2000.

ICG's international headquarters are at Brussels, with advocacy offices in Washington DC, New York and Paris. The organisation currently operates field projects in eighteen crisis-affected countries and regions across three continents: Albania, Bosnia, Kosovo, Macedonia, Montenegro and Serbia in Europe; Algeria, Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone and Zimbabwe in Africa; and Burma/Myanmar, Cambodia, Indonesia, Kyrgyzstan, Tajikistan, and Uzbekistan in Asia.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Canada, Denmark, Finland, France, Germany, Japan, Luxembourg, the Netherlands, Norway, the Republic of China (Taiwan), Sweden, Switzerland and the United Kingdom. Foundation and private sector donors include the Ansary Foundation, the William and Flora Hewlett Foundation, the Charles Stewart Mott Foundation, the Open Society Institute, the Ploughshares Fund, the Sasakawa Foundation, the Smith Richardson Foundation, the Ford Foundation and the U.S. Institute of Peace.

April 2001

APPENDIX E

ICG REPORTS AND BRIEFING PAPERS
Released since January 1999

BALKANS

ALBANIA

The State of Albania, Balkans Report N°54, 6 January 1999
Albania Briefing: The Refugee Crisis, 11 May 1999
Albania: State of the Nation, Balkans Report N°87, 1 March 2000
Albania Briefing: Albania's Local Elections, A test of Stability and Democracy, 25 August 2000

BOSNIA

Brcko: A Comprehensive Solution, Balkans Report N° 55, 8 February 1999
Breaking the Mould: Electoral Reform in Bosnia & Herzegovina, Balkans Report N° 56, 4 March 1999
Republika Srpska: Poplasen, Brcko and Kosovo – Three Crises and Out? Balkans Report N°62, 6 April 1999
Why Will No-one Invest in Bosnia and Herzegovina? Balkans Report N°64, 21 April 1999
Republika Srpska in the Post-Kosovo Era: Collateral Damage and Transformation,
Balkans Report N°71, 5 July 1999
Rule over Law: Obstacles to the Development of an Independent Judiciary in Bosnia and Herzegovina,
Balkans Report N°72, 5 July 1999
Balkans Briefing: Stability Pact Summit, 27 July 1999
Preventing Minority Return in Bosnia and Herzegovina: The Anatomy of Hate and Fear,
Balkans Report N°73, 2 August 1999
Is Dayton Failing? Policy Options and Perspectives Four Years After, Balkans Report N°80, 28 October 1999
Rule of Law in Public Administration: Confusion and Discrimination in a Post Communist Bureaucracy,
Balkans Report N°84, 15 December 1999
Denied Justice: Individuals Lost in a Legal Maze, Balkans Report N°86, 23 February 2000
European Vs. Bosnian Human Rights Standards, Handbook Overview, 14 April 2000
Reunifying Mostar: Opportunities for Progress, Balkans Report N°90, 19 April 2000
Bosnia's Municipal Elections 2000: Winners and Losers, Balkans Report N°91, 28 April 2000
Bosnia's Refugee Logjam Breaks: Is the International Community Ready? Balkans Report N°95, 31 May 2000
War Criminals in Bosnia's Republika Srpska, Balkans Report N°103, 02 November 2000
Bosnia's November Elections: Dayton Stumbles, Balkans Report N°104, 18 December 2000
Turning Strife to Advantage: A Blueprint to Integrate the Croats in Bosnia and Herzegovina,
Balkans Report N° 106, 15 March 2001

KOSOVO

Unifying the Kosovar Factions: The Way Forward, Balkans Report N°58, 12 March 1999
Kosovo: The Road to Peace, Balkans Report N°59, 12 March 1999
Kosovo Briefing: Atrocities in Kosovo Must be Stopped, 29 March 1999
Kosovo Briefing: The Refugee Crisis, 2 April 1999
Kosovo: Let's Learn from Bosnia, Balkans Report N°66, 17 May 1999
The New Kosovo Protectorate, Balkans report N°69, 20 June 1999
Kosovo Briefing: Who Will Lead the Kosovo Albanians Now? 28 June 1999
The Policing Gap: Law and Order in the New Kosovo, Balkans Report N°74, 6 August 1999
Who's Who in Kosovo, Balkans Report N°76, 31 August 1999
Waiting for UNMIK: Local Administration in Kosovo, Balkans Report N°79, 18 October 1999
Violence in Kosovo: Who's Killing Whom? Balkans Report N°78, 2 November 1999
Trepca: Making Sense of the Labyrinth, Balkans Report N°82, 26 November 1999
Starting From Scratch in Kosovo: The Honeymoon is Over, Balkans Report N°83, 10 December 1999
Kosovo Albanians in Serbian Prisons: Kosovo's Unfinished Business, Balkans Report N°85, 26 January 2000
What Happened to the KLA?, Balkans Report N°88, 3 March 2000
Kosovo's Linchpin: Overcoming Division in Mitrovica, Balkans Report N°96, 31 May 2000
Reality Demands: Documenting Violations of International Humanitarian Law in Kosovo 1999,
27 June 2000
Elections in Kosovo: Moving toward Democracy? Balkans Report N°97, 7 July 2000
Kosovo Report Card, Balkans Report N°100, 28 August 2000

APPENDIX E

ICG REPORTS AND BRIEFING PAPERS (continued)
Released since January 1999

BALKANS continued...

Reaction in Kosovo to Kostunica's Victory, Balkans Briefing, 10 October 2000
Religion in Kosovo, Balkans Report N°105, 31 January 2001

MACEDONIA

Challenges and Choices for the New Government, Balkans Report N°60, 29 March 1999
Toward Destabilisation? Balkans Report N°67, 21 May 1999
Macedonia Briefing: Government Holds Together, Eyes Fixed on Upcoming Presidential Poll, 11 June 1999
Macedonia Briefing: Update of Recent Political Developments, 14 June 1999
Macedonia: Gearing up for Presidential Elections, Balkans Report N°77, 18 October 1999
Macedonia's Ethnic Albanians: Bridging the Gulf, Balkans Report N°98, 2 August 2000
Macedonia government expects setback in local elections, Briefing Paper, 4 September 2000

MONTENEGRO

Montenegro Briefing: Milosevic to Move on Montenegro, 23 April 1999
Montenegro Briefing: Calm Before the Storm, 19 August 1999
Montenegro: In the Shadow of the Volcano, Balkans Report N°89, 21 March 2000
Montenegro's Socialist People's Party: A Loyal Opposition?, Balkans Report N°92, 28 April 2000
Montenegro's Local Elections: Testing the National Temperature, Background Briefing, 26 May 2000
Montenegro's Local Elections: More of the Same, Briefing Paper, 23 June 2000
Montenegro: Which way Next? Balkans Briefing, 30 November 2000
Montenegro: Settling for Independence? Balkans Report N°107, 28 March 2001

SERBIA

Sidelining Slobodan: Getting Rid of Europe's Last Dictator, Balkans Report N°57, 15 March 1999
Milosevic's Aims in War and Diplomacy, Balkans Report N°65, 11 May 1999
Yugoslavia Briefing: Wanted for War Crimes, 1 June 1999
Back to the Future: Milosevic Prepares for Life After Kosovo, Balkans Report N°70, 28 June 1999
Transforming Serbia: The Key to Long-Term Balkan Stability, Balkans Report N°75, 10 August 1999
Serbia's Embattled Opposition, Balkans Report N°94, 30 May 2000
Serbia's Grain Trade: Milosevic's Hidden Cash Crop, Balkans Report N°93, 5 June 2000
Serbia: The Milosevic Regime on the Eve of the September Elections, Balkans Report N°99, 17 August 2000
Current Legal Status of the Republic of Yugoslavia (FRY) and of Serbia and Montenegro,
Balkans Report N°101, 19 September 2000
Yugoslavia's Presidential Election: The Serbian People's Moment of Truth, Balkans Report N°102, 19 September 2000
Federal Republic of Yugoslavia Sanctions Briefing, Balkans Briefing, 10 October 2000
Serbia on the Eve of the December Elections, Balkans Briefing, 20 December 2000

REGIONAL REPORTS

War in the Balkans, Balkans Report N°61, 19 April 1999
Balkan Refugee Crisis, Balkans Report N°68, 1 June 1999
Balkans Briefing: Stability Pact Summit, 27 July 1999

APPENDIX E

ICG REPORTS AND BRIEFING PAPERS (continued)
Released since January 1999

AFRICA

ALGERIA

Algeria: The Press in Crisis, Algeria Report N°2, (Africa Report N°8), 11 January 1999
Algérie: La Crise de la Presse, Algeria Report N°2 (Africa Report N°8), 11 January 1999
The People's National Assembly, Algeria Report N°3, (Africa Report N°10), 16 February 1999
Assemblée Populaire Nationale: 18 Mois de Législature, Algeria Report N° 3, (Africa Report N°10) 16 February 1999
Elections Présidentielles en Algérie: Les Enjeux et les Perspectives,
Algeria Report N°4, (Africa Report N°12), 13 April 1999
The Algerian Crisis: Not Over Yet, Africa Report N°24, 20 October 2000
La Crise Algérienne n'est pas finie, Africa Report N°24, 20 October 2000

BURUNDI

Burundi: Internal and Regional Implications of the Suspension of Sanctions, Burundi Report N°3,
(Africa Report N°14), 27 April 1999
Le Burundi Après La Suspension de L'Embargo: Aspects Internes et Regionaux, Burundi Report N°3,
(Africa Report N°14), 27 April 1999
Quelles Conditions pour la reprise de la Coopération au Burundi? Burundi Report N° 4, 27 April 1999
Proposals for the Resumption of Bilateral and Multilateral Co-operation, Burundi Report N°4,
(Africa Report N°13), 27 April 1999
Burundian Refugees in Tanzania: The Key Factor in the Burundi Peace Process, Central Africa Report N°12, (Africa Report N°19), 30 November 1999
L'Effet Mandela: Evaluation et Perspectives du Processus de Paix Burundais,
Central Africa Report N°13, (Africa Report N°20), 18 April 2000
The Mandela Effect: Evaluation and Perspectives of the Peace Process in Burundi,
Central Africa Report N°13, (Africa Report N°20), 18 April 2000
Unblocking Burundi's Peace Process: Political Parties, Political Prisoners and Freedom of the Press,
Africa Briefing, 22 June 2000
Burundi: Les Enjeux du Débat. Partis Politiques, Liberté de la Presse et Prisonniers Politiques,
Africa Report N°23, 12 July 2000
Burundi: The Issues at Stake. Political Parties, Freedom of the Press and Political Prisoners,
Africa Report N° 23, 12 July 2000
Burundi Peace Process: Tough Challenges Ahead, Africa Briefing, 27 August 2000
Burundi: Ni guerre ni paix, Africa Report N° 25, 1 December 2000

DEMOCRATIC REPUBLIC OF CONGO

How Kabila Lost His Way, DRC Report N°3, (Africa Report N°16), 21 May 1999
Africa's Seven Nation War, DRC Report N°4, (Africa Report N°17), 21 May 1999
The Agreement on a Cease-Fire in the Democratic Republic of Congo, DRC Report N°5, (Africa Report N°18),
20 August 1999
Kinshasa sous Kabila, à la veille du dialogue national, DRC Report N°6, (Africa Report N°19), 21 September 1999
Scramble for the Congo: Anatomy of an Ugly War, Africa Report N° 26, 20 December 2000
From Kabila to Kabila: Prospects for Peace in the Congo, Africa Report N°27, 16 March 2001

RWANDA

Five Years after the Genocide: Justice in Question, Rwanda Report N°1, (Africa Report N°11), 7 April 1999
Cinq Ans Après le Génocide au Rwanda: La Justice en Question, Rwanda Report N°1, (Africa Report N°11), 7 April 1999
Uganda and Rwanda: Friends or Enemies? Central Africa report N°14, (Africa Report N°15), 4 May 2000

ICG REPORTS AND BRIEFING PAPERS (continued)
Released since January 1999

AFRICA continued...

ZIMBABWE

Zimbabwe: At the Crossroads, Africa Report N°22, 10 July 2000
Zimbabwe: Three Months after the Elections, Africa Briefing, 25 September 2000

ASIA

BURMA/MYANMAR

Burma/Myanmar: How Strong is the Military Regime?, Asia Report N° 11, 21 December 2000

INDONESIA

East Timor Briefing, 6 October 1999
Indonesia's Shaky Transition, Indonesia Report N°1, (Asia Report N°5), 10 October 1999
Indonesia's Crisis: Chronic but not Acute, Indonesia Report N°2, (Asia Report N°6),31 May 2000
Indonesia's Maluku Crisis: The Issues, Asia Briefing, 19 July 2000
Indonesia: Keeping the Military Under Control, Asia Report N°9, 5 September 2000
Aceh: Escalating Tension, Asia Briefing, 7 December 2000
Indonesia: Overcoming Murder and Chaos in Maluku, Asia Report N° 10, 19 December 2000
Indonesia: Impunity Versus Accountability for Gross Human Rights Violations, Asia Report N°12, 2 February 2001
Indonesia: National Police Reform, Asia Report N°13, 20 February 2001
Indonesia's Presidential Crisis, Indonesia Briefing, 21 February 2001
Bad Debt: The Politics of Financial Reform in Indonesia, Asia Report N° 15, 13 March 2001

CAMBODIA

Back from the Brink, Cambodia Report N°4, (Asia Report N°4), 26 January 1999
Cambodia: The Elusive Peace Dividend, Asia Report N°8, 11 August 2000

CENTRAL ASIA

Central Asia: Crisis Conditions in Three States, Asia Report N°7, 7 August 2000
Recent Violence in Central Asia: Causes and Consequences, Central Asia Briefing, 18 October 2000
Islamist Mobilisation and Regional Security, Asia Report N°14, 1 March 2001

ICG Board of Trustees

Martti Ahtisaari, Chairman
Former President of Finland

Stephen Solarz, Vice-Chairman
Former U.S. Congressman

Gareth Evans, President
Former Foreign Minister of Australia

Morton Abramowitz
Former U.S. Assistant Secretary of State; former U.S. Ambassador to Turkey

Kenneth Adelman
Former U.S. Ambassador and Deputy Permanent Representative to the UN

Richard Allen
Former Head of U.S. National Security Council and National Security Advisor

Hushang Ansary
Former Iranian Minister and Ambassador; Chairman, Parman Group, Houston

Louise Arbour
Supreme Court Judge, Canada;
Former Chief Prosecutor, International Criminal Tribunal for former Yugoslavia

Oscar Arias Sanchez
Former President of Costa Rica; Nobel Peace Prize, 1987

Ersin Arioglu
Chairman, Yapi Merkezi

Paddy Ashdown
Former Leader of the Liberal Democrats, United Kingdom

Zainab Bangura
Director, Campaign for Good Governance, Sierra Leone

Alan Blinken
Former U.S. Ambassador to Belgium

Emma Bonino
Member of the European Parliament; former European Commissioner

Maria Livanos Cattaui
Secretary-General, International Chamber of Commerce

Eugene Chien
Deputy Secretary General to the President, Taiwan

Wesley Clark
Former NATO Supreme Allied Commander, Europe

Jacques Delors
Former President of the European Commission

Uffe Ellemann-Jensen
Former Foreign Minister of Denmark

Gernot Erler
Vice-President, Social Democratic Party, German Bundestag

Mark Eyskens
Former Prime Minister of Belgium

Yoichi Funabashi
Journalist and author

Bronislaw Geremek
Former Foreign Minister of Poland

I.K.Gujral
Former Prime Minister of India

Han Sung-Joo
Former Foreign Minister of Korea

El Hassan bin Talal
Chairman, Arab Thought Forum

Marianne Heiberg

Senior Researcher, Norwegian Institute of International Affairs

Elliott F Kulick
Chairman, Pegasus International

Joanne Leedom-Ackerman
Novelist and journalist

Todung Mulya Lubis
Human rights lawyer and author

Allan J MacEachen
Former Deputy Prime Minister of Canada

Graça Machel
Former Minister of Education, Mozambique

Barbara McDougall
Former Secretary of State for External Affairs, Canada

Matthew McHugh
Counsellor to the President, The World Bank

Mo Mowlam
Former Secretary of State for Northern Ireland

Christine Ockrent
Journalist

Timothy Ong
Chairman, Asia Inc magazine

Wayne Owens
President, Center for Middle East Peace and Economic Co-operation

Cyril Ramaphosa
Former Secretary-General, African National Congress; Chairman, New Africa Investments Ltd

Fidel Ramos
Former President of the Philippines

Michel Rocard
Member of the European Parliament; former Prime Minister of France

Volker Ruhe
Vice-President, Christian Democrats, German Bundestag; former German Defence Minister

Mohamed Sahnoun
Special Adviser to the United Nations Secretary-General

William Shawcross
Journalist and author

Michael Sohlman
Executive Director of the Nobel Foundation

George Soros
Chairman, Open Society Institute

Eduardo Stein
Former Foreign Minister of Guatemala

Pär Stenbäck
Former Minister of Foreign Affairs, Finland

Thorvald Stoltenberg
Former Minister of Foreign Affairs, Norway

William O Taylor
Chairman Emeritus, The Boston Globe

Ed van Thijn
Former Minister of Interior, The Netherlands; former Mayor of Amsterdam

Simone Veil
Former Member of the European Parliament; former Minister for Health, France

Shirley Williams
Former British Secretary of State for Education and Science; Member House of Lords

Grigory Yavlinsky
Member of the Russian Duma

Mortimer Zuckerman
Chairman and Editor-in-Chief, US News and World Report

Source: International Crisis Group
Date: 9 Feb 1998

Sierra Leone Situation Analysis

ICG Sierra Leone Project, February 1998
(covering the period 1 to 31 January 1998)

Provinces unstable as fighting continues...

In January, tensions grew between Armed Forces Revolutionary Council (AFRC) junta soldiers and Revolutionary United Front (RUF) rebels in Freetown as hostilities between the "kamajor" traditional hunters and the military erupted into a virtual war in the south and the east of the country.

On 4 January heavy fighting started between the kamajors and the army around Bo (240 km south of Freetown) after the kamajors had intensified attacks and raids on highways in the area. Hundreds of civilians fled the town of Bo as the AFRC fought with heavy guns and rocket propelled grenades and the kamajors used AK-47 rifles in addition to their more traditional spears and machetes. Fighting spread throughout the south and east and well-armed kamajors fought government soldiers in Zimmi, Kenema, Pujehun and around the diamond mining area of Tongo Fields. On 18 January, the kamajors took Tongo town, with heavy losses reported on both sides. Three days later, the junta claimed to have retaken the town.

Thousands of civilians fled the fighting in the south and east of the country, while humanitarian agencies scrambled to provide aid. Estimates put the number of internally displaced at 8,000-10,000. The major highways into Freetown were impassable.

The kamajors displayed hostility toward civilians and non-governmental organisations (NGOs) and generated some heavy propaganda that until now had been more common among the military and the rebels. Still, the kamajors maintained that, despite offensive attacks that are in clear violation of the Conakry Accord, they remain deeply committed to the return of the democratically elected government. In fact, they cited their repeated attacks as evidence of their commitment and a logical consequence of the junta's refusal to disarm by the deadline outlined in the accord.

UN makes assessment visit...

The twice delayed UN technical survey mission led by UN Special Envoy Francis Okelo visited Freetown for three days starting 14 January. The mission is expected to make a recommendation to the UN Security Council regarding the deployment of a military observation force in Sierra Leone. Okelo, who appears to have gained the trust of the junta, publicly maintained his commitment to the deadlines set by the Conakry Accord, but privately questioned the realism of the aggressive timetable that is already well behind schedule. He said that he would encourage a meeting between the C-5, (foreign ministers from Liberia, Ghana, Guinea, Cote d'Ivoire and Nigeria who are empowered by ECOWAS to negotiate with the junta), to try to move the deadlocked issues forward.

Conakry Accord: Same old issues outstanding...

The following issues-whose resolution hold the key to progress in the implementation of the

Conakry Accord-remain unresolved at this time:

- the release of rebel leader Foday Sankoh;
- the demobilisation of the Sierra Leone army; and
- the dominance of Nigerian soldiers in ECOMOG.

There is no agreement on how to address these issues and a promised follow-up meeting has yet to happen. Described by Francis Okelo as "legitimate concerns", these issues must be resolved and quickly or the full implementation of the accord, and indeed the peace process, will be stalled.

The registration of child soldiers is the only element of the accord that began on schedule, but the process has since been held back in all areas of the country, (with the exception of Freetown), due to security concerns. Social workers endeavouring to register boy soldiers said consistently that they were faced with the challenge of soldiers refusing to disarm without the release of Foday Sankoh, stating simply "No Foday, No Peace". The BBC reported that of an estimated 5,000 child soldiers, less than 1,300 have so far been registered.

The junta reaffirmed its commitment to restoring power to President Kabbah by 22 April, providing the three deadlocked issues listed above are addressed. Admitting they had problems with the accord when they signed it on 22 October, the junta explained that to not sign it "would have sent the wrong message" to the international community. They used this logic as an explanation for Johnny Paul Koroma's statement in December that he would not hand-over in April.

ECOWAS claimed that the deadlines were still realistic and said that C-5 was working out modalities for the full implementation of the accord. New ECOMOG force commander Major-General Timothy Shelpidi (see below) stated his commitment to the full implementation of the Conakry Accord. It was not clear what the implications of ECOMOG's massive pullout of neighbouring Liberia would be, as 10,000 troops now have no posting.

Population is tense and pessimistic...

Almost daily price increases and a three-way propaganda war (between the kamajors, the AFRC and Kabbah) are tiring the already weary population. There has been an increase in incidents of civilian intolerance toward the military and Freetown papers reported cases of men in military uniform being harassed by civilians, who are fed up with requests for food, petrol and other scarcities. Armed robbery and looting continue.

Junta struggles for illusion of legitimacy...

The traditional celebratory "happy fire" that usually marks the start of the New Year in Sierra Leone (and that inevitably results in civilian deaths) did not happen this year. The Department of Defence pleaded with soldiers to not fire their weapons and said that anyone who did would be "prosecuted". The junta feared that any sounds of gunfire would provide ECOMOG with an excuse to "retaliate" with not-so-happy fire. Additionally, the Department of Defence described the "indiscriminate and irresponsible firing" that traditionally marks the start of the New Year as causing "a drain on warlike resources and unnecessary loss of life".

In apparent accordance with their Anti-looting decree No. 6, which stipulates that all looters will be shot, the junta disciplined seven of its members for their alleged involvement in looting and

vandalising the Iranian embassy on New Year's Eve. The high profile crime caused deep embarrassment within the junta and outrage from Iran, which has positioned itself as a friend (and donor) to Sierra Leone. (President Kabbah visited Iran last year and continues to describe Sierra Leone, when convenient, as an Islamic state.) Five people's revolutionary leaders involved in the looting were sacked and two others demoted and stripped of their salaries. Mr Tamba Gborie, who had the dubious honour of being the first to announce the coup on state radio last May, was one participant demoted (to lance-corporal) and fired. He was said to have been outraged by his dismissal and led a shoot-out at Johnny Paul Koroma's residence several days afterwards. No casualties were reported and Lance Corporal Gboire is now being held in Pademba Road Prison.

Junta Foreign Secretary Paulo Bangura claimed to have conducted "behind-the-scenes" diplomacy in Cote d'Ivoire, although it is unclear if his efforts resulted in anything other than showing the travel ban on the junta to be ineffective.

New ECOMOG Commander...

Nigerian Defence Headquarters named Major-General Timothy Shelpidi as the eighth commander of ECOMOG, replacing Major-General Victor Malu. The unexpected replacement took place on January 8, just three days after the announcement was made. The shift was believed to be the result of Charles Taylor's growing intolerance of General Malu. General Shelpidi is a career soldier described as a "brilliant tactician" and is not expected to change the profile of ECOMOG drastically. However, there will be implications for Sierra Leone as ECOMOG will have time and soldiers on its hands when the 10,000 troops currently stationed in Liberia leave.

Kabbah and democracy...

While President Kabbah remains in Guinea, in a state of 'outrage', a BBC report on 26 January indicated that a group of 40 parliamentarians from the ousted government would return to the Lungi region before April. It was unclear how they planned to "govern" from Lungi. The constitution, suspended by the junta in May, stipulates that the parliamentarians are permitted to govern anywhere on Sierra Leonean soil.

Other developments...

UK Foreign Secretary Robin Cook appointed John Flynn, the former British ambassador to Angola, as his special representative to Sierra Leone. Immediately following his appointment, Mr Flynn travelled to New York to meet with relevant UN officials. He has indicated he would consider opening an office at Lungi.

President Charles Taylor of Liberia called for the release of Foday Sankoh, fanning popular belief that he is sympathetic to the junta. It is widely believed that Liberia is arming the rebels to some extent, and that ECOMOG is arming the kamajors to some extent.

Regional observers are questioning the agenda of kamajor chief Sam Hinga Norman. His increasing unpredictability, the aggressive actions of his "traditional hunter" force (including forcing 30 passengers on a commercial bus travelling from Bo to walk in the forest for three hours) and his ethnic assertions (he has called for a "Mende-land" to be established in the south of the country) are creating the perception of the kamajors as the "new" rebels. Rumours of mercenaries...

There were repeated rumours throughout the month that President Kabbah had signed another

contract with Executive Outcomes. This seems unlikely as the mercenary group is still owed a significant amount of money for the "help" it provided President Kabbah in containing rebel attacks more than two years ago. The likely method of payment-a stake in the country's rich diamond mines-is not practicable now as control of and access to the diamond rich areas fluctuate between various armed elements of the military, the kamajors, and non-native diamond merchants.

Economic situation

The economy does not function. Inflation is measured on a week-to-week basis. Prices of potatoes and onions have almost doubled since Christmas and are at 70,000-90,000 leones per 50 kg bag. Pre-coup prices were17,000-20,000. Rice is at 70,000 leones per 50 kg bag in some areas of the country, up from a pre-coup price of 17,000 leones. Petrol and diesel are so scarce that any stocks-no matter how small-are obvious targets for looting. The streets are virtually empty of commercial traffic.

Embargo

Although the ECOWAS sanctioned embargo does not apply to humanitarian aid, much-needed food and medicine stocks have been held at the Guinea border as obscure procedures are finalised. Several food relief NGOs are reporting dangerously low stocks of food, particularly for children's feeding centres.

On 24 January, a rice ship attempting to evade the blockade was repelled by ECOMOG in the main harbour at Freetown, and did not succeed in reaching land.

RECOMMENDATIONS:

ICG is calling for the following actions to be undertaken immediately to help head off a complete collapse of the peace process and avoid a serious deterioration in the security and humanitarian situation.

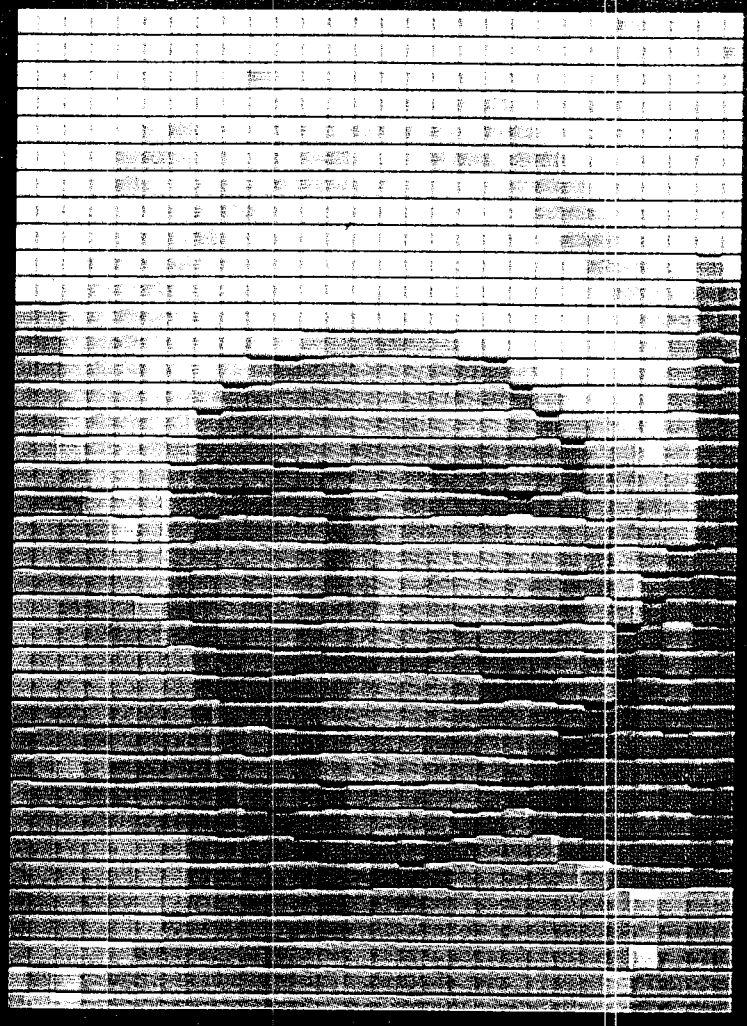
1.The timetable for implementation of the Conakry Accord must be amended, with realistic but solid targets set for each stage of the process. The population of Sierra Leone has been promised that democracy will be theirs in eleven weeks. Unless something significant happens on 22 April, disillusionment and mistrust will overwhelm any prospects for further progress.

2.The emphasis should be on putting back in place a credible democratisation process. As ICG has argued in the past, all available options, including the installation of an interim government empowered to oversee demobilisation and prepare for fresh elections, should be considered. The Effort to return the country to democracy will at worst fail and at best provide very short-lived results as long as it is pinned exclusively to the return of the previous government, intact. Demobilisation and, critically, reintegration, of all armed elements is a prerequisite to both sustainable security and sustainable democracy and ensuring Sierra Leone has a government that tackles these issues should, for now, be the strategic goal of international policy.

3.Finally, ICG repeats its call for the international community to support the proposal to post UN military observers in Sierra Leone. The presence of UN military observers would provide an important counter-balance to Nigeria's dominant role in ECOMOG.

Freetown, Sierra Leone

1875



War-Related Sexual Violence in Sierra Leone

War-Related Sexual Violence in Sierra Leone

A Report by Physicians for Human Rights

With the Support of the United Nations Assistance Mission in Sierra Leone

Sierra Leone's decade-long conflict has been one of the deadliest in recent history and has been marked by an extraordinary level of brutal human rights abuses, including abductions, beatings, killings, sexual assault of women and men, being "captured" for less than 24 hours, torture, forced labor, gunshot wounds, serious injuries and amputations. An alarming 94% of 991 households of internally displaced persons randomly surveyed by Physicians for Human Rights (PHR) and the United Nations Assistance Mission in Sierra Leone (UNAMSIL) reported among its members at least one of these serious abuses during the past ten years of conflict. The majority of abuses occurred between 1997 and 1999 and, when known, were attributed primarily to the forces of the rebel group, the Revolutionary United Front (RUF).

The PHR/UNAMSIL study is one of the first to scientifically document the extent of sexual violence as a result of war. Approximately one of every eight household members (13%) reported one or more war-related sexual assaults among its members, and these assaults were perpetrated primarily by members of the RUF. In addition, 23% of women interviewed reported being pregnant at the time of the attack. A striking 53% of respondents reporting "face to face" contact specifically with RUF forces reported experiencing sexual violence. One third of the women who reported sexual assault reported being gang raped.

In fact, the prevalence of war-related sexual assaults (8-9%) in only a ten year period was equivalent to the lifetime prevalence of non war-related sexual assault (also 9%) among the study participants. PHR estimates that approximately 50,000 to 64,000 Sierra Leonean internally displaced women may have suffered war-related sexual assaults.

Today, in the context of war, rape and other forms of sexual assault are considered war crimes and can be prosecuted as such. A Special Court has been proposed to prosecute those "most responsible" for violations of human rights in Sierra Leone's conflict. A Truth and Reconciliation Commission is being set up to foster accountability and reconciliation. All who have expressed an interest in testifying or providing information to the Special Court or the Truth and Reconciliation Commission should have an opportunity to do so.

> ... They undressed five of us, laid us down, used us in front of my family and took us away with them. They wouldn't release us, they kept us with them in the bush.... When I escaped, I couldn't walk.... I was bleeding from my vagina.... Since I got back I have been so sick.... I never used to get sick like this.... I would like to go back to school, but I can't concentrate anymore, I can't do anything....
>
> **Isata, a 15-year-old girl**

PHYSICIANS for HUMAN RIGHTS

1877

War-Related Sexual Violence in Sierra Leone

A Population-Based Assessment

A Report by Physicians for Human Rights

With the Support of the United Nations Assistance Mission in Sierra Leone

1878

© 2002, Physicians for Human Rights
All rights reserved.

Printed in the United States of America

ISBN: 1-879707-37-3

Cover and report Design: Glenn Ruga/Visual Communications

Cover Photo: Kristina Hare Lyons

Physicians for Human Rights

Physicians for Human Rights (PHR) promotes health by protecting human rights. We believe that human rights are essential preconditions for the health and well-being of all people. Using medical and scientific methods, we investigate and expose violations of human rights worldwide and we work to stop them. We support institutions that hold perpetrators of human rights abuses, including health professionals, accountable for their actions. We educate health professionals and medical, public health and nursing students and organize them to become active in supporting a movement for human rights and creating a culture of human rights in the medical and scientific professions.

Since 1986, PHR members have worked to stop torture, disappearances, and political killings by governments and opposition groups; to improve health and sanitary conditions in prisons and detention centers; to investigate the physical and psychological consequences of violations of humanitarian law in internal and international conflicts; to defend medical neutrality and the right of civilians and combatants to receive medical care during times of war; to protect health professionals who are victims of violations of human rights; and to prevent medical complicity in torture and other abuses.

As one of the original steering committee members of the International Campaign to Ban Landmines, PHR shared the 1997 Nobel Peace Prize. PHR currently serves as coordinator of the US Campaign to Ban Landmines.

The President is Robert Lawrence, M.D.; Vice President is Holly Atkinson, M.D.; the Executive Director is Leonard S. Rubenstein, J.D.; Deputy Director is Susannah Sirkin; Advocacy Director is Holly Burkhalter; Senior Program Associate is Doug Ford; Director of Communications is Barbara Ayotte; Director of Finance & Administration is Lori Maida; Director of Development is Dena Getzie; Director of Campaigns is Gina Cummings; William Haglund, Ph.D., is Director of the International Forensic Program; Senior Medical Consultant is Vincent Iacopino, M.D., Ph.D.; and the Fireman Health and Human Rights Fellow is Lynn L. Amowitz, M.D., M.S.P.H., M.Sc.

Physicians for Human Rights
100 Boylston St., Suite 702
Boston, MA 02116
Tel. (617) 695-0041
Fax. (617) 695-0307
Email: phrusa@phrusa.org

Physicians for Human Rights
1156 15th St. NW, Suite 1001
Washington, DC 20005
Tel. (202) 728-5335
Fax. (202) 728-3053
Email: phrusa@phrusa.org

UNAMSIL

The United Nations Assistance Mission in Sierra Leone (UNAMSIL) was established by Security Council Resolution 1270 on October 22, 1999 with the broad based mandate of cooperating with the Government of Sierra Leone and other parties in implementing the Lome Peace Agreement and assisting in the implementation of the disarmament, demobilization and reintegration of the parties in conflict. On February 7, 2000, May 19, 2000 and March 30, 2001 the mandate and size of UNAMSIL were expanded. Its current troop strength exceeds 17,000, making it the United Nations' largest peacekeeping mission.

In pursuit of its mandate, UNAMSIL combines military and civilian personnel. The Human Rights Section is part of the civilian component of the mission and has a threefold approach to its activities. The first is to monitor the compliance by government and all parties to the conflict of human rights and international humanitarian law. Secondly, the Human Rights Section provides technical assistance in building the capacity of national institutions that can promote respect for the rule of law through a sustainable culture of human rights. Thirdly, the Section undertakes and supports human rights and peace awareness programs conducted in national languages as a means of building popular confidence in, and understanding of, the human rights principles and their role in peace-building efforts.

The UNAMSIL Human Rights Section conducts specialist work with national institutions, the internally displaced and children. It also focuses on the rule of law and gender issues. The Human Rights Section currently has 16 international staff members and 4 national staff members deployed in its three offices in Freetown, Kenema and Makeni.

UNAMSIL
Mammy Yoko, Aberdeen
P.O. Box 5
Freetown, Sierra Leone

Foreword

The subject of violence against women in Sierra Leone has until recently been overlooked. I welcome this report by Physicians for Human Rights, with the support of UNAMSIL, which helps to redefine the role that sexual violence played in the conflict. The findings and data are a clear indication of the kinds of depravity that war can bring. I visited Sierra Leone on official mission in August 2001 to study the issue of violence against women committed during the conflict and to identify key measures and initiatives needed to ensure the rights of women in the aftermath of the conflict. In my work as Special Rapporteur on violence against women I have seen that it is often the need to understand clearly the specific nature of gender-based crimes, through research and collection of data, that is required to mobilize civil society, governments and the international community against such abuses. This report comprehensively documents the widespread nature of sexual violence in Sierra Leone during the conflict and is a valuable tool for those who have been fighting for women's human rights to be put on the agenda as a matter of priority.

Furthermore by documenting the wartime experiences of women in Sierra Leone this report will provide a valuable contribution in making the post-conflict needs of women and girls more apparent. Its findings should be taken into consideration in the formulation of repatriation and resettlement plans, as well as demobilization, rehabilitation, reintegration and post-conflict reconstruction programmes.

I often see many situations involving gender-based violence—similar to the cases so carefully documented in this report—for which perpetrators go unpunished. Internationally there has been progress, at least in the area of legal sanction. Perpetrators of violence against women during wartime are being brought before the courts of justice. Their trial and punishment is a vindication of many years of effort by many groups and individuals who have been trying throughout the years to end the impunity of those who commit the most horrendous acts of brutality. In this regard, I welcome the Foca judgment by The International Criminal Tribunal for the Former Yugoslavia, which sets out in detail, the international law and standards with regard to war crimes and crimes against humanity committed against women and girls. The Tribunal found that these actions constituted rape as a crime against humanity, torture as a war crime and enslavement as a crime against humanity. Their strong judgment is welcome and lays to rest all arguments that rape and sexual slavery during wartime does not constitute international customary law that is in flagrant violation of international humanitarian law. The Foca judgement sets a context by which the wealth of information contained in this report should be analyzed.

The International Criminal Court, which was finalized in 1998, is also a major victory for those who have fought to make international justice an important part of modern international law. The Rome Statute makes explicit that rape and gender violence are among the most serious crimes of concern to the international community by specifically defining them as constituent acts of crimes against humanity and war crimes. According to the Statute, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence also constitutes a Grave Breach of the Geneva Convention. Similarly, the Statute defines crimes against humanity to include torture, as well as rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity when committed as part of a widespread or systematic attack directed against any civilian population. The Statute also provides that persecution on the basis of gender may constitute a crime against humanity.

As a result of this Statute and the decisions of the international tribunals in the Hague and in Arusha, the world is slightly more just for women who have been the victims of sexual violence during wartime. It is my hope that the Truth and Reconciliation Commission and the Special Court in Sierra Leone will follow this example and ensure that cases involving violence against women are prosecuted and the perpetrators brought to justice.

Rarely do human rights organizations undertake and publish such substantial and detailed studies of sexual violence in conflict. It is in this light that this report will help the international community to understand the grave situation in Sierra Leone and the needs of all the conflicts' survivors. I encourage its wide dissemination, as this important and timely report will be of interest to all those who seek to understand or intervene in the rebuilding of Sierra Leone.

Radhika Coomaraswamy
United Nations Special Rapporteur on violence against women, its cause and consequences

CONTENTS

Acknowledgements ix

Glossary xi

I. Executive Summary 1
Purpose of Study 1
Findings 1
Methods of Investigation 4
Characteristics of Assistance Needs among Respondents Reporting Sexual Violence 7
Beliefs about Justice among Respondents Reporting Sexual Violence 8
Attitudes of Women's Human Rights and Women's Roles in Society 9
Recommendations 10

II. Background 15
Population and Geography 15
Historical Overview 15
The Role of Diamonds in the Conflict 19
The Lome Peace Agreement 19
Demobilization Effort 22
The Status of Women in Sierra Leone 23
Human Rights Abuses During the War 25
The Humanitarian Situation 28
Health Care Delivery 30
Education 34
Impact of War on Women 35

III. The Prevalence of War-related Sexual Violence and Other Human Rights Abuses Among IDPs 37
Methods 37
Findings 41
Comments on Survey Findings 56
Limitations 61

IV. Qualitative Comments and Testimonies of Sierra Leonean Women and Girls 63
Case Examples from In-Depth Interviews 63
Women's Attitudes about Punishment of Perpetrators 73

V. Application of Relevant International Law 83
Humanitarian Law 84
Human Rights Law 85
Non-State Actors 86
The Special Court for Sierra Leone 87
The Truth and Reconciliation Commission 88

VI. Responses to the Sierra Leone Complex Emergency 91
Humanitarian Assistance 91
International Community Response to the Crisis in Sierra Leone 92
The United Nations 97

VII. The Future for Women in Sierra Leone 99
Responses to Sexual Violence in Sierra Leone 101

VIII. Appendices 103

Acknowledgements

This report was written by Chen Reis, J.D., M.P.H., a consultant to Physicians for Human Rights (PHR); Lynn L. Amowitz, M.D., M.S.P.H., M.Sc., Fireman Health and Human Rights Fellow, Physicians for Human Rights, and Instructor in Medicine, Division of General Medicine, Brigham and Women's Hospital and Harvard Medical School; Kristina Hare Lyons, M.A.L.D., Program Associate for Physicians for Human Rights; and Vincent Iacopino, M.D., Ph.D., Senior Medical Consultant to Physicians for Human Rights. Holly Burkhalter, Advocacy Director for PHR contributed to the Executive Summary and Background sections of the report. Michele Heisler, M.D., Robert Wood Johnson Clinical Scholar, University of Michigan Health System, contributed to the chapter on qualitative comments and testimonies of women and girls. Kelly Askin, J.D., Fellow, Carr Center for Human Rights Policy, contributed to the chapter on Application of Relevant International Law.

Ahunna Eziakonwas, Humanitarian Affairs Officer, UN Office for Coordination of Humanitarian Assistance, contributed to the recommendations. We are grateful to John Gay for his assistance with the presentation of statistical analysis.

The report is based on two research investigations. The first research trip was undertaken by PHR in March 2000 by Adyinka M. Akinsulure-Smith, Ph.D. and Deborah Dyson-Stocknoff P.A., M.P.S., from the Bellevue-NYU Program for Survivors of Torture, and Ms. Lyons. The second phase of research was undertaken by PHR together with the United Nations Assistance Mission in Sierra Leone (UNAMSIL) between January and February 2001. Ms. Lyons, Ms. Reis, Binta Mansaray, M.A., a consultant to UNAMSIL; Beth Vann, M.S.W., a consultant to PHR; Dr. Akinsulure-Smith; and Louise Taylor, M.B.A., LLM, UNAMSIL Human Rights Officer, composed the PHR/UNAMSIL team.

PHR especially thanks Maarit Kohonen, former Gender Specialist, UNAMSIL Human Rights Section; Mara Bustelo, Gender Coordinator, Office of the High Commissioner for Human Rights; Rodolfo Mattarollo, Chief of Human Rights Section, UNAMSIL; Patrice Vahard, Human Rights Section, UNAMSIL; Chris Mburu, former Acting Chief of UNAMSIL Human Rights Section, and Michael O'Flaherty, former UNAMSIL Human rights Section staff member, who helped initiate this project. We also are grateful to Memunatu Pratt for her assistance.

The report was reviewed by Ms. Kohonen; Christina Saunders, Assistant to the Special Rapporteur of the Commission on Human Rights on Violence Against Women; Corinne Dufka, Researcher in Sierra Leone for Human Rights Watch; Ronald Waldman, M.D., M.P.H, Director, Program on Forced Migration and Health, Center for Population and Family Health, the Joseph L. Mailman School of Public Health, Columbia

University, New York, NY; Leonard Rubenstein, J.D., PHR's Executive Director; Susannah Sirkin, PHR's Deputy Director; Barbara Ayotte, PHR's Director of Communications; and Ms. Burkhalter. The authors are indebted to these people for their thoughtful comments and suggestions. Ms. Ayotte and Michelle Sachs, PHR's Internet and Publications Coordinator, edited and prepared this document for production. Christina Deck, an intern at PHR, also assisted with report production.

The authors are grateful to UNAMSIL and the UN agencies in Sierra Leone that provided information and support. The authors are also grateful to the organizations that provided referral services without which this study could not have been done including GOAL, the International Rescue Committee, Médecins sans Frontières-Holland, Forum for African Women Educationalists (FAWE), Concern, Merlin, International Medical Corps (IMC) and Adventist Development and Relief Agency (ADRA) and to those which otherwise facilitated access to, and collection of information used in this study.

We thank those individuals and organizations working in Sierra Leone who shared their time and insights with our research team including: former United States Ambassador Joseph Melrose, Rabih Torbay of IMC, William Aldis of the World Health Organization (WHO), Glenis Taylor of UNICEF, the Campaign for Good Governance, Cooperazione Internazional (COOPI), and The Council of Churches of Sierra Leone (CCSL). PHR is especially grateful to the women of Sierra Leone who participated in this study after years of suffering.

PHR and UNAMSIL thank the team of dedicated researchers: Agnes Conteh, Isatu Fofana, Margaret Ganda, Fatmata Kabba, Joyce Kamara, Adama Koroma, Abigail Lebbie, Doris Lebbie, Erica Luke, Bondu Mani, Salley Mansaray, Laurel Mendenkia, Mary Quashie, Fatmata Salisu, Sia Sandy, Fatmata Sesay, Mariatu Songo-Kanu, Aminata Thorlie, Safiatu Turay, Mary Vandi, and Rose Vincent whose commitment to the project and perseverance under very difficult circumstances made this report possible. The authors also thank Muctar Jalloh.

This report is dedicated to Abigail Lebbie, who passed away in May, 2001. Abigail was a dedicated member of a team of Sierra Leonean field researchers. We wish to express our heartfelt condolence to her family and friends. May her soul rest in peace.

1887

Glossary

ADRA: Adventist Development and Relief Agency

AFRC: Armed Forces Revolutionary Council (rebel force)

CDF: Civil Defense Forces (pro-government force)

CRS: Catholic Relief Services

DDR: Demobilization, Disarmament and Reintegration

ECOMOG: Economic Community of West African States (ECOWAS) Monitoring Group, a military intervention force with troops donated by ECOWAS members

ECOWAS: Economic Community of West African States

FAWE: Forum for African Women Educationalists

ICRC: International Committee of the Red Cross

IDP: Internally Displaced Person

IMC: International Medical Corps

IRC: International Rescue Committee

Krio: lingua franca of Sierra Leone

MSF: Médecins sans Frontières

NCRRR: National Commission for Rehabilitation, Reconstruction and Reconciliation

NGO: Non-governmental organization

OTI: Office of Transitional Initiatives

PHR: Physicians for Human Rights

PHU: Peripheral Health Units

RUF: Revolutionary United Front (rebel force)

SLA: Sierra Leonean Army

TRC: Truth and Reconciliation Commission

UN: United Nations

UNAMSIL: United Nations Assistance Mission in Sierra Leone

UNDP: United Nations Development Program

UNDPKO: United Nation Department of Peacekeeping Operations

UNHCR: United Nations High Commissioner for Refugees

UNICEF: United Nations Children's Fund

UNOCHA: United Nations Office for Coordination of Humanitarian Assistance

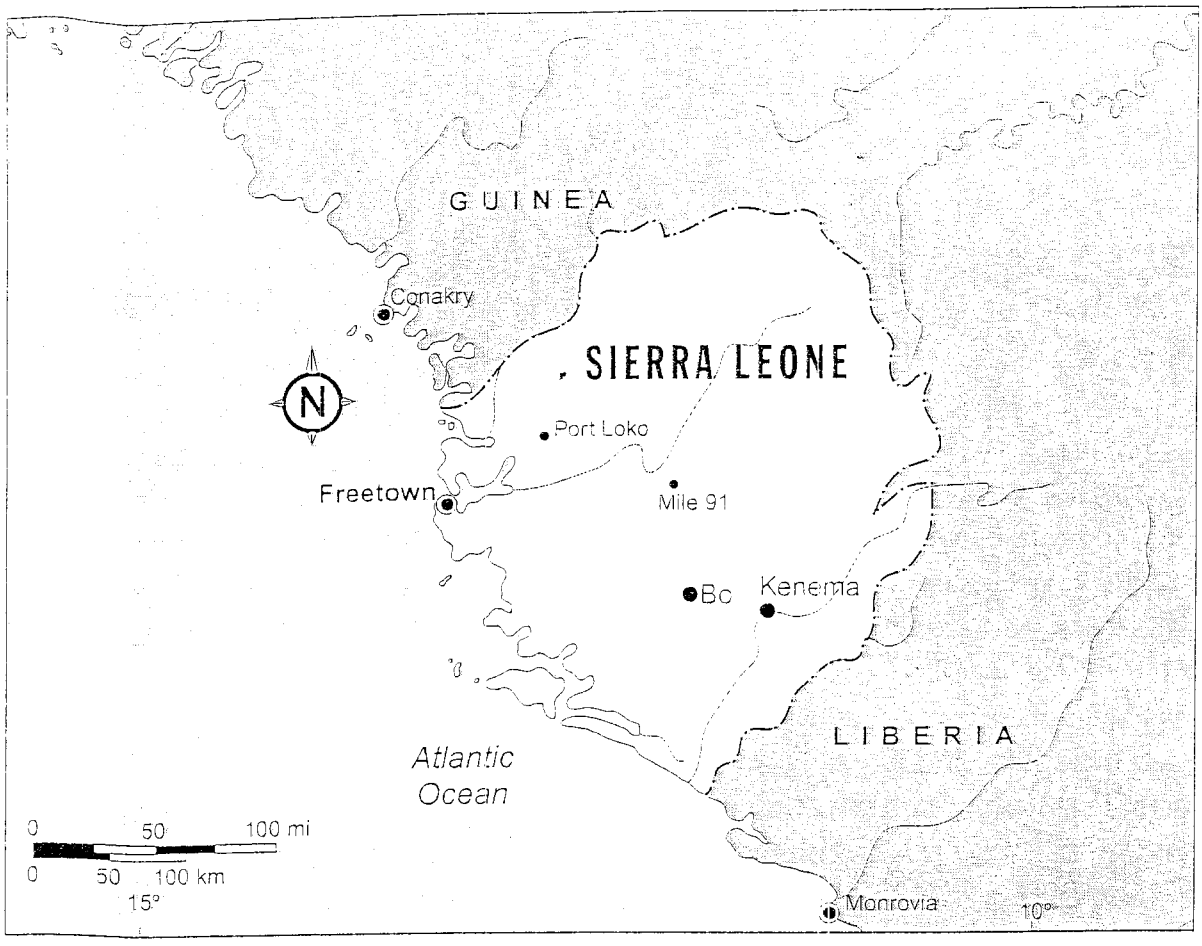
US: United States

USAID: United States Agency for International Development

WFP: World Food Program

WHO: World Health Organization

SIERRA LEONE



I. EXECUTIVE SUMMARY

Purpose of Study

Sierra Leone's decade-long conflict has been marked by an extraordinary level of brutal human rights abuses, including summary killings, sexual violence against women and girls, abductions, amputations, and the use of child soldiers. The combined effects of prolonged conflict, pervasive human rights abuses, and massive forced migration[1] in one of the poorest countries in the world have devastated the health and well-being of the Sierra Leonean people. The daunting process of rebuilding and reconciliation in the aftermath of such destruction requires the establishment of an accurate account of the nature and extent of abuses that have been committed. For this reason Physicians for Human Rights (PHR), with the support and participation of the United Nations Assistance Mission in Sierra Leone (UNAMSIL), conducted a population-based assessment of the prevalence and impact of sexual violence and other human rights abuses among internally displaced persons (IDPs) in Sierra Leone.

Findings

The findings of this study, the most comprehensive population-based assessment to date of war-related sexual violence and other human rights abuses in Sierra Leone, indicate that combatants have committed widespread human rights abuses and international crimes against IDPs in Sierra Leone including: abductions, beatings, killings, rape and other forms of sexual violence, capturing for less than 24 hours, torture, forced labor, gunshot wounds, serious injuries, and amputations. Such quantitative findings contribute considerable insight into the nature and extent of human rights abuses among IDPs in Sierra Leone, i.e., the frequency of specific human rights abuses, the identity of the alleged perpetrators, the impact of these experiences and the most urgent needs identified by the victims. Furthermore, a rigorous approach to sampling enables the findings to be generalized to the larger IDP population. In order to gain insight into individual experiences of human rights abuses of Sierra Leonean women and their families, the PHR study included qualitative assessments of abuses as well.

[1] Approximately 400,000 people have fled Sierra Leone into neighboring Guinea and Liberia as refugees. At the time of this study, there were 334,061 registered and approximately 500,000 to 1 million unregistered internally displaced persons (IDPs) in Sierra Leone.

A striking 94% of 991 households randomly surveyed reported among its members at least one of these serious abuses during the past ten years of conflict. The majority of abuses reported by participants in the PHR study occurred between 1997 and 1999 and, when known, were attributed primarily to forces from the Revolutionary United Front (RUF). The study's primary focus on abuses of women and girls stems from the historical neglect of these sexual crimes committed against women from previous reports of human rights abuses in Sierra Leone.

The PHR study indicates that war-related sexual violence experiences perpetrated by armed combatants (primarily RUF) are, indeed, widespread among IDPs in Sierra Leone. Approximately one of every eight household members (13%) reported one or more incidents of war-related sexual violence. Nine percent (94/991) of respondents reported war-related sexual violence.[2,3] A striking 53% of respondents reporting "face to face" contact specifically with RUF forces reported experiencing sexual violence, compared to less than 6% for any other combatant group.[4] One third of the women who reported sexual violence reported being gang raped.

Participants reporting sexual violence related the following: rape (89%), being forced to undress/stripped of clothing (37%), gang rape (33%), abduction (33%), molestation (14%), sexual slavery (15%), forced marriage (9%), and insertion of foreign objects into the genital opening or anus (4%). In addition, 22 (23%) of the women who experienced sexual violence reported being pregnant at the time of the attack with an average gestation of three months. The majority of the incidents of sexual violence reported by participants (68%) occurred between 1997 and 1999.

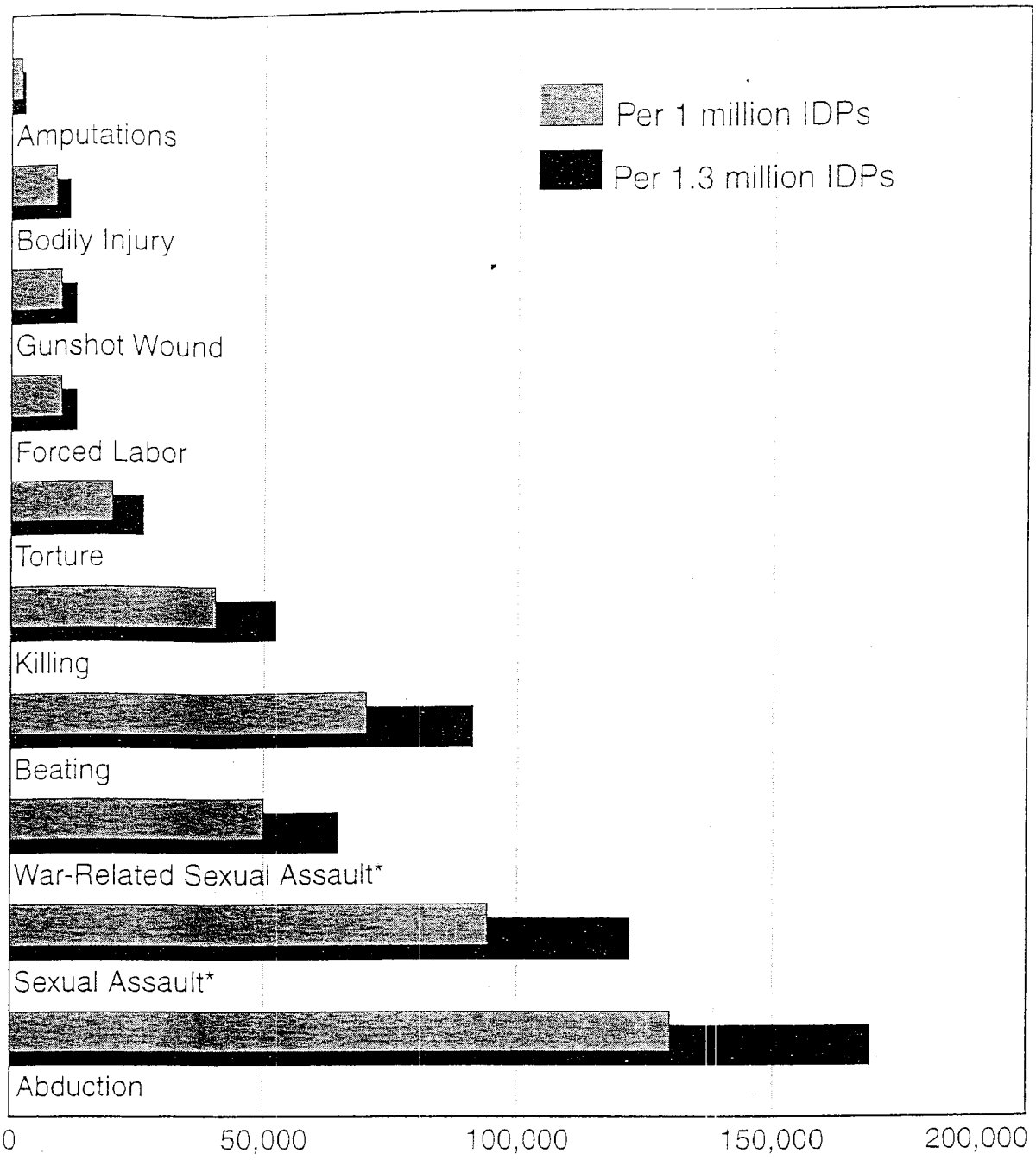
This prevalence rate of war-related sexual violence (8%-9%) during only a ten-year period is equivalent to the lifetime prevalence of non war-

[2] It is likely that the prevalence of war-related sexual violence in the study was underestimated because of willful non-disclosure of sexual violence and the lack of privacy in some of the interviews, despite efforts to ensure privacy. According to Koss (Koss M.P, "Detecting the scope of rape: a review of prevalence research methods," *Journal of Interpersonal Violence*. 1993(8);198-222) reasons for willful non-disclosure often include fear of retribution by an assailant, being stigmatized and rejected, being blamed for the attack, and/or the psychological consequences of disclosure.

[3] In addition, the average age of participants reporting war-related sexual violence was more than twice the average age of non war-related sexual violence reported in the study. Although interviewers were careful to explain that there would be no material or other gain by participating in the survey, the number of abuses reported in the study may have been overestimated or underestimated if IDPs judged that it was in their material, political or psychological interest to exaggerate or conceal claims of abuse.

[4] Other perpetrators reported included Armed Forces Revolutionary Council (AFRC), West Side Boys, unspecified "rebels", and Sierra Leonean Army (SLA) and ex-SLA. The UN peacekeepers and Civil Defense Forces (CDF) militia forces were not identified as perpetrators among respondents reporting sexual violence.

FIGURE 1:
Extrapolation of Human Rights Abuses Among All IDPs in Sierra Leone



* Extrapolations are based on frequencies reported by 9,166 household members (Table 2); sexual assault is among female respondents only. For 95% confidence intervals, please see page 45, footnote 165.

related sexual violence (9%) among the study participants.

By extrapolating the number of war-related sexual violence incidents reported by participants in the PHR sample to the total female IDP population in Sierra Leone, PHR estimates that approximately 50,000 to 64,000 Sierra Leonean IDP women may have suffered such human rights abuses. If non-war-related sexual violence among non-IDP females is added to the IDP totals (assuming a 9% prevalence rate), as many as

215,000-257,000 women and girls in Sierra Leone currently may have been affected by sexual violence.[5]

Today, in the context of war, rape and other forms of sexual violence are considered war crimes[6] and can be prosecuted as such.[7] They also constitute crimes against humanity when committed as part of a widespread or systematic[8] attack against the civilian population.[9] This population-based assessment demonstrates that war-related sexual violence and other human rights abuses were indeed perpetrated as a widespread attack against the civilian population, and therefore constitute both war crimes and crimes against humanity.[10] A Special Court has been proposed by UN Security Council Resolution 1315 to prosecute those "bearing the greatest responsibility" for violations of international humanitarian law in Sierra Leone's conflict.[11] A Truth and Reconciliation Commission (TRC) is being created to provide an impartial historical record of the war and to foster reconciliation.[12]

Methods of Investigation

Quantitative

PHR sampled 1,048 households in three IDP camps (near Freetown, Port Loko, and Kenema) and one community with a large number of IDPs,

---

[5] To generate population estimates of sexual violence among the IDP and non-IDP females in Sierra Leone, PHR assumed a total IDP population of 1.0-1.3 million (55% female) and a non-IDP population of 2.7-3.0 million (50% female). UNOCHA database. Sierra Leone: UN Office for the Coordination for Humanitarian Affairs. Updated February, 2001; Norwegian Refugee Council, Sierra Leone Section, "Population profile and figures". Available at: www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/1c963eb504904cde412567820074 93b8/fdc6d215bab90118c12569dd002b1aec?OpenDocument; United Nations High Commissioner for Refugees. Available at: unhcr.ch/un & ref/numbers/numb2000.pdf

[6] Kunarac, Kovac and Vukovic, IT-96-23 and IT-96-23/1 "FOCA" Available at: www.un.org/ICTY/judgement.htm

[7] *Ibid.*

[8] See Chapter V for a discussion.

[9] Statute of the International Criminal Tribunal for the Former Yugoslavia, Article 5, Crimes against Humanity. Available at www.un.org/icty/basic/statut/stat2000.htm#5.

[10] Rome Statute of the International Criminal Court (Rome Statute), adopted 7/17/98. Available at: untreaty.un.org/English/notpubl/rome-en.htm; Askin K.D., *War Crimes Against Women: Prosecution in International War Crimes Tribunals*, M. Nijhoff Publishers, 1997. Askin K. "Women and International Humanitarian Law," in Askin K.D, Koenig D.M., Editors, *Women and International Human Rights Law*, Transnational, 1999. Vol. I. Also see: United Nations, Draft Statute of the Special Court for Sierra Leone, S/2000/915. Available at www.un.org/Docs/sc/reports/2000/915e.pdf

[11] United Nations Security Council Resolution 1315 (Adopted August 14, 2000). Available at: www.un.org/Docs/scres/2000/res1315e.pdf

[12] For more information see www.sierra-leone.org/trc.html

Mile 91 Township. The camps/locales included in this study represented 91% of the registered IDP population in Sierra Leone. All study participants were selected using systematic random sampling or a combination of systematic random sampling and cluster sampling.[13] A total of 991 female heads of household participated in the study (response rate = 95%). The 991 household representatives reported on the experiences of 9,166 household members, which included themselves and those who lived with them prior to their displacement. The PHR survey contained 49 questions pertaining to demographics, physical and mental health perception, experiences of human rights abuses among household members and experiences of sexual violence. It also inquired about assistance needs, opinions regarding punishment and justice for perpetrators, and attitudes on women's human rights and roles in society.

Qualitative

In order to gain additional insight into individual experiences of human rights abuses of Sierra Leonean women and their families, the PHR study included qualitative assessments of abuses as well. Two primary approaches were used to elicit qualitative information. Seven open-ended questions were included in the questionnaire itself, and longer semi-structured interviews were conducted with survivors of human rights abuses, some who were not survey participants.

Individual case testimonies provided considerable insight into the brutality of the human rights abuses reported, including sexual violence, in the PHR survey. Katmara B, a 13-year-old girl, reported being abducted, beaten, raped and forced to become a rebel's "wife." She was released during the latter stages of her pregnancy and now has a baby girl. The story of what happened to her and her family during the rebel incursion into Freetown in January 1999 captures the anarchy of those days which left the people of Sierra Leone's capital city terrified:

> *...So, on our way to be killed, we were taken to a house with about 200 people held in it. My older cousin was sent to go and select 25 men and 25 women to have their hands chopped off. Then she was told to cut off the first man's hand. She refused to do it saying that she was afraid, I was then told to do it. I said I'd never done such a thing before and that I was also afraid. We were told to sit on the side and watch. So we sat. They chopped off two men's hands. My cousin couldn't watch and bowed her head down to avoid the sight. Because she did that, they shot her in the foot. They bandaged her foot and then forced her to walk. We left the two men whose hands had been cut off behind. We were then taken to a mosque in Kissy. They killed everyone in there...They were*

[13] See Patton M.Q., *Qualitative Evaluation and Research Methods*, Sage Publications, 1990; 169-283.

snatching babies and infants from their mother's arms and tossing them in the air. The babies would free fall to their deaths. At other times they would also chop them from the back of their heads to kill them, you know, like you do when you slaughter chickens...One girl with us tried to escape. They made her take off her slippers and give them to me and then killed her...one time we came across two pregnant women. They tied the women down with their legs eagle-spread and took a sharpened stick and jabbed them inside their wombs until the babies came out on the stick.

Several women who had not suffered sexual violence spoke of the range of abuses they and their families had experienced and the multiple losses they faced. A young woman, Marie K., described her and her family's experience:

...They killed many of us, many people...about 100, we were in an unfinished house when they came and kicked at the doors and demanded to know who was in there. They yelled that if we didn't come out they would kill us or burn the house down. Someone near the door opened it. The rest of us were hiding in a room, huddled together. They came in and began to hit us with their weapons yelling "get out, if you don't come out we will kill you." Those who refused to come out, they lit the house up and burned it with them inside the house...

Some of the women who reported experiencing sexual violence provided the PHR/UNAMSIL team with information that suggests that the incidents of sexual violence were politically motivated. One woman told PHR that her attackers told her "to come and report or tell [president] Tejan Kabbah that they will continue to do such things." Another told PHR that her attacker asked her "whom are you going to vote for?"

Sexual Violence

Given the prevalence of sexual violence reported in the PHR study, it is not surprising that the vast majority (91%) of respondents reported being "quite a bit" or "extremely" worried about sexual violence to themselves or family members by combatants. They were much less worried about sexual violence by family members, friends, or civilian strangers despite 9% of respondents reporting sexual abuse by family members, friends, or civilian strangers in their lifetime.

In February 2001, PHR interviewed a fifteen-year-old girl, Bola N. Rebels had abducted her four times since 1999. At the time of the interview she was two months pregnant and living at an IDP camp in Port Loko. She described her first abduction to the interviewer:

When they first attacked the village, we fled to the bushes. When they removed us from our village we were frightened...They held us, they cut

some hands. They killed some. They forced us to be tied. We were taken to the bush where the sexual act was forced on us...Nine men raped me...My mother was taken away, my things, belongings, taken. I slept three days in the bush after they had raped me. I was unconscious, not myself...After they had raped me to their satisfaction; they left me in the bush. I was beaten, bruises on my body, part of my body. Some around were amputated. I was not well.

Isata, a 15-year-old girl, was abducted and gang raped by rebels. She described her experiences and their continuing effects on her health:

...I don't have any children. I was a virgin before. They ruined me. The story is long, much too long. I was at home when they came and kidnapped me...They demanded money. My family has no money. They demanded Le 200,000.00 ($83.00)...they said to my parents, come and see how we use your children. They undressed five of us, laid us down, used us in front of my family and took us away with them. They wouldn't release us, they kept us with them in the bush...When I escaped, I couldn't walk – the pain. I was bleeding from my vagina. That night, God gave me strength to walk...I can't remember how long I was held...I don't like to talk because of the memories. When I made it back, my mother couldn't believe it. Since I got back I have been so sick...I never used to get sick like this...I would like to go back to school, but I can't concentrate anymore, I can't do anything...

Characteristics of Assistance Needs among Respondents Reporting Sexual Violence

Sixty-five percent of respondents said that they had reported the incident(s) of sexual violence to another person. The most common reasons for not reporting these incidents were feelings of shame or social stigma, fear of being stigmatized/rejected, and not having trust in anyone. Only 53% of women reported seeking help after the attack, although 80% of these women reported that they informed a health care provider of the specifics of the attack. Women reported that what helped most after the attack was trying to forget about the incident, support of family, a medical provider, and country medicine/traditional healer.

A number of testimonies collected by PHR in March 2000 were from survivors of rape who reported becoming pregnant by their attackers. Many of these young women are particularly vulnerable as they must not only recover from the trauma of their ordeals while often facing stigma from their communities, but at the same time learn to care for and support a baby with few resources.

The majority of women who responded to the two questions about their biggest worries about the future in general and about their health referred to the financial and personal insecurity they faced as a result of the war. Women expressed fear that the war would not end and that they would experience future attacks and abuse. They spoke of their lack of livelihoods, homes, and husbands to provide for them. A number of women expressed fear about how they would provide for themselves or for their children, including offspring from their rapes:

Presently my husband is no more. Who will take care of me in the future? They have looted my properties and I do not have anything for now.

I am homeless, bankrupt, and where can I get help to take care of my unborn child?

In their responses about overall worries about the future, some respondents linked their fears about their vulnerability as "violated" women without a male partner or family with concern about their health:

There will be no better future for me because I am broken. No man will marry me or take me seriously. I don't want to become sick, to get what they call AIDS. People will begin to say a lot about me if they know what happened to me.

The concern about having contracted a sexually transmitted disease or AIDS was a prominent concern expressed by several participants in response to the question about specific health worries. Women described experiencing diffuse abdominal and pelvic pains and expressed worry that these represented sexually transmitted diseases. Yet, they were afraid of the stigma associated with seeking help for rape-related health problems:

I don't want to have AIDS. I am afraid to go to the hospital. I don't want people to know if it is true that I have AIDS. I don't know whether I have AIDS or not.

Beliefs about Justice among Respondents Reporting Sexual Violence

Of the respondents who indicated whether their perpetrator should be punished, 42% thought their perpetrators should be punished. The most common reasons cited for not punishing a perpetrator were, "in the spirit of reconciliation", fear of reprisal, no confidence in the system for such punishments, or they wanted to forget about the incident.

Thirty-six percent of all respondents reporting sexual violence believed their attacker's commander was aware of the attack. Only 35% of women

believed that punishment of perpetrators would prevent sexual violence from happening to others. Twenty-two of the 94 women reporting sexual violence to PHR (23%) were willing to give their names to the proposed Special Court and/or the Truth and Reconciliation Commission. Given the prevalence of war related sexual violence as reported to the PHR/UNAMSIL team, the team believes that there may be thousands of female IDPs in Sierra Leone who have experienced sexual violence and who may be willing to provide testimony to the Special Court or the TRC.

Mary J., 16 years old at the time of the interview, explained her reasoning for why she would not seek punishment for her persecutors:

> *If they catch them and try to do to them what they did to me, it won't even come near the hell I've been through. So they should just leave them. If they try to punish them, the punishment that I have gotten is more than theirs. I wanted to die during that time. If the emergency operation had not been performed, I would have died...If I ask for punishment for them, it will never amount to what I went through, so the best thing is just to leave them so that we can have peace in Sierra Leone.*

Madina K., a young woman, described her reactions to her experience and expressed a desire for the punishment of only one of those involved in her attack:

> *They'd wanted to burn the house down with me in it...I was beaten, raped, forced to go with them. They told me to do bad things, they threatened me with death and beat me. Two men raped me. The first one would go and call other men to come and join in. Others intervened and saved me...I don't want revenge. I don't even remember who they were. The only one I want punished is the one who kidnapped me. I want him to be punished for his wickedness...*

Attitudes on Women's Human Rights and Women's Roles in Society

Despite 80% of women expressing that there should be legal protection for the rights of women, more than half of women reported that their husbands had the right to beat them and that it was a wife's duty to have sex with her husband even if she did not want to. The apparent disparity between such beliefs and international principles of human rights suggests a need for public discourse and education on local, regional and international levels.

Recommendations

To the Revolutionary United Front (RUF)[14]

- The RUF should immediately release all remaining abductees and child soldiers under its control.
- The RUF command must explicitly prohibit violence against civilians including women and must hold RUF members who commit abuses accountable in a manner that is in keeping with international standards. The RUF should cooperate fully and not interfere with investigations and prosecutions of crimes committed during the conflict.
- The RUF must cooperate fully with demobilization of soldiers, accelerate efforts to collect and relinquish weapons, and allow UN forces full access to the country.

To the Government of Sierra Leone

- The Government of Sierra Leone, with the assistance of the international community, should ensure:
  - that military commanders are held accountable for violations committed by their subordinates,
  - that violations by members of the armed forces and militias will be promptly and fully investigated and those responsible brought to justice,
  - that all members of its armed forces and civilian militias be trained in humanitarian law,
  - that instruction in the rights of civilians – and in particular women's rights – be an integral part of this training.
- The Government of Sierra Leone should strengthen the capacity of its police force and judicial system adequately to address cases of sexual violence including rape. Efforts should include the recruitment of female police officers, training in appropriate means of obtaining evidence, development of procedures that protect the rights and privacy of victims, protection for victims and witnesses, development of forensic capacity, and social services. Police training must include training in women's rights.
- The Government of Sierra Leone should work with professional organizations and international experts to establish gender-based violence

[14] These recommendations are specifically addressed to the RUF as the main armed opposition group and the primary perpetrator of human rights abuses documented in this report. These recommendations, however, should be implemented by all parties to the conflict.

reporting procedures that are effective, sensitive, and that protect victims. Strict and consistent policies of confidentiality should be developed for all groups working with survivors of sexual violence so that the privacy of those who report or testify is fully protected.

- The National Commission for Demobilization, Disarmament and Reintegration must emphasize the protection of women's rights as an integral part of the Demobilization, Disarmament and Reintegration (DDR) effort for ex-combatants, including child soldiers.
- The Government of Sierra Leone should engage in large scale public education, in collaboration with women's groups to educate women, men and youth on issues relating to sexual violence and to women's rights. This includes the promulgation of information through radio.
- The Government of Sierra Leone should ensure that human rights education including women's rights, be made an integral part of training of health, legal, education, and law enforcement professionals.
- The Government of Sierra Leone should work to increase the number of female clinicians/ health care workers and to increase the number of health care workers trained in women's health. The Government of Sierra Leone should support medical and educational institutions to increase the number of women professionals, including the establishment of dedicated scholarship programs to encourage women to enter these professions.
- The Government of Sierra Leone should work to address the needs of survivors of gender-based violence, including provision of health services, referral and transport assistance; counseling; and education or job/skills training. These services must be extended throughout the country. The physical, emotional and economic well-being of children born as a result of rapes should also be protected – and efforts made to encourage community acceptance of both rape survivors and their children as they reintegrate into society.
- The Government of Sierra Leone should ensure that efforts are made to coordinate the various actors providing treatment to those who have suffered sexual violence, and efforts to protect women and girls in the future in order to improve services and use scarce resources more effectively.
- The Government of Sierra Leone should work with civil society to educate Sierra Leoneans about HIV/AIDS. They should integrate HIV/AIDS prevention messages into formal education curricula and public education and social marketing campaigns. Approaches must be developed for the majority of the population that is illiterate. They should integrate education about HIV/AIDS prevention into the DDR process.

- The Government of Sierra Leone must formulate and begin to execute a national strategy to address HIV/AIDS to facilitate treatment and prevention, and to encourage donor funding to support those efforts.
- The Government of Sierra Leone should assure confidentiality of HIV test results and seek international assistance to conduct a national HIV prevalence survey. Epidemiological data should be disaggregated by gender and other factors for more targeted interventions.
- The Government of Sierra Leone should develop and implement sex education, including sexual violence education, curricula in schools and public campaigns for those not in school.
- The Government of Sierra Leone should institute legal reform to eliminate discriminatory practices in inheritance that contribute to the lack of security and severely limit the choices of women.

To the Sierra Leonean Ministry of Health

- The Ministry of Health should ensure that medical services are sufficiently organized to collect and safeguard evidence that could be useful in holding alleged rapists accountable and establish systems of record keeping throughout the country for epidemiological, human rights and other purposes, in conjunction with the Ministry of Justice.
- The Ministry of Health should train health care workers in the diagnosis and management of sexually transmitted diseases, and ensure that appropriate medications, such as broad-spectrum antibiotics are available to combat resistant strains.

To the United States Government and other Bilateral Donors

General Funding

- The US Government and other donors should accelerate provision of funds to meet the needs of victims of sexual violence, including rape, in Sierra Leone. In particular, the needs of the displaced and those newly returning to their communities in under-served areas should be prioritized. Assistance should be given to locally run programs such as FAWE that address the needs of survivors of sexual violence such as shelter, mental and physical health, and job skills training so that they can serve a larger number of people.
- The US Government should fully meet its obligation to fund UNAMSIL.
- The US and other Governments should fully fund the 2002 Inter-Agency Consolidated Appeal for Sierra Leone, with particular attention to those programs focusing on the needs of women and girls.

- The US Government and other donors should fund the World Bank trust fund for the DDR effort so that the reintegration portion of the plan can be carried out and former combatants who are not imprisoned can be reintegrated in such a way that they will be less likely to commit human rights abuses in the future, including sexual violence, or to re-arm.

Humanitarian/Medical Assistance

- The US Government and other donors should fund HIV/AIDS education, prevention and treatment programs - specifically those that target high-risk populations and provide HIV test kits and anti-retroviral drugs at a low cost.
- The US Government and other donors should support improved medical facilities, equipment, medical supplies, and training, including health center and health post training and human rights and universal precautions training. Programs for community-based social service providers should be supported.
- The US Government and other donors should provide appropriate diagnostic, therapeutic and prevention measures to combat sexually transmitted diseases – and support more widespread and comprehensive reproductive health services including the provision of adequate supplies of male and female condoms.
- The US Government and other donors should provide extensive reconstruction assistance now that IDPs and returnees are returning to their home communities. Particular attention must be paid to the shelter needs of single women and widows.

Justice and Law Enforcement

- The US Government and other donors must adequately fund both the Special Court for Sierra Leone and the Truth and Reconciliation Commission (TRC).
- The US Government and other donors should support the establishment and strengthening of national institutions and mechanisms in Sierra Leone in order to improve the capacity of the judiciary, police, armed forces and other relevant government institutions to respond adequately to the problem of sexual violence in the country.

Humanitarian Assistance Programs for Women

- The international community should establish a coordinating body for treatment protection and data collection related to sexual violence.

- The US Government and other donors should fund Sierra Leonean civil society organizations promoting women's rights, health and education.
- The US Government and other donors should support effective and culturally appropriate psychosocial programs for those who suffered sexual violence and other human rights abuses.

Women's Human Rights

- The US Government should ensure that women are included in all aspects of planning for peace, demobilization, reintegration and rebuilding and support local organizations working to promote women's full participation and rights

To the United Nations

- The UN should continue to deploy peacekeepers in all areas of Sierra Leone and actively protect civilians, including women and girls, from sexual violence
- The UN should work with the Government of Sierra Leone to incorporate education about sexual violence into all aspects of demobilization and re-training of professionals including those in the military and police, health and legal professions and educators.
- The UN should ensure that rape and other forms of gender-based violence are prioritized as crimes by the Special Court and that perpetrators from all sides are held accountable.
- The UN should ensure that safeguards are in place to protect those who come forward to testify – especially women. The UN should educate and inform people throughout Sierra Leone about the Special Court and TRC, and ensure that all those who want to provide information or testify have an opportunity to do so.
- The UN should work with the Government of Sierra Leone to train all Special Court and TRC staff who will be working with victims. Learning from experiences with other international tribunals, the UN should establish sensitive procedures that protect victims and do not further traumatize survivors of gender-based violence and other abuses. This should include the provision of counseling before and after testifying in the first language of the victim and the protection of the victim or witness upon return to her/his community.
- The UN, with the Government of Sierra Leone, should ensure that women are represented at every level of the Court and TRC.

1904

II. BACKGROUND

Population and Geography

Sierra Leone, named by the Portuguese for the resemblance of its peninsula mountains to a crouching lion,[15] borders Liberia to the southeast, the Republic of Guinea to the north, and the Atlantic Ocean to the West. It is about 71,700 sq. km in size[16] and has a population of approximately 5 million.[17] The year consists of two main seasons; the wet season lasts from May to October and the climate during the rest of the year is dry.[18]

The largest of the indigenous ethnic groups in Sierra Leone are the Mende, Temne (each about 30%), and Limba (under 10 %).[19] Most of the population is Muslim, though there is a significant Christian population and followers of indigenous religions. English is the country's official language, however, the population primarily uses Krio, Mende and Temne.[20]

Historical Overview

Sierra Leone gained independence from England in 1961. From that time it was ruled by a series of governments most of which were plagued by corruption. Its first Prime Minster, Milton Margai, ruled until his death in 1964. At that time his brother Albert Margai became the Prime Minister. Albert Margai's rule was marked by authoritarian efforts to consolidate power and remove opposition.[21]

Albert Margai and his Sierra Leone People's Party (SLPP) were challenged during the 1967 elections by Siaka Stevens and his All People's Congress (APC) Party. On March 21, the Governor General of Sierra Leone declared Stevens winner of the contested elections.[22] Before Stevens could

---

[15] Alie, J.A.D., *A New History of Sierra Leone,* St. Martin's Press, 1990; p 4.

[16] Central Statistics Office, "Sierra Leone in Figures" (1997) Available at: www.sierra-leone.org/cso.html#Natural Resources

[17] UNICEF, "Statistical Data: Sierra Leone," available at: www.unicef.org/statis/ Country_1Page154.html

[18] Conteh-Morgan, E & Dixon-Fyle, M., *Sierra Leone at the End of the Twentieth Century: History, Politics, and Society,* Peter Lang, 1999; p.11.

[19] Africaville.com, "Sierra Leone Profile," available at www.africville.com/seraleon1.html

[20] Kaplan, I, Dobert, M, McLaughlin, J.L., Marvin, B. J., & Whitaker, D P. *Area Handbook for Sierra Leone* , 1976; p. vii.

[21] Conteh-Morgan p. 77

take office, however, a series of military coups and counter coups established a military government named the National Reformation Council (NRC) headed by Brigadier Andrew Juxon-Smith.[23] Another coup in 1968 brought Stevens back from exile and restored a civilian government.

For the next 17 years, Stevens ruled Sierra Leone. In 1968, Stevens established a one-party state.[24] Under his rule, the economy declined due to alleged mismanagement and corruption. By the start of the 1980s, Sierra Leone was increasingly dependent on international assistance – specifically International Monetary Fund loans.[25] Virtual insolvency, high inflation, shortages of power and food, mounting deficits, declining exports, corruption, and high unemployment particularly among youth became increasingly severe problems.[26] In 1985, Major General Joseph Saidu Momoh, then head of the military, took over leadership of the APC and the presidency of the country in a peaceful hand-over. Although Momoh promised economic reform and an end to corruption,[27] his seven years in power were marked by increased deprivation and economic collapse. In 1987 a coup attempt against Momoh took place – believed to have been sparked in part by Momoh's anti-corruption efforts.[28] Although it failed, the coup marked a return to the status quo and the start of Momoh's downfall.[29]

In 1990, Momoh instituted reforms including the drafting of a new constitution. Before multiparty elections could be held, however, an April 1992 military coup headed by young officers overthrew Momoh's government. The young coup leaders, many in their twenties, formed a new ruling body, the National Provisional Ruling Council (NPRC) headed by Captain Valentine Strasser.

During this time, the ongoing conflict in neighboring Liberia played a part in the development of a new threat to stability in Sierra Leone.[30] In March 1991, a group calling itself the Revolutionary United Front (RUF) began a rebellion against the Freetown Government. The small band of insurgents consisted primarily of disaffected youth from the criminal cultures spawned in the urban ghettos of Freetown and the mining regions,

---

[22] Ibid p. 80

[23] Ibid.

[24] Ibid p. 81

[25] Conteh-Morgan p.87

[26] Pratt, D. "Sierra Leone: Danger and Opportunity in a Regional Conflict: Report to Canada's Minister of Foreign Affairs, The Honorable John Manley, P.C., M.P." July 27, 2001;p.37 available at: www.davidpratt.ca/sleone_e.htm

[27] Conteh-Morgan p.122

[28] Ibid p. 125

[29] Ibid.

[30] Ibid p. 127

though a number of university students who had been radicalized by conditions in Sierra Leone and inspired by the revolutionary teachings expressed in Muammar al-Qaddafi's Green Book[31] also participated. They were led by Foday Sankoh, a former army corporal and photographer who had received military training in Libyan camps.[32] From their base in a part of Liberia controlled by Charles Taylor's National Patriotic Front of Liberia (NPFL), the RUF attacked the southeastern region of the country. The NPFL's support for the RUF may have been in response to Sierra Leone's participation in ECOMOG, the West African Regional Peacekeeping Force, which was using Freetown as a staging ground for operations against Taylor in Liberia.[33] Marked by their brutality against civilians and the abduction and forced conscription of children, the RUF raids caused rapid flight by much of the population in the region. In a matter of weeks after the first incursions, the RUF controlled much of Kailahun District in the East[34]. This period was marked by confusion and brutality as rebels committed attacks while dressed in army uniforms and as disaffected members of the armed forces carried out attacks against civilians, which they blamed on rebels. These soldiers by day, rebels by night became known as "Sobels."[35] By late 1992, local militias known as the Civil Defense Force (CDF) or Kamajor (Mende for hunter) sprang up to defend areas against the RUF and the "sobels." Within a year and a half of the first attacks in Sierra Leone, international agencies estimated that at least 400,000 people were displaced within Sierra Leone. Sierra Leonean refugees in neighboring Guinea and Liberia numbered in the hundreds of thousands by the summer of 1992.[36]

In 1995, with the RUF not far from Freetown, Strasser turned to the South African mercenary (security) firm Executive Outcomes for assistance in pushing the RUF back from their positions.[37] Executive Outcomes succeeded in forcing the retreat of the RUF from the Freetown area but were not able to uproot the RUF from their headquarters in Kailahun.[38]

By 1996, civil society and the donor community placed great public pressure upon the government to hold democratic elections and return the country to civilian rule. Women's groups were especially instrumental in

---

[31] Pratt,. Sierra Leone: Danger and Opportunity. p.38. The Green Book is Qaddafi's two volume treatise on Islamic socialism published between 1976-1980. See www.encyclopedia.com/articles/10672.html

[32] Ibid p.38

[33] Ibid p.38

[34] Ibid p.38.

[35] Conteh-Morgan p.135

[36] Conteh-Morgan pp.128-9

[37] Hirsch, J. L., *Sierra Leone: Diamonds and the Struggle for Democracy,* (International Peace Academy Occasional Paper Series), Lynne Rienner Publishers, 2001; p.38

[38] Ibid p.39

this campaign.[39] In spite of a coup in January in which Strasser was overthrown by his deputy Julius Bio,[40] popular pressure intensified and democratic elections were held as scheduled in February and March, 1996.[41]

In the weeks leading up to the elections, RUF attacks on civilians in areas under RUF control became more violent. The RUF hacked off the limbs and other body parts of men, women and children. The RUF particularly employed the amputation of hands or arms as a method of attempting to discourage others from voting in the elections.[42] Despite this, the voter turnout was large and the winner of these elections was Ahmed Tejan Kabbah, a former United Nations Development Programme (UNDP) official.[43]

At the time of the elections, peace talks began between the RUF and the short-lived Bio Government. The Abidjan talks continued after Kabbah took power as did attacks by the RUF and counter attacks by Kamajors and Executive Outcomes.[44] The Abidjan peace agreement was signed by the RUF and the Government in November of 1996. Shortly thereafter Executive Outcomes was dismissed from the country as required by the agreement.[45]

In May 1997, the Sierra Leone Army (SLA) overthrew Kabbah and formed the Armed Forces Revolutionary Council (AFRC) regime under Major Johnny Paul Koroma.[46] The AFRC invited the RUF to join in ruling the country. This period was marked by lawlessness, rampant destruction and looting of property, and specific targeting of Kabbah allies.[47] An estimated 200,000 Sierra Leoneans fled the country in the weeks following the coup. Many of these ended up in refugee camps on the Guinea-Sierra Leone border.[48] In October 1997, the UN Security Council adopted resolution 1132 which imposed sanctions on the AFRC junta and prohibited the importation of military equipment and petroleum into Sierra Leone. The resolution also placed travel restrictions on AFRC officials and their families.[49]

---

[39] Ibid p.40

[40] Ibid p.42

[41] See www.Sierra-Leone.org/govt8.html

[42] Hirsch, John L., *Sierra Leone: Diamonds and the Struggle for Democracy* p.45

[43] Ibid p.57

[44] Pratt p.40

[45] Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone, Article 12; Available at: www.sierra-leone.org/abidjanaccord.html

[46] Pratt, p.40

[47] Ibid.

[48] Hirsch, J. L., *Sierra Leone: Diamonds and the Struggle for Democracy* (International Peace Academy Occasional Paper Series), Lynne Rienner Publishers, 2001; pp.59-60

In February 1998, following months of increased CDF and ECOMOG activity against the AFRC/RUF, ECOMOG forces removed the AFRC/ RUF from Freetown in fierce fighting. Many civilians were injured and killed in battles throughout the city. Kabbah was restored to power and returned to Freetown in March from exile in Guinea. The RUF continued to brutally attack civilians and, together with elements of the SLA, to fight the Freetown government, a policy dubbed by the RUF, "Operation No Living Thing."[50] By the end of December the rebels were again near Freetown and foreigners began to leave the capital.[51] On January 6, 1999, the RUF and AFRC forces entered the Eastern part of Freetown and unleashed an unprecedented wave of terror upon the population – killing, amputating and raping civilians and setting fire to buildings and vehicles. They were eventually pushed back by ECOMOG. During the invasion and their subsequent withdrawal following the ECOMOG intervention, the rebels committed egregious human rights abuses against the civilian population, killing at least 5,000 civilians, including members of the government and journalists who were singled out, and abducting an estimated 3,000 children.[52]

The Role of Diamonds in the Conflict

Sierra Leone's rich diamond resources have largely been fueling the brutal war. Diamonds, primarily alluvial deposits, discovered in 1930, are found in about a third of the country's territory – mostly in the east and southeast.[53] For more than half a century, diamonds have been the leading source of foreign exchange, accounting for between 80% and 90% of export earnings in recent years.[54] Official exports, however, for 1999 as reported by the US Agency for International Development (USAID) totaled only $1.5 million, though diamond exports for the first half of 2000 were valued at $3.45 million.[55]

The Lome Peace Agreement

The attack on Freetown accelerated local and international desire for peace. A cease-fire was brokered by May of 1999 which set the stage for peace negotiations held in Lome, Togo which led to the signing of the

---

[49] www.un.org/Docs/scres/1997/9726713E.htm

[50] Pratt, p.41

[51] Hirsch, p.71

[52] Pratt, p.41

[53] Pratt, p.36

[54] Ibid.

[55] Cook, N., *Diamonds and Conflict: Policy Proposals and Background*, Congressional Research Service, November, 2000; p.22.

Lome Peace Agreement in July 1999. The resulting controversial power-sharing agreement between the Government of Sierra Leone and the RUF granted amnesty to all combatants and was widely condemned by human rights organizations.[56] The UN ultimately added a hand-written caveat to the agreement that stipulated that the amnesty did not apply to war crimes, genocide and crimes against humanity.[57] The UN subsequently established a UN peacekeeping mission (UNAMSIL) in Sierra Leone with 6,000 troops in October 1999. At the time of this writing, UNAMSIL has grown to be the world's largest peacekeeping force with 16,000 troops.[58]

Despite the signing of the accord and the deployment of UN troops, the AFRC/RUF continued its campaign of terror – abducting, raping, killing, mutilating and destroying the property of civilians in areas under and some outside AFRC/RUF control.[59] In April and May 2000, more than 500 UN personnel were attacked and held hostage by the RUF. Though several peacekeepers were killed by the RUF, the rest were released in June, following the intervention of Charles Taylor, the announcement of a British government plan for military assistance to the Sierra Leone Government, and the arrest of Foday Sankoh after some protesters were killed by his security guards outside his home in Freetown. Sankoh remains in government custody and is awaiting trial.[60]

In August 2000, upon the request of President Kabbah, the UN Security Council voted to establish a Special Court for Sierra Leone to try those who bear the greatest responsibility for serious violations of humanitarian law committed after the signing of the Abidjan Peace Agreement on November 30, 1996.[61] Other members of the warring parties will be expected to participate in the planned Truth and Reconciliation Commission (TRC).[62]

From September 2000 to March 2001 the RUF engaged in cross-border attacks into Guinea, causing widespread panic and considerable civilian casualties. The Guinean government retaliated, often indiscriminately attacking villages in Sierra Leone. The fighting caused panic among the

---

[56] Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, 7 July 1999; Available at www.sierra-leone.org/lomeaccord.html.

[57] Pratt p. 42. Conversation with Corinne Dufka, Sierra Leone Researcher, Human Rights Watch.

[58] Pratt, p.10

[59] Human Rights Watch, *Getting Away with Murder, Mutilation, Rape: New Testimony from Sierra Leone*, July 1999, Vol. II. No. 31 (A). Available at:

www.hrw.org/reports/1999/sierra/; Human Rights Watch, *Fresh Reports of RUF Terror Tactics*, May 26, 2000; Amnesty International, Sierra Leone. *Rape and other forms of sexual violence against women and girls*, June 29, 2000; p. 2.

[60] Pratt p.42.

[61] Pratt, p. 28.

[62] See Chapter V.

400,000 refugees largely living in camps near the border, prompting tens of thousands to flee back into Sierra Leone. While fighting continued in Guinea in 2001, the RUF had largely been observing a cease-fire since November 2000 and in May 2001 an agreement to cease hostilities was signed between the RUF and CDF. Though isolated acts of violence against civilians by both sides have been documented as recently as July 2001, at the time of this writing, UN troops were deployed in much of the country and the disarmament of RUF and CDF fighters had resumed. On September 17, 2001, UNAMSIL peacekeepers deployed to the diamond rich region of Tongo, opening the area to humanitarian assistance.[63] The following day, the UN Security Council extended UNAMSIL's mandate until March 31, 2002.[64]

In 2000, the UN Security Council enacted sanctions against the conflict diamond trade, barring the import of Sierra Leonean diamonds into UN member states for 18 months, except those certified by a newly established Government of Sierra Leone system.[65] The US, UK, Belgium and Israel assisted the Government of Sierra Leone in developing a new and more effective diamond trade policy with the aim that diamonds can once again promote prosperity rather than violence in the country.

Of even greater importance in terms of immediate impact on the ground is that on May 7, 2001, the UN Security Council voted to enact sanctions against Liberia, which included both a ban on travel by government officials and on the importation of diamonds from Liberia. Until these sanctions were enacted Liberia had been exporting many more times its annual mining capacity in what is believed to have been stones of Sierra Leonean, Angolan and Congolese origin. Both Liberia and Burkina Faso were implicated in transferring arms and ammunition through their territories and trading diamonds from rebel-held areas, according to a report by a UN Panel of Experts published in December 2000.[66] As part of the continuing diplomatic pressure particularly on Liberia for its role in the Sierra Leone conflict, approximately $50 million in aid from the European Union was suspended.

Through the work of several non-profit organizations, namely Partnership Africa Canada and Global Witness, the role of diamonds in supporting conflict and the complicity of national leaders such as Liberia's Charles Taylor have been revealed to the world, forcing a multi-sectoral response.

---

[63] USAID, BHR, OFDA, *Humanitarian Situation Report #1* (FY 2002), October 3, 2001.

[64] Ibid.

[65] A diamond certification system was established in Sierra Leone in October, 2000 and the UN Security Council removed sanctions on government certified diamonds. (AI 9/7/01)

[66] Report of the Panel of Experts Appointed Pursuant to Security Council Resolution 1306 (2000), Paragraph 9, in relation to Sierra Leone. Available at www.un.org/Depts/dpko/dpko/1195.pdf

Industry leaders, importing and exporting countries, NGOS and UN agencies are now working together to create a global system of controls[67] which would require the registration, identification and monitoring of international shipments in order to shut illicit diamonds out of the market place and cut off revenues to insurgents.[68] In late 2001, The Campaign to Eliminate Conflict Diamonds,[69] an umbrella organization of groups concerned about the issue, co-chaired by PHR, worked closely with the US Congress to pass legislation in the House of Representatives that imposes trade sanctions against diamond-exporting countries that have not put in place comprehensive controls to eliminate the trade in conflict diamonds. The legislation, called the Clean Diamonds Trade Act, is supported by the World Diamond Council.[70] The United States represents approximately 65% of the retail market for gem quality diamonds.

While recent developments in Sierra Leone offer hope that combatants may finally lay down their arms, lasting peace will not be achieved until UNAMSIL and the Government of Sierra Leone have taken full control of the highly contested diamond areas of Tongo Field and Kono from the RUF and the CDF.[71]

Presidential elections are scheduled for May 14, 2002, and are expected to take place if the cease-fire continues to hold and rebels and the CDF are fully disarmed.

Demobilization Effort

One critical aspect of the transition from war to peace is demobilization of combatants. A Demobilization, Disarmament and Reintegration (DDR) program was begun with the assistance of the international community in 1998. Prior to the virtual halt of the DDR effort following the RUF attack

[67] This effort to develop an international certification system, known as the Kimberley Process, was initiated because of the recognition by the international community of the link between diamonds and human rights abuses, particularly the case of Sierra Leone and the RUF. (Amnesty International, "Sierra Leone Diamonds: International Certification System Essential to Help End Killings, Abductions and Torture of Civilians." 9/17/2001)

[68] As noted by Nicholas Cook in the November 2000 CRS Report to Congress, *Diamonds and Conflict: Policy Proposals and Background*, (see note 67) "diamonds are a highly fungible, concentrated form of wealth, and the legitimate global diamond industry is historically insular and self-regulating."

[69] www.endconflictdiamonds.org

[70] The Clean Diamonds Trade Act prohibits the import of diamonds into the United States unless the exporting country is implementing a system of controls on the export or import of rough diamonds that meets specified requirements, consistent with United Nations General Assembly Resolution 55/56 adopted on December 1, 2000, or a future forth both civil and criminal penalties for violations of the requirements of this Act.

[71] Progress in this regard includes the deployment of UNAMSIL forces in the diamond areas as well as an agreement between the Government of Sierra Leone, the UN and the RUF to ban mining in Eastern Kono district. (AI 9/7/01)

on peacekeepers and defacto withdrawal from the Lome agreement in May, 2000, nearly 25,000 ex-combatants of an estimated 45,000 had disarmed and entered the demobilization process.[72] While it is likely that many previously demobilized combatants rearmed after the May 2000 incident, more than 30,000 fighters have handed over their weapons and 3,000 more children have been turned over to the UN since the most recent cessation of hostilities in May 2001.[73] The current climate suggests peace may be within reach, however, the sustainability of peace largely depends on the effectiveness of the demobilization effort.

DDR, managed by the government of Sierra Leone and supported by a World Bank trust fund, was designed not only to remove weapons from the hands of former combatants, but to provide a bridge to civilian life, a process which was intended to include medical, psycho-social, educational and financial support to jump-start a new society after years of armed conflict.[74] With a surge in disarmaments since the May 2001 cease-fire and concern about the security implications of keeping large numbers of former fighters in close quarters with little to occupy them, the revised approach seeks to encamp fighters for only two weeks.[75]

Physicians for Human Rights is concerned about releasing former fighters before they have received human rights training, including education about sexual violence, as well as other reintegration support. Thousands of ex-combatants are now returning to the very communities where they may have committed violent acts. Furthermore, the World Bank Trust Fund, which has been supporting DDR does not have sufficient funds for the reintegration portion of the process.[76] The successful reintegration of former combatants is vital to the long-term security of the country as well as the immediate security of the communities and families to which they will be returning.

Status of Women in Sierra Leone

The basic human rights enshrined in many international and regional instruments, such as the Universal Declaration of Human Rights and the African Charter on Human and People's Rights are found in the 1991 Sierra Leone

---

[72] UNOCHA, Sierra Leone Humanitarian Situation Report, May 29, 2001. available at: www.reliefweb.int/w/Rwb.nsf/s/4A58557840970841C1256A5C0050441B

[73] Pratt, p.21; Also conversation with Corinne Dufka, Human Rights Watch

[74] PHR interview with Florian Fichtl of the World Bank, Freetown, March 2001.

[75] PHR telephone interview with Richard Bennett of UNAMSIL, August, 2001.

[76] UNOCHA, Sierra Leone Humanitarian Situation Report, May 29, 2001. Available at: www.reliefweb.int/w/Rwb.nsf/s/4A58557840970841C1256A5C0050441B

[77] The Constitution of Sierra Leone (1991) Chapter III — The Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual. Available at: www.sierra-leone.org/constitution-iii.html

Constitution, Chapter 3, Sections 15-30, which provides for the equal rights of women.[77] Sierra Leone also ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1988.[78] Though the constitution states that no law should discriminate against any person because of his/her gender, in practice women face structural discrimination under all three types of law which coexist in Sierra Leone – English, Islamic, and Customary Law.[79] The effects of discriminatory inheritance practices are particularly devastating to women and children, especially during armed conflict which has produced many war widows. It should be noted that Sierra Leone's criminal justice system remains largely dysfunctional due to a lack of financial and human resources.

While high levels of war-related sexual violence have been documented by the PHR study and by other organizations documenting human rights abuses, evidence also suggests that domestic violence against women and children is common, though it is not generally recognized as a societal problem.[80] Nearly 67% of urban women interviewed for a survey on AIDS knowledge, practices and behaviors revealed that they had been beaten by an intimate male partner, and over 50% reported being forced to have sexual intercourse.[81] In almost 90% of these cases, a boyfriend or husband was identified as the perpetrator.[82] The police are generally unlikely to intervene in domestic disputes except in cases resulting in severe injury or death.[83] And though rape is a crime under Sierra Leonean law,[84] historically, the response of the Sierra Leone Police and judiciary to reports of

[78] Ratified: November 11, 1988. Sierra Leone's initial and second and third periodic reports were due December 11, 1989, 1993 and 1997 respectively.

[79] According to Abdul Tejan-Cole of the Sierra Leone Bar Association, under English Law, the husband inherits all his wife's property if she dies, whereas the wife only inherits one-third of her husband's property if he dies, the remainder going to the children. Under Islamic Law, the wife inherits the estate of her deceased husband, but is not permitted to administer it – that responsibility falling to the husband's eldest brother. Under Customary Law, the wife is part of the property inherited by the eldest brother. By law women receive little or no child support after divorce or for children born out of wedlock. In Freetown, however, women can inherit property; upcountry they can not.

[80] PHR interview with Zainab Bangura and Christiana Solomon of the Campaign for Good Governance, March 2000, Freetown, Sierra Leone.

[81] Coker, A.L. & Richeter, D.L., "Violence Against Women in Sierra Leone: Frequency and Correlates of Intimate Partner Violence and Forced Sexual Intercourse," *African Journal of Reproductive Health*, 1998; 2(1).

[82] Ibid p.61.

[83] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*, Bureau of Democracy, Human Rights, and Labor, 2001; p. 8.

[84] Thompson, B., *The Criminal Law of Sierra Leone*, University Press of America, 1999; pp.68-72.

[85] PHR Interview with Zainab Bangura, Campaign for Good Governance, Freetown, March 2000.

rape has been minimal.[85] In fact, the first successful prosecution of a rape case in Sierra Leone did not occur until 1999.[86] Rape cases are not made a priority and are generally not handled professionally due to improper/insufficient training, lack of means, and structural discrimination against women resulting in a lack of understanding that rape is a serious crime. In response to this problem, the Commonwealth Police have recently established a number of centers called Family Support Units to educate police on sexual and domestic violence, receive rape victims, ensure proper forensic testing has been done assist in processing their cases and to reach out to the community.

Human Rights Abuses During the War

All armed groups involved in the war have committed a range of serious human rights abuses against the civilian population, other groups, and members of their own groups including: extra judicial killing or summary execution, sexual violence including rape, abduction, amputation, destruction of property, disappearance, torture, violations of humanitarian law and forced labor. The crimes committed by rebel forces have been of a particularly heinous nature. In addition to the practice of amputation of limbs and other body parts of men, women and even infants, there are reports of pregnant women disemboweled, and women and children raped and made to witness torture and murder of relatives and neighbors. More recently, since the November 2000 cease-fire between the government and the RUF, rebel abuses have apparently been on the decline.[87]

Despite this, several serious incidents involving multiple civilian deaths including women and children were reported by Human Rights Watch as recently as July 2001.[88] Based on interviews with victims and witnesses, Human Rights Watch reported that attacks by the CDF militias in June and July against then RUF-controlled towns resulted in the killing of least twenty-four civilians, and the wounding of another nineteen.

Rebel Abuses

In recent years RUF rebels, the ex-SLA/AFRC and an ex-SLA splinter group called the West Side Boys have reportedly committed widespread abuses, including killings, abductions, deliberate mutilations, and rape. Rebel forces also abducted civilians, missionaries, aid workers from non-governmental organizations (NGOs), and UN personnel; ambushed humanitarian relief convoys; raided refugee sites; and extorted and stole

---

[86] Ibid.

[87] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*, Bureau of Democracy, Human Rights, and Labor, 2001; pp. 2-11.

[88] Human Rights Watch, *Sierra Leone: Most Serious Attacks in Months; UN Peacekeepers Needed to Protect Civilians*, July 24, 2001.

food. The RUF forces continued their long-standing practice of abducting civilians (including women and children) and using them as forced laborers, child soldiers, and sexual slaves.

Since the Lome agreement was signed, there are reports that the RUF have committed numerous abuses including rape, the execution of civilians and peace keepers, and execution of their own, allegedly for committing rapes.[89] Mostly rebel atrocities but also government allied jet and helicopter gun ships prompted the internal displacement of hundreds of thousands, if not millions, of civilians over the past several years.[90]

The extent of the rebel's signature mutilations reportedly declined in 2000 and 2001. Thousands of individuals, including children as young as 2 months, had their limbs severed during the conflict, and many more died as result of their wounds. It has been estimated that for every one amputee that survived, three perished from shock, infection and loss of blood because they were not able to obtain medical care.[91]

Abduction has been one of the methods of recruitment used by the RUF.[92] The UN estimates the number of men, women and children abducted by rebel forces from 1991-1999 to be approximately 20,000.[93] The RUF has also abducted aid workers, and has taken UNAMSIL peacekeepers hostage on several occasions.

Throughout the war rebel forces have invaded, looted and burned private and public property. These destructive actions have played an instrumental role in the terror campaign against civilians – often resulting in the evacuation of whole towns and villages on the first signs that rebels were approaching. The rebels have also looted belongings, crops, animals, medicines and cash for their own use.

Child Soldiers

It has been estimated that at any time during the conflict at least 5,000 children fought alongside adults, the majority with the RUF, which created "Small Boy Units" and "Small Girl Units" and sent them into combat.[94]

---

[89] Interview with Corinne Dufka of Human Rights Watch in Freetown, January 2001. Human Rights Watch, *Sexual Violence Within the Sierra Leone Conflict*, Human Rights Watch, February 26, 2001

[90] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*, pp. 1-2.

[91] Ibid, p. 4

[92] Coalition to Stop the Use of Child Soldiers *Sierra Leone: Child Soldiers Global Report 2001*, 2001. Available at:
www.child-soldiers.org/report2001/countries/sierra_leone.html

[93] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*; p 3.

[94] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*, Bureau of Democracy, Human Rights, and Labor, February 2001; p. 9.

Children were frequently plied with a range of narcotics and forced to commit atrocities, even against their families and communities. Many children who were abducted had "RUF" permanently engraved on their skin with a knife or bayonet, often in places where it is difficult to cover up the markings.[95]

Sierra Leone ratified the Convention on the Rights of the Child in 1990, which prohibits the recruitment of children under fifteen as combatants, and more recently has made repeated commitments to demobilize those under eighteen.[96] Sierra Leone has also ratified the Optional Protocol to the CRC on the involvement of children in armed conflicts.[97] In May 2000, however, approximately 25% of combatants fighting with government forces near Masiaka were observed to be under eighteen, and some as young as seven.[98]

Abuses by Government Forces and Their Allies

Evidence suggests and the PHR survey confirms that rebel forces committed the vast majority of abuses against civilians. However, government forces committed serious violations as well. There were reports that government and ECOMOG forces operating in support of the government committed extra judicial killings and summarily executed suspected rebels and their collaborators, particularly in the wake of the rebel occupation of Freetown.[99] There appear to have been fewer reports of human rights violations involving the SLA since the latter half of 2000, most likely due to training and reorganization.[100]

Abuses by the Civil Defense Forces (CDF)

The Government affiliated Civil Defense Forces also committed human rights abuses according to reports. While the number of abuses perpe-

---

[95] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*, p. 4; Even once healed, the markings are a daily reminder of their trauma and may lead to stigmatization and/or retribution. The Council of Churches of Sierra Leone, a local human rights organization told PHR about one boy interviewed by the organization who was captured by ECOMOG with five of his child-soldier colleagues in February/March 1999. The boy escaped, but not before witnessing the immediate execution of his friends by ECOMOG reportedly because they had "RUF" engraved on their skin.

[96] Amnesty International, *Sierra Leone: Action Needed to End Use of Child Combatants*, 2001

[97] Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts. Available at: www.unhchr.ch/html/menu2/6/protocolchild.htm

[98] Amnesty International, *Report 2001, Sierra Leone*, p. 5. ; www.un.org/special-rep/children-armed-conflict/index.html

[99] Human Rights Watch, *Getting Away with Murder, Mutilation, Rape: New Testimony from Sierra Leone*, 1999. US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*; p 2.

[100] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*, p. 4.

trated by other groups appeared to have decreased in the later part of 2000 and early in 2001, violations by CDF seemed to have risen during the same period,[101] including reports of rape by CDF, which in past years had not been reported to have engaged in rape.[102] In June and July 2001 pro-government militias reportedly attacked RUF-controlled towns killing at least 24 civilians, most of whom were women and children.[103] There are reports that the CDF also continued to recruit child soldiers in spite of promises to halt the practice. Like the other groups, the CDF have manned unofficial roadblocks and routinely extorted money from travelers. The CDF have also arrested and detained suspects illegally.[104]

The Humanitarian Situation

The complex humanitarian emergency, a product of the war, exacerbated the already grim quality of life experienced by most of the population in Sierra Leone. In 2001 Sierra Leone was the least developed country in the world according to the United Nations Human Development Index.[105] A Sierra Leonean's average life expectancy of 38.3 years is the lowest in the world, and the under-five mortality rate is the highest in the world; nearly one third of children in Sierra Leone die before their fifth birthday.[106] Sixty-eight percent of adults are illiterate, 36% do not have access to health care, 34% do not have access to clean water, and the average per capita annual income is $448.[107] Twelve percent of children aged 0-14 have one or both parents dead.[108] For the majority of people in the country, life is consumed by the challenge of survival, which is threatened not only by violence but by disease, malnutrition,[109] and the limited availability of basic services. Sierra Leoneans live not only with the consequences of extreme poverty, but with the profound insecurity that exists in a society

[101] Human Rights Watch, *Recent Abuses Documented by Human Rights Watch*, November 30, 2000.

[102] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000;* p 4.

[103] Human Rights Watch, *Sexual Violence within the Sierra Leone Conflict,* February 26, 2001.

[104] US Department of State, *Sierra Leone, Country Reports on Human Rights Practices – 2000*; p 4.

[105] UNDP, *Human Development Report 2001* available at www.undp.org/hdr2001/back.pdf

[106] UNICEF, *State of the World's Children*, UNICEF *2000.*

[107] UNDP, *Human Development Report 2001.* Figures are for 1999.

[108] The Government of Sierra Leone, *Survey Report on the Status of Women and Children in Sierra Leone at the End of the Decade*, November, 2000; p. 13.

[109] Twenty-seven percent of children under five are underweight or too thin for their age, according to the Government of Sierra Leone *Survey Report on the Status of Women and Children in Sierra Leone at the End of the Decade*, November, 2000.

where the infrastructure and rule of law have virtually collapsed and there seems to be little hope for the future in terms of work and education opportunities. The humanitarian assistance community has an enormous task providing aid to the displaced and other war-affected peoples and beginning to rebuild the country, particularly in the areas of housing, health care, and education.

Refugees and Internally Displaced Persons

Mass displacement has been a defining characteristic of the crisis in Sierra Leone. At the height of the hostilities, more than 3,000 communities[110] were destroyed resulting in the flight from their homes of nearly half the country's population. Many have experienced displacement more than once. At the time of writing it is estimated that more than one million, approximately a quarter of the population, are either displaced internally or have fled to neighboring countries to escape the conflict.[111] An estimated 75,000 refugees had been repatriated by UNHCR to Sierra Leone and had returned independently by ship and foot since the beginning of 2001 as a result of the declining security situation in Liberia and Guinea. As many as 500,000, however, remained in camps in Guinea, as well as in the Gambia, Ghana and the Côte D'Ivoire.[112] As the numbers of returnees grow, particularly in Freetown where IDP camps are already over capacity, the government of Sierra Leone and relief agencies are making efforts to relocate them to host communities in areas deemed secure.

The official caseload of internally displaced persons (IDPs) is over 400,000 at the time of this writing.[113] An estimated 170,000 people reside in eighteen official IDP camps, and thousands more are living with host communities primarily in the Port Loko and Tonkolili districts. The UN's Office for the Coordination of Humanitarian Assistance (OCHA) estimates that an additional one million Sierra Leoneans are internally displaced and absorbed into host communities where they are not receiving any humanitarian relief.[114] At least 55% of the refugee and displaced populations are estimated to be women and girls.[115]

Most of the camps in Sierra Leone were constructed as temporary measures to address the immediate shelter needs of the displaced population.

---

[110] United Nations Consolidated Inter-Agency Appeal for Sierra Leone, 2000, p. 117.

[111] Global IDP Database, Sierra Leone Profile Summary. Available at: www.idpproject.org/Sites/idpSurvey.nsf/wViewSingleEnv/Sierra+LeoneProfile+Summary

[112] USAID, BHR, OFDA, *Humanitarian Situation Report #1* (FY 2002), October 3, 2001.

[113] Pratt. p.23

[114] Global IDP Database www.idpproject.org/Sites/idpSurvey.nsf/wViewSingleEnv/Sierra+LeoneProfile+Summary

[115] UNOCHA Database - Sierra Leone: UN Office for the Coordination for Humanitarian Affairs. Updated February, 2001

They have, however, since been used as long-term housing and issues of space, sanitation, durability and management exist. The breakdown of the peace process in May 2000 not only prevented the resettlement of most IDPs, but led to additional internal displacements of people fleeing fighting, which overwhelmed already inadequate facilities.

The camps are generally crowded and unsanitary and most IDPs interviewed by PHR desperately want to return home. The return of the displaced to their home communities, many of which have been occupied by rebels for years, may, however, pose an even greater challenge to the government of Sierra Leone and humanitarian relief agencies. Sierra Leone's fragile and limited infrastructure may be unable to absorb an influx of refugees from unstable areas in Liberia and Guinea. This difficulty may be exacerbated by the voluntary resettlement of IDPs as the peace process moves forward and areas of the country are secured. The National Committee for Relief, Reconstruction and Rehabilitation (NCRRR) which is providing those who return home with seeds, tools and other essential household items, had reached only 77 of 149 chiefdoms before the end of the planting season in May, 2001.[116] So whether the displaced return home or remain in camps, the need for food aid will remain high. Massive reconstruction of shelter and education and health facilities must also be a top priority.[117]

Extension of state authority into the provinces – crucial in order to undertake and sustain programs in key sectors – has been hampered by the military, political and economic situation. Government capacity to deliver basic services continues to be limited and civil administration in areas under RUF control was virtually obliterated. Health and development indicators point to particularly dire conditions in the North.[118] The current needs for displaced populations, the host communities and resettlement far exceed the existing capacity at all levels.[119]

Health Care Delivery

The health sector, which was already weak prior to the war, has been further compromised during ten years of conflict. It is ill equipped to serve a large number of returning IDPs and refugees. Hospitals and health clinics were systematically looted and destroyed over the past 10 years. Though some district hospitals are now open including Kenema, Port Loko, Lungi and Kabala, they are not operating at full capacity and the percentage of

---

[116] Pratt p.23

[117] Mid-Year review of the 2001 UN Consolidated Inter-Agency Appeal for Sierra Leone

[118] The Government of Sierra Leone, *Survey Report on the Status of Women and Children in Sierra Leone at the End of the Decade*, November, 2000; p.51.

[119] Mid-Year review of the 2001 UN Consolidated Inter-Agency Appeal for Sierra Leone.

functioning peripheral health units (PHU) that provide primary care is very low.[120] Other factors contributing to reduced health standards are a decrease in number of health-care providers due to death and displacement, limited access to drugs and equipment, and referral services which are inaccessible and/or unaffordable to local populations.[121] Efforts to address public health issues are also hampered by a dearth of reliable statistics.

Maternal and Child Care

The continuing political and military turmoil has had a particularly devastating impact on those most vulnerable to poverty and disease – women and children. Sierra Leone's maternal mortality rate is the highest in the world. It has been estimated that one in seven women will die from complications related to childbirth.[122] The inability of women to access health services is largely due to their unavailability, but also a problem of access and affordability. Much of the population today is so poor that they cannot pay even small fees that are now required.[123] In spite of the obstacles, it has been reported that 85% of women in Sierra Leone receive some form of prenatal care, and antenatal care from a health care provider with specialized skills.[124] A recent government survey found that 42% of births were attended by a doctor, nurse or midwife, though only 22% of births in the North received specialized assistance.[125]

---

[120] For example, Connaught Hospital in Freetown, the country's largest hospital had no laundry and food service and was in desperate need of medical equipment, qualified staff, plumbing and telephones when PHR visited in March, 2000. Princess Christian Medical Hospital (PCMH), a maternity hospital in the eastern part of Freetown suffers from years if neglect in the form of puddles, peeling paint and a lack of general daily medical consumables. A survey conducted in 2000 revealed that only 237 PHUs, out of a total of 730 pre-war facilities were operating. Each functioning facility is technically servicing 25,000 people, far higher than the recommended standards for effective primary health care delivery. UNICEF is supporting the PHUs, while WHO is working to improve the district hospitals which act as referral centers – and they are working together to meet the emergency

[121] For example, the ICRC clinic at the Clay Factory IDP camp sees patient and may prescribe drugs, however many cannot afford to have their prescriptions filled or they are referred to Connaught Hospital for surgery, but they cannot afford it, so the problem goes untreated. Many people have no idea where to go for treatment.

[122] Rada Petrovic, "Most Natural Thing in the World," in *Birth Matters*, Marie Stopes International p. 8.

[123] Ibid.

[124] The Government of Sierra Leone, *Survey Report on the Status of Women and Children in Sierra Leone at the End of the Decade* (Central Statistics office, Ministry of Development and Economic Planning), November 2000; p. 13.

[125] Ibid.

Mental Health Care

The Kissy mental hospital in Freetown, the only hospital providing mental health care in the country, is managed by the only Sierra Leonean psychiatrist in the country. Due to limited resources and other constraints the hospital has been more a refuge for the mentally ill who have nowhere else to go for mental health services. Though they should be more widely available and better coordinated and regulated, anecdotal evidence suggests existing psychosocial services provided almost exclusively by NGOs are proving to be very valuable in some IDP camps in larger towns such as Freetown and Kenema. Recently, the World Health Organization (WHO) has begun to assist the government of Sierra Leone in coordinating their mental health response to the crisis.

HIV/AIDS

HIV/AIDS will likely be one of the greatest challenges facing the country in the post-war period. As suggested by a recent Sierra Leone government report,[126] there is a lack of information and knowledge about HIV/AIDS among women in Sierra Leone. For example, overall, only 54% of women aged 15-49 had heard of AIDS. Of these, 21% correctly stated three main ways of avoiding HIV infection; 9% knew where to get an HIV test and 2% had been tested. Given the dearth of testing facilities and health services in the areas we surveyed, the PHR/UNAMSIL team felt it would be unethical to raise concern about HIV/AIDS in our population-based survey activities. However, women reporting sexual violence were asked several open-ended questions including one[127] geared towards health concerns. Several women used this opportunity to raise concerns about AIDS (see Chapter IV).

The exact prevalence rate of HIV infection in Sierra Leone is not known. Although UNAIDS lists the adult prevalence rate as 2.99%, the estimates of those actually living with AIDS vary greatly.[128] UNAIDS's 2000 report[129] states that "scant information on HIV prevalence is available for Sierra Leone."[130] A recent analysis conducted on behalf of the WHO attributed the lack of information to "the fact that no statistically

---

[126] Government of Sierra Leone, *Survey report on the Status of Women and Children* November 2000

[127] See Appendix A.

[128] www.unaids.org/epidemic_update/report/Final_Table_Eng_Xcel.xls

[129] www.unaids.org/hivaidsinfo/statistics/june00/fact_sheets/pdfs/sierraleo.pdf

[130] Ibid., p.3

[131] World Health Organization, *HIV/AIDS in Sierra Leone: The Future at Stake*, December 2000

[132] www.unaids.org/hivaidsinfo/statistics/june00/fact_sheets/pdfs/sierraleo.pdf p.3

valid national epidemiological survey has been undertaken in Sierra Leone due to the prolonged civil conflict."[131]

Smaller studies conducted at antenatal clinics and among high risk groups such as the armed forces cited by UNAIDS[132] and in the recent WHO analysis[133] suggest that the prevalence rate is probably higher than the official UNAIDS figure. This likelihood is supported by several aspects of the situation in Sierra Leone, including those documented by PHR.

One key factor that suggests that HIV prevalence is higher than reported by UNAIDS is the long-term conflict and the corresponding population displacement and human rights abuses. Data from Rwanda indicate that "wars and armed conflicts generate fertile conditions for the spread of HIV."[134] These conditions include conflict related rape which was reported as a factor in increasing the HIV prevalence in Rwanda,[135] and which PHR documents to have affected 9% of internally displaced women in Sierra Leone. The nature of the rapes documented in this report also suggests that these are likely to contribute to the spread of HIV; about a third of those reporting sexual violence reported experiencing gang rape and the mean number of attackers reported for those experiencing sexual violence was 3.2. Abduction, reported by a third of women reporting sexual violence, is also likely to contribute to the spread of HIV when associated with repeated rapes over a period of time of a month or longer. Thirty-nine percent of respondents reported that the sexual violence lasted for more than one week. HIV prevalence among combatants is an important factor in determining HIV rates. This is especially true for rates of infection among the RUF, since 53% of participants in the PHR survey who reported face-to-face contact with RUF also reported sexual violence.

Other factors that are likely to contribute to the prevalence of HIV in Sierra Leone relate to devastated health and education infrastructures of the country and include: the lack of materials necessary for prevention and treatment, the lack of availability of testing and counseling, and the absence of a coordinated comprehensive government policy to address HIV/AIDS including the absence of a policy on confidentiality of test results. According to a recent analysis of government response to HIV/AIDS in Sierra Leone, the country's "National AIDS Control Programme remains weak and largely ineffective...there is no national policy or strategic plan to deal with the epidemic in any comprehensive way."[136]

---

[133] World Health Organization HIV/AIDS in Sierra Leone

[134] UNAIDS, *AIDS epidemic Update: December 1998* p.12 www.unaids.org/publications/documents/epidemiology/surveillance/wad1998/wadrp98e.doc

[135] Ibid p.12

[136] WHO, *HIV/AIDS in Sierra Leone*

[137] Ibid p.17

The issue appears to be one of lack of capacity and management as well as of financial resources.[137]

Whatever the reason for the lack of effective government response, the pattern of HIV infection in other countries demonstrates that once the adult rate of infection passes 5%, the infection spreads exponentially – sometimes as swiftly as 50% per year.[138] If, as limited data suggest, the prevalence rates in Sierra Leone are significantly above that level, the country could potentially reach South Africa's prevalence rate of over 20% within 10 years if an effective HIV/AIDS control program is not established.[139]

Education

Although the Government of Sierra Leone is committed to improving children's education and welfare generally, and girls and boys are legally required to attend primary school, the government lacks the financial and practical capacity to provide basic education and other services for children, particularly in areas that have been under rebel control.[140] An estimated 70% of schools were destroyed during the fighting and rampant looting has left most facilities still standing without teaching materials and furniture.[141] Additionally, school fees and/or the cost of uniforms and books are prohibitive for many.[142] As a result, a large percentage of children are currently receiving no formal education, or have missed many years of school.[143] Furthermore, reentry into the educational system is proving to be a challenge for those whose schooling was disrupted by displacement or who suffered psychological trauma. Many children feel they are too old to return to the level where they left off and feel pressure to

---

[138] Ibid p. 11 citing a World Bank document.

[139] Ibid.

[140] According to a Government of Sierra Leone Survey Report on the Status of Women and Children in Sierra Leone at the End of the Decade, released in November 2000, 42% of primary school age children are attending school, though attendance levels in the North and East are markedly lower at 28% and 35% respectively.

[141] Global IDP Database, "Sierra Leone: Widespread Destruction of Schools in 1997 and 1999," www.db.idpproject.org

[142] Global IDP Database, "Sierra Leone: Combination of Factors Discourage Displaced Children from Attending School (2000)," www.db.idpproject.org

[143] Ibid.

[144] Global IDP Database, "Sierra Leone: Combination of Factors Discourage Displaced Children from Attending School (2000)," www.db.idpproject.org; Interview with Glenis Taylor of UNICEF; UNICEF recognizes the vital role of education in normalizing the lives of psychologically traumatized children and is particularly focused on ensuring that girls return to school. UNICEF has proposed working to improve access to formal primary education, but also to advocate for the development of specialized programs for displaced populations and for over-age children to complete primary education in accelerated learning programs, which would also include psychological counseling and peace building.

earn income to help rebuild the lives of their families. Others now must take on the responsibility of breadwinner due to the death of parents or pregnancy resulting from rape.[144]

The Ministry of Social Welfare, Gender and Children's Affairs has primary responsibility for children's issues within the government and has been working actively with UNICEF and civil society to provide services and normalize conditions for children as a way to address the trauma so many of them have suffered.

Impact of War on Women

The impact of war on civilians has increased substantially in the past century. In World War I, approximately 5% of casualties were civilians, whereas in the 1990s it is estimated that 80% of war casualties were civilians, many of whom are women and children. Women and children also constitute the majority of the world's displaced and refugee populations.[145] This dramatic increase in the impact of conflict on civilians is likely due to the changing nature of conflict itself. Most conflicts today occur within a state's borders and are often characterized by deliberate and systematic violence against civilians and civilian institutions. Of 101 armed conflicts around the world between 1989 and 1996, 95 were internal disputes characterized by the use of light weapons and small decentralized fighting groups. These conflicts have devastating consequences for civilians.

Although rape is thought to be a common aspect of military conflict throughout history and in all regions of the world, rape, until recently, remained the "least condemned war crime,"[146] not because of inadequate legal provisions, but because of the international community's willingness in the past to tolerate sexual abuse of women and girls.[147] There had been little or no research on the scale of sexual violence, the factors that provoke it, or how to mitigate the problem.[148] Perhaps even less is known about how women recover after the trauma of rape in war and about the impact of rape on their communities.[149] Documenting sexual violence, already difficult during peacetime, is even more challenging during conflict when lack of ordinary support systems, general instability and collat-

---

[145] Worldwide Refugee Information, US Committee for Refugees, www.refugees.org/articles/women_refugees.htm

[146] Commission on Human Rights , *Preliminary report submitted by the Special Rapporteur on Violence Against Women, its Causes and Consequences*. United Nations, 1994; p.64.

[147] Human Rights Watch, *Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath*, 1996.

[148] Swiss S., Giller J.E., "Rape as a Crime of War: A Medical Perspective," *JAMA*. 1993; 270:612-615

[149] Ibid, p.2

[150] Ibid

eral trauma further discourage disclosure. Despite this, persistent efforts to do so are increasingly forcing the issue into the light.[150]

According to the International Committee of the Red Cross (ICRC), "Rape, forced prostitution, sexual slavery and forced impregnation are all criminal means and methods of warfare that have attracted more attention in the recent years because of the widespread reporting of such acts in recent conflicts."[151] The wars in Rwanda and the former Yugoslavia focused attention on the use of rape as a deliberate strategy to undermine community bonds and weaken resistance to aggression.[152] In fact, the use of sexual violence as a weapon of war and the devastating effects it typically has on communities reflects a profound and disturbing perspective on the dignity and worth of women and girls—that a woman's dignity and worth can be reduced to her sexual purity and serve as a measure of family and community honor.[153] The recent convictions handed down by the ad-hoc tribunals for Rwanda and Yugoslavia on rape as a war crime and crime against humanity[154] send a strong message that impunity around sexual violence can no longer be taken for granted. While rape is receiving increased attention, an emphasis on this particular abuse should not lead to a disregarding of other violations. Instead, sexual violence should be understood in the context of a range of abuses and hardships faced by women during conflict situations.

Health care professionals have a unique role to play in the investigation and documentation of sexual violence in war and in the treatment of survivors. Collecting and presenting sound evidence will help hold perpetrators accountable, restore the rule of law, and limit future violations. Furthermore, increasing medical and social knowledge about sexual violence in war will facilitate the development of strategies that allow the recovery of survivors of sexual violence and their communities. A better understanding of the determining factors and characteristics of sexual violence in war may contribute to the development of measures to better protect potential victims and deter perpetrators in the future.[155] Documentation is also important for the development of international jurisprudence and strengthening the interpretation and implementation of existing international legal standards.

---

[151] ICRC, "Fact Sheet: The Impact of Armed Conflict on Women," March 6, 2001.

[152] Swiss and Giller.

[153] Frank, M., Bauer, H.M., Fincanci, Korur S., Arican, N., & Iacopino, V., "Virginity Examinations in Turkey: The Role of Forensic Physicians in Controlling Female Sexuality," *JAMA*, 282(5), 1999; pp.485-490.

[154] See especially Prosecutor v. Jean-Paul Akayesu, Judgement, ICTR-96-4-T, September 2, 1998; Prosecutor v. Anto *Furund`ija*, Judgement, IT-95-17/1-T, December 10, 1998; Prosecutor v. Zejnil Delalic et al., Judgement, IT-96-21-T, November 16, 1998; Prosecutor v. Kunarac et al., Judgement, IT-96-23-T & IT-96-23/1-T, February 22, 2001.

[155] Swiss & Giller.

III. THE PREVALENCE OF WAR-RELATED SEXUAL VIOLENCE AND OTHER HUMAN RIGHTS ABUSES AMONG IDPs[156]

Methods

Subjects

Subjects of the PHR survey consisted of female heads of household who could most accurately provide information about the experiences of the entire household over the past 10 years. An assertive attempt was made to ensure that each respondent was interviewed privately due to the sensitive nature of questions asked. Of the 1,048 households sampled, 991 female heads of household participated in the study (response rate = 95%). Seven women were not eligible; 41 were not available at the time of sampling, and 8 women were either opposed to the survey, refused to participate, or requested the interview be stopped.

Sampling

At the time of the study, registered IDPs were living in a total of 21 camps or locales in seven districts and the Western Area of Sierra Leone. To obtain a representative sample of IDPs, the PHR/UNAMSIL team selected camps and/or locales on the basis of IDP arrival time and the place of residence before displacement. Since the proportion of "recent arrivals" (after the May 2000 crisis) was known for each camp/locale, the PHR/UNAMSIL team was able to select camps/locales that reflected the known proportion of two-thirds recent arrivals in all IDP camps/locales. A total of four sample locations from three different districts and the Western Area of Sierra Leone were included in the study. The camps/locales included those that best represented the IDPs' home district and/or region of the country. The four districts from which camps/locales were sampled

[156] This chapter is excerpted from Amowitz, L et al, "Letter from Sierra Leone: Prevalence of War-Related Sexual Violence and other Human Rights Abuses Among Internally Displaced Persons in Sierra Leone," *Journal of the American Medical Association* (Forthcoming January 23, 2002 issue).

represented 91% of the registered IDP population in Sierra Leone. Camps/locales located in four other districts were excluded on the basis of inaccessibility due to safety concerns or an inadequate number of IDPs for sampling (less than 5,000).

Assuming a prevalence rate of sexual violence (based on a previous estimate by Médecins sans Frontières (MSF) of 14% of Freetown residents witnessing rape in 1999)[157] to be between 10% and 20%, the PHR/UNAMSIL team determined the following sample sizes would be needed. For a 20% prevalence (18-22% margins), sample size would range from 653 at 80% confidence to 1,071 at 90% confidence. For a prevalence of 10% (9-11% margins), sample size would range from 1,457 at 80% confidence to 2,377 at 90% confidence. The PHR/UNAMSIL team therefore planned to include approximately 1,000 households in the study due to safety and logistical constraints during the time period of the survey. Households were selected in each camp/locale in proportion to the distribution of IDPs in that location. A total of 1,048 households were selected from the three camps and one town, Mile 91 Township.

All study participants were selected using systematic random sampling or a combination of systematic random sampling and cluster sampling.[158] In sampling IDPs, the PHR/UNAMSIL team first mapped all domiciles within the camp, cluster, or town, then conducted a systematic random sample of the entire camp, cluster, or town. A sampling interval (n) was calculated by dividing the number of households in the camp, cluster, or town by the number of interviews to be conducted in the camp, cluster, or town. A starting household was determined by random number generation and each nth household was interviewed until the entire camp, cluster, or town had been surveyed. One camp required cluster sampling due to size and difficulty in mapping. The camp was organized into eight administrative units. Two clusters (administrative units) were selected at random from seven of the units. One unit was excluded from sampling because it consisted of only very recent arrivals, unlike the other seven units.

Survey Questionnaire[159]

The PHR survey contained 49 questions pertaining to demographics, physical and mental health perception, experiences of war-related human rights abuses among household members, experiences of war-related sex-

---

[157] de Jong, K., Mulham, M., van der Kam, S., *Assessing trauma in Sierra Leone: Psychological Questionnaire: Freetown Survey Outcomes*, Doctors Without Borders/Médecins sans Frontières, January 11, 2000. Available at: www.doctorswithoutborders.org/publications/reports/2000/sierraleone_01-2000.shtml

[158] Patton MQ. *Qualitative Evaluation and Research Methods*. Newbury Park, CA: Sage Publications; 1990:169-283

[159] See Appendix A.

ual violence, including assistance needs, opinions regarding punishment and justice for perpetrators, and attitudes on women's human rights and roles in society. The survey also assessed the lifetime prevalence of non war-related sexual violence.

Physical and mental health perception, fears of sexual violence in communities either by combatants or non-combatants, and family relationship changes after the incident of sexual violence were assessed using Likert-type scales (e.g., excellent, good, fair, poor). Human rights opinions and views on women's roles in society were asked of all female heads of the households. Opinions were assessed by a response of "agree" or "disagree" with statements concerning human rights and women's roles in society.

Regarding experiences of human rights abuses, respondents were asked whether they or their household members had been beaten, shot, killed, tortured, seriously injured, sexually violated, raped, abducted, suffered amputations or been subjected to forced labor by combatants during the past 10 years (e.g., since the war started). Respondents also were asked whether their homes were burned and/or property was looted. For each abuse, participants were asked the gender of the abused, type of abuse, who they thought committed the violation, and consequence of the abuse. Finally, all participants were asked about non war-related sexual violence experiences in their lifetime committed by non-combatants such as family members, friends, or civilian strangers, including age at time of attack, type of sexual violence and identity of the perpetrators.

Regarding war-related sexual violence experiences during the past 10 years of war, respondents were asked when the incident occurred, where it took place, the sexual abuse type, the identity of the perpetrator, the number of attackers, the duration of the attack, and the consequences of the sexual violence. In addition, these women were asked their opinions regarding the punishment of perpetrators, and whether they were interested in giving their names to the proposed Special Court or the Truth and Reconciliation Commission.

The questionnaire was written in English, the official language of Sierra Leone, translated into Krio, the lingua franca of Sierra Leone, and back-translated into English. The questions on sexual violence and sexuality were written by Sierra Leonean women who conduct research in this area and who provide treatment services to survivors of sexual violence in Sierra Leone. Researchers learned to administer the survey in Krio in which they all were fluent and collaborated on a translation from Krio into the two other main languages in Sierra Leone (Mende and Temne). These translations were checked for accuracy by members of the PHR/UNAMSIL team. Seven regional human rights and sexual violence experts reviewed the questionnaire for content validity. The survey was pilot tested among twelve IDP women in Freetown and suggestions were incorporated for clarity and cultural appropriateness of questions.

Interviewer Training

The survey interviews were conducted by 21 Sierra Leonean women trained and supervised by the PHR/UNAMSIL field team. The five-member team had extensive experience in research, psychological counseling with survivors of sexual violence and torture, sexual violence aid programs for Sierra Leonean refugees and IDPs, and human rights issues. Researcher training consisted of eight to nine days of classroom teaching and role-play followed by several days of field observation and continuous supervision. (See Appendix B for details of training process.)

Interviews

All interviews were conducted over a four-week period in the calendar year 2001. Interviews with participants lasted approximately 25-60 minutes and were conducted in the most private setting possible. All questionnaires were reviewed for completeness and for correctness of recording after the interview by the researchers themselves, and then reviewed by the field supervisors at the end of each day.

Human Subjects Protections

This research was reviewed and approved by an independent group of individuals with expertise in clinical medicine, public health, bioethics, and international human rights research. In addition, permission for the study was granted by UN officials, camp administrators and local community leaders in each area surveyed and there were no limitations on movement or to surveying. The research was conducted in accord with the Declaration of Helsinki, as revised in 2000.[160] Every effort was made to ensure the protection and confidentiality of and to reduce any potential adverse consequence to the human subject participants. All data were kept anonymous. Verbal informed consent was obtained from all participants and parental consent was obtained for all participants under the age of eighteen. Participants did not receive any material compensation. To reduce the risk of possible retraumatization among respondents, researcher training included extensive sensitization to this issue by a psychologist and social worker who specialize in sexual violence and those who reported sexual violence were referred to any existing services.

Statistical Analysis

The data were analyzed using STATA statistical software.[161] For 2x2 cross tabulations containing cells with expected frequencies of less than five,

---

[160] World Medical Association, *Declaration of Helsinki: Ethical Principles for Medical Research Involving Human Subjects* [5th rev], Edinburgh, Scotland: World Medical Association; 2000.

[161] *STATA 5.0 (Intercooled) for Windows*, STATA Corporation, College Station TX.

statistical significance was determined using Fisher's exact test; Yates' corrected chi square was used for all others. For cross tabulations with greater than two rows, statistical significance was determined using Pearson chi square. Analysis of variance (ANOVA) was used for statistical comparison of means and the Kruskal-Wallis test was used for comparison of medians. For all statistical determinations, significance levels were established at $p<0.05$.

Definitions

A perpetrator was defined as any person who directly inflicts violence or abuse.[162] Torture was defined according to Common Article 3 of the Geneva Conventions.[163] Sexual violence included rape[164] and other forms of sexual violence such as molestation, sexual slavery, being forced to undress or being stripped of clothing, forced marriage, and insertion of foreign objects into the genital opening or anus. Gang rape was defined as rape by two or more individuals. Depression was self-reported as "depression." Symptoms of "depression" included "very sad," "excessive worry," sleeping difficulties, "unhappy," "change in appetite," and "feels bad."

Mental Health Counseling was defined as "having someone to talk to about your problems who will listen and give emotional support." A household was defined as "those people sleeping and eating under the same roof before first displacement." Female head of household was considered "the woman who knows the most about the persons in the household." War-related prevalence of sexual violence included experiences of sexual violence committed by combatants during the past 10 years of war. Life-time prevalence of non war-related sexual violence included experiences of sexual violence committed by family members, friends, or civilians at any time in a woman's lifetime. These two prevalence rates did not overlap since the perpetrator categories were mutually exclusive.

Findings

The findings of the PHR study represent the most comprehensive population-based assessment to date of war-related sexual violence and other human rights abuses in Sierra Leone. Such quantitative findings contribute

---

[162] Saltzman, L.E., Fanslow, J.L., McJahon, P.M., Shelley, G.A., *Intimate Partner Violence Surveillance: Uniform Definitions and Recommended Data Elements*, Center for Disease Control and Prevention National Center for Injury Prevention and Control: Atlanta, 1999:11. Available at: www.cdc.gov/ncipc/pub-res/intimate.htm

[163] Article 3, Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, August 12, 1948, 6 U.S.T. 3516, 75 U.N.T.S. 287 (*entered into force* October 21, 1950).

[164] International Planned Parenthood Association Western Regional Hemisphere, *Definitions: What is Gender-Based Violence?* Available at: www.ippfwhr.org/whatwedo/definitions.pdf.

TABLE 1:
Demographic Characteristics and Health Perceptions among Respondents

Respondent Characteristics	Respondents* n=991
Age (years), mean ± SE (range)	34 ± 0.48 (14-80)
Marital Status	
Married; living with husband	622 (63)
Widowed due to war	134 (13)
Widowed/divorced/separated	113 (11)
Separated due to war	101 (10)
Never married	21 (2)
Wife Status, n=965	
First wife	430 (45)
> First wife	535 (55)
Tribe, n=989	
Temne	703 (71)
Mende	150 (15)
Kono	39 (4)
Limba	28 (3)
Krio	4 (0.4)
Other	65 (7)
Religion, n=989	
Muslim	814 (82)
Christian	172 (17)
Other	3 (0.3)
Years Since Displacement, n=766	
1-3 years	216(28)
4-6 years	225 (29)
7-10 years	311 (41)
> 10 years	14 (2)
Number of Times Fled Fighting, mean ± SE (range)	4 ± 0.07 (1-15)
Months in Camp/Town, mean ± SE (range)	18 ± 0.53 (.25-120)
Years of Formal Education, mean ± SE (range)	1.9 ± 0.11 (0-16)
Most Commonly Reported Occupations †	
Farmer	500 (50)
Trader	383 (39)
Business	76 (8)
Student	17 (2)
Professional	25 (2)
Homemaker	11 (1)

Perception of General Health in the Last Two Years	
Very good	19 (2)
Good	83 (8)
Fair	629 (63)
Poor	260 (26)
"State of Mind" † Since Displacement, n=988	
Very good	8 (0.8)
Good	48 (5)
Fair	638 (64)
Poor	294 (30)
Suicidal Ideation Since the War	280 (28)
Suicide Attempts Since the War	34 (3)
Assistance That Would Help "State of Mind" ‡	
Humanitarian assistance	960 (97)
Medical assistance	956 (96)
Income generation projects	937 (94)
Religious counseling/support	879 (89)
Skills training	832 (84)
Mental health counseling	714 (72)
Traditional ceremonies	452 (48)
Education	393 (41)
Country medicine/traditional healer	321 (34)

* Values are number (percent) unless stated otherwise
† May list more than one
‡ "State of mind" defined as current thoughts and feelings

considerable insight into the nature and extent of human rights abuses among IDPs in Sierra Leone, i.e. the frequency of specific human rights abuses, the identity of the alleged perpetrators, the impact of these experiences and the most urgent needs identified by the victims. Furthermore, a rigorous approach to sampling enables the findings to be generalized to the larger IDP population.

Characteristics of Respondents

Of the 1,048 households sampled, 991 female heads of household participated in the study (response rate = 95%). Seven women were not eligible; 41 were not available at the time of sampling, and eight either were opposed to the survey, refused to participate, or requested the interview be stopped.

Demographics of the respondents are presented in Table 1. The mean age was 34± 0.48 years (range 14-80 years). The majority of the women sampled were poorly educated, Muslim, married, women of either the

1933

TABLE 2:
Reported Human Rights Abuses among Household Members

Characteristics	Household Members Reporting Abuse n= 3759*
Household Members, #, mean ± SE (range)	
Total	9166, 9.37 ± 0.11 (2-30)
Women	5001, 5.18 ± 0.07 (1-17)
Men	3983, 4.17 ± 0.07 (0-17)
Current Age, mean ± SE (range)	24.8 ± 0.33 (1-95)
Human Rights Abuses Among All Household Members, n=9166 †	1157 (13)
Abduction	841 (9)
Beating	618 (7)
Killing	414 (4)
Reported sexual assaults among household members	402 (4)
Sexual assault among respondents, n=991	94 (9)
Sexual assault among household females, n=5001	396 (8)
Sexual assault among household males, n=3983	6 (0.1)
Torture	151 (2)
Forced labor	114 (1)
Gunshot wound	128 (1)
Bodily injury (stabbed, burned, cut)	85 (0.9)
Amputation of limb or digits	21 (0.2)
Destruction of Property	1836 (20)
Alleged Perpetrator †	
Rebel forces	
RUF, Revolutionary United Front	1490 (40)
"Rebels", unspecified	590 (16)
AFRC, Armed Forces Revolutionary Council	74 (2)
West Side Boys	82 (2)
Ex-SLA	17 (.4)
Government forces	
SLA, Sierra Leonean Army	39 (1)
CDF, Civil Defense Forces	14 (.4)
Peacekeeping troops	
ECOMOG, Economic Community of West African States	5 (.1)
UN, United Nations Assistance Mission in Sierra Leone	1 (.02)
Other	
Don't know	1290 (34)
"Mixed group"	162 (4)

Consequences of Abuse –	
Self reported "depression" or symptoms of depression ‡	837(22)
No consequence	455 (12)
Killed/died after attack	420 (11)
Bodily injury	321 (8)
Stigmatized and rejected	27 (1)
Consequence of Sexual Assault, n=396	
Self-reported "sexually transmitted disease"	79 (20)
Self-reported pregnancy following rape	36 (9)

* Values are number (percent) unless stated otherwise
† May list more than one
‡ Symptoms of depression included "sleeping difficulties," "excessive worry," "unhappy," "change in appetite," "crying all the time," "cannot stop crying," "feeling bad," and "feeling sad."

Temne or Mende tribes who most commonly reported their occupation as farmers, petty traders and business women. Nearly one quarter of women were either separated or widowed due to war, had been displaced more than four times since 1990 and had, on average, lived in the IDP camps or Mile 91 Township for eighteen months. Fifty-seven percent of women reported that they had been displaced between one and six years ago, and 41% of women had been displaced between six and ten years ago.

The majority of women perceived their general health (89%) and mental health (94%) as "fair" or "poor"(Table 1). Approximately one third of women (280, 28%) reported suicidal ideation (thoughts or feelings), and 3% (34) had attempted suicide. Women reported types of aid that would help their states of mind the most, including humanitarian assistance (960, 97%), medical assistance (956, 96%), income generation projects (937, 94%), religious counseling and support (879, 89%), skills training (832, 84%), and mental health counseling (714, 72%).

Human Rights Abuses Reported among Household Members [165]

The 991 household representatives reported on the experiences of 9,166 household members, which included themselves and those who lived with

[165] The following 95% confidence intervals (CI) are calculated among household members (N=9166) for all human rights abuses (12.6 ± 0.635), abduction (9.0 ± 0.564), beatings (6.7 ± 0.494), killings (4.5 ± 0.415), sexual assaults among household members (4.4 ± 0.399), captured for less than 24 hours (3.4 ± .307), torture (1.6 ± 0.255), forced labor (1.2 ± 0.221), gunshot wounds (1.4 ± 0.239), bodily injuries (0.9 ± 0.192) and amputations of limbs or digits (0.2 ± 0.097); sexual assault among respondents where N=991(9.0 ± 1.74), sexual assault among household females where N=5001 (7.9 ± 0.717), sexual assault among household males where N=3983 (0.15 ± 0.120). The 95% confidence intervals reported here can be used to calculate the confidence interval for the estimates of abuses of the total IDP population (see Figure 1) using (95% CI X N value).

TABLE 3:
Reported Abuses of Household Members (n=1157), by Offender

Reported Abuse*	RUF	"Rebels"	AFRC	West Side Boys	Ex-SLA	SLA	CDF	ECOMOG	UN
All Abuses, n=2266	1312 (58)	645 (28)	125 (5)	69 (3)	58 (2)	42 (2)	11 (.5)	3 (.1)	1 (.04)
Abduction, n=666	398 (60)	161 (24)	46 (7)	26 (4)	19 (3)	12 (2)	3 (.04)	1 (.1)	-
Beating, n=511	260 (51)	188 (37)	21 (4)	15 (3)	14 (3)	11 (2)	2 (.04)	0	-
Killing, n=335	218 (65)	90 (27)	10 (3)	1 (.3)	7 (2)	5 (2)	2 (.06)	1 (.3)	1 (.3)
Sexual Assault									
Females, n=353	186 (53)	103 (29)	23 (6)	17 (5)	11 (3)	12 (3)	0	1 (.3)	-
Males, n=3	2 (67)	1 (33)	0	0	0	0	0	0	-
Torture, n=135	81 (60)	37 (27)	9 (7)	0	3 (2)	2 (1)	3 (2)	0	-
Forced Labor, n=86	48 (56)	22 (26)	9 (10)	6 (7)	1 (1)	0	0	0	-
Gunshot Wound, n=108	75 (69)	29 (27)	2 (2)	1 (1)	0	0	1 (1)	0	-
Bodily Injury, n=49	35 (71)	12 (25)	0	1 (2)	1 (2)	0	0	0	-
Amputations, n=20	9(50)	2(11)	5(28)	2(11)	2(11)	0	0	0	-

*The 2266 abuses represent abuses (1 or more) listed by the 1157 household members who could identify the perpetrator. This data excludes those who could not list the perpetrator.

1955

them prior to their displacement (mean household size 9.4 ± 0.11) (Table 2). Of the 9,166 household members, 5,001 (55%) were females and 3,983 (44%) were males.[166] Overall, there was a total of 1157 household members with specific forms of war-related human rights abuses reported among the 9,166 household members. These included abductions (841, 9.3%), beatings (618, 6.7%), killings (414, 4%), and sexual violence against women (396, 8%) and men (6, 0.1%). Three hundred and sixteen (3%) were "captured" for less than 24 hours, 151 (2%) were tortured, 114 (1%) were forced into labor, 128 (1%) reported gunshot wounds, 85 (0.9%) had serious injuries, and 21 (0.2%) reported amputations. Burning of homes and/or looting of property also was commonly reported among household members (1,836, 20%).

Regarding sexual violence, 9% (94) of the 991 respondents reported one or more war-related sexual violence experiences. Study participants also reported war-related sexual violence among 396 (8%) female and 6 (.1%) male household members. The prevalence of war-related sexual violence among female household members may be as high as 11% (554/5001) if 158 women are included who did not report sexual violence per se, but did report abduction with the likely consequences of sexual violence, and who became pregnant, or experienced vaginal bleeding, pain, swelling, uterine pain, vaginal discharge, or sexually transmitted diseases.

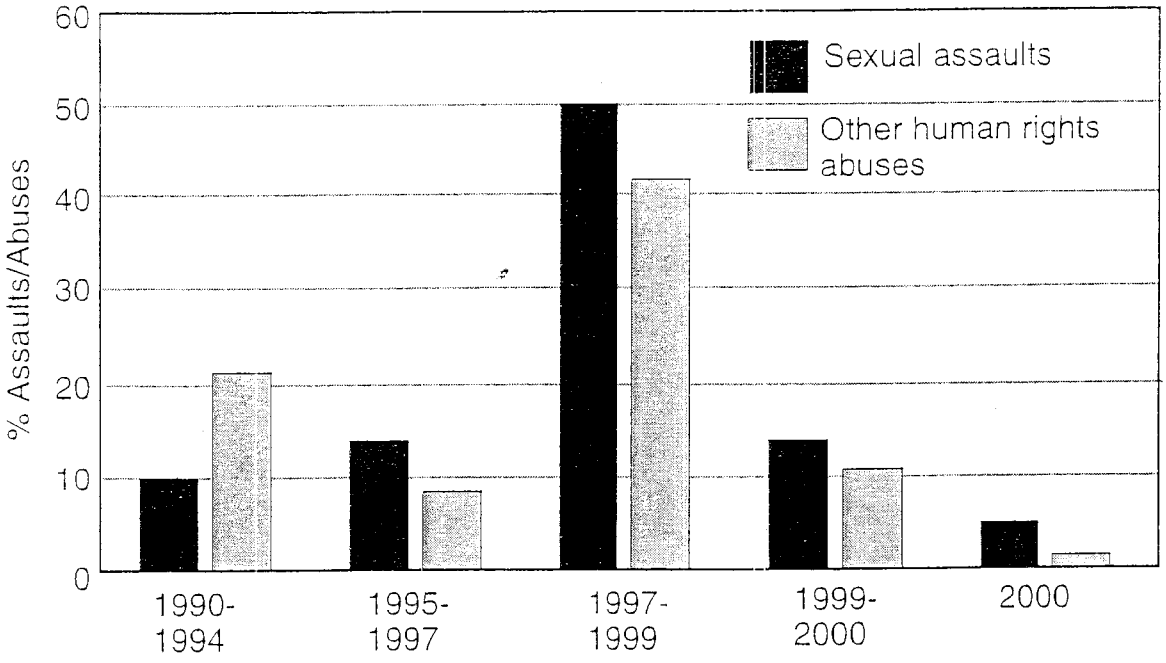
For all abuses reported, the RUF was identified most often (1,490, 40%) as the perpetrator (Table 2). Table 3 and Figure 3 represent the 1,157 household members who reported abuses and could name the perpetrator. These household members had 2,266 incidents of abuse since each victim could have one or more abuses listed; however, this does not take into account those who did not know their perpetrators. In this analysis, the RUF was reported as the perpetrator 58% of the time. The most commonly reported consequences of all abuses reported among household members included "depression" or having symptoms of depression 837 (22%), 420 being killed (12%), 455 reported "no consequence" (11%), and 320 had bodily injury (8%). Respondents reported that 36 (9%) female household members became pregnant as a consequence of the attack. Respondents reported that the majority of the abuses among household members occurred in the last three years with most of these occurring between 1997 and1999 (Figure 2).

Characteristics among Respondents Reporting War-related Sexual Violence

Table 4 presents the characteristics of respondents reporting war-related sexual violence. Nine percent (94 of 991) of the respondents reported a

[166] There were a total of 9,166 household members but the gender was not indicated for 182 persons. Since some of these individuals may have experienced sexual assault but were not included in the analysis, it is likely to have led to an underestimate of sexual violence.

FIGURE 2:
Occurance of Sexual Assaults Among Respondents and Other Human Rights Abuses Among Household Members



personal account of sexual violence (Table 4). The mean number of attackers was 3.2. Sixty-eight percent of the incidents reportedly occurred in the last three years, with more than half (54%) in their home villages, and 22% while fleeing. More than half (60%) of the abuses lasted for one week or less. The majority of the incidents of sexual violence (63, 67%) occurred between 1997 and 1999. In addition, 22 (23%) of women reported being pregnant at the time of the attack with an average gestation of three months. Fifty-three percent of respondents and 47% of female household members who were sexually assaulted reported "face to face" contact specifically with RUF forces, compared with less than 6% for any other combatant group.

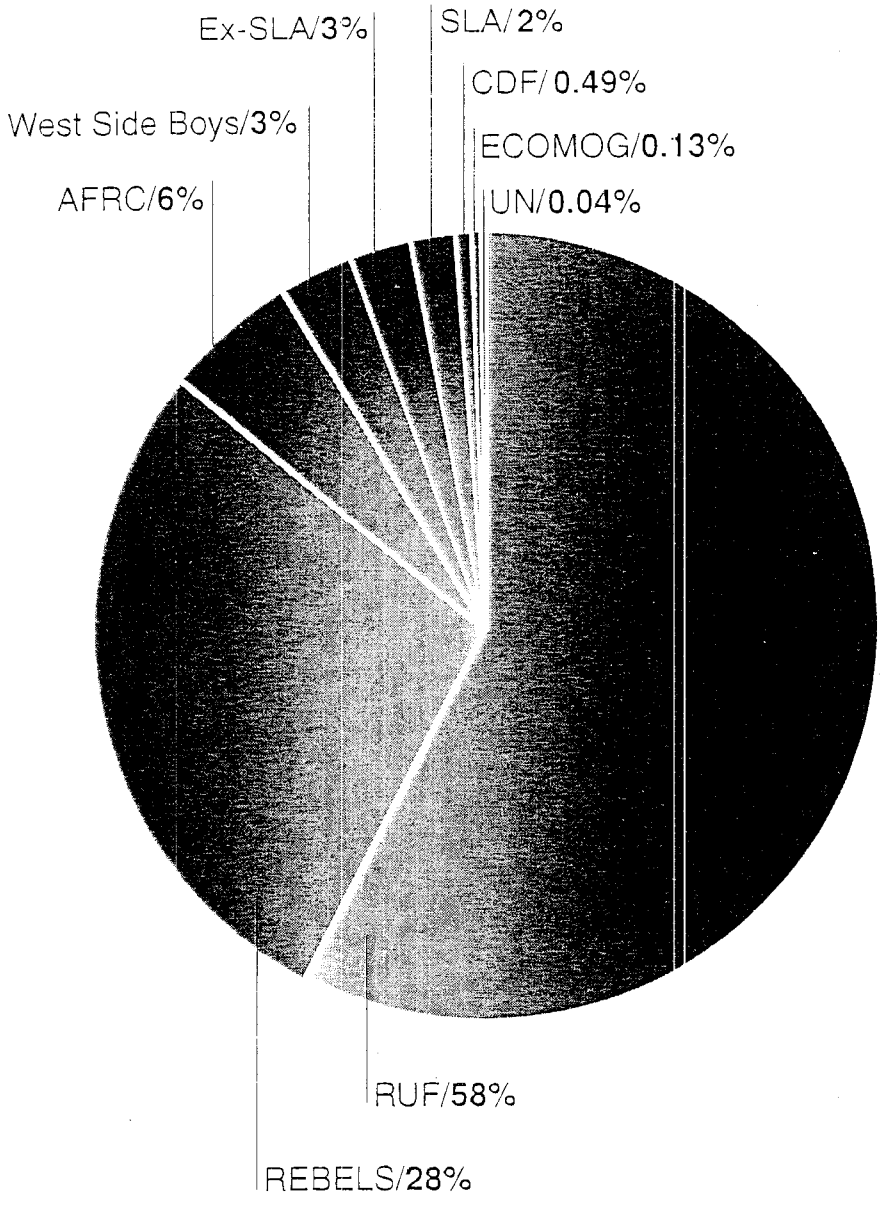
Overall, 79 (84%) of 94 respondents reported the identity of one or more of their perpetrators (Table 5). Of these, the RUF was the perpetrator 60% of the time (Figure 5). Other perpetrators reported included AFRC, West Side Boys unspecified "rebels", and both SLA and ex-SLA. The UN peacekeepers and CDF militia forces were not identified as perpetrators among respondents reporting sexual violence.

Rape was reported by 84 of the 94 women reporting sexual violence and 31 reported being gang raped. Also, approximately one third of the 94 women reported abduction, being stripped of clothing and being forced to undress. Nine women reported forced marriage to combatants, and six women reported pregnancy as a consequence of the attack. Forty-four percent of women felt the incident of sexual violence had "quite a bit" or an "extreme" effect on relationships with family and friends. The

most commonly reported consequences of the attack included bodily injury/physical disability, sexually transmitted disease, and "reproductive complications" including miscarriages.[167]

The majority (91%) of respondents reported being "quite a bit" (161, 16%) or "extremely" (740, 75%) worried about sexual violence to themselves or family members by combatants (Figure 4). Concern about sexual violence by family members, friends, or civilian strangers was lower (39% "quite a bit" or "extremely" worried). In addition, 91 (9%) of respondents reported sexual abuse (occurring at age 15±1.2 years) by family members, friends, or civilian strangers during their lifetime.

FIGURE 3:
Proportion of Reported Human Rights Abuses by Offender



[167] Female Genital Cutting is reportedly widely practiced in Sierra Leone. Women who are raped and who have undergone female genital cutting are likely to be at increased risk for genital trauma and related complications.

1959

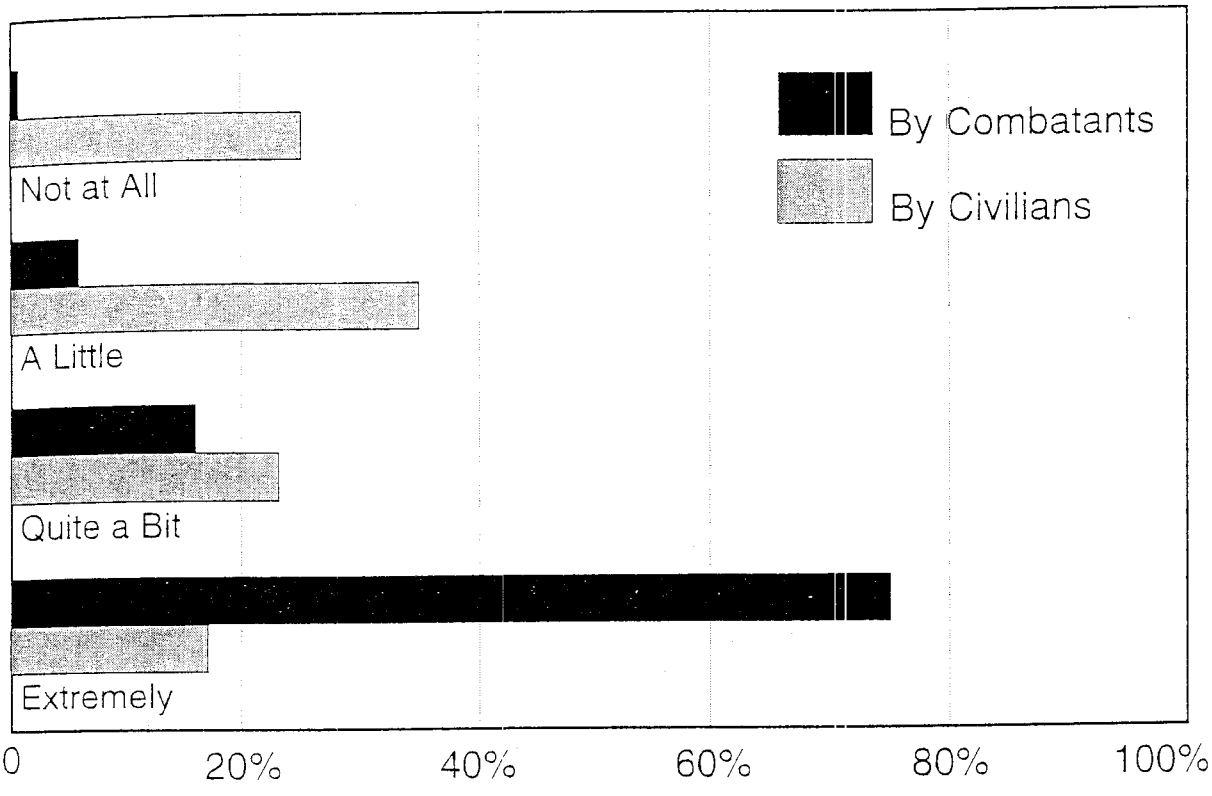
TABLE 4:
Characteristics Among Respondents Reporting Sexual Violence

Characteristics	Respondents Reporting Sexual Assaults* n=94
Reporting Sexual Assault, n=991	94 (9)
# of Attackers, mean ± SE (range)	3.2 ± 0.39 (1-25)
Timing of Abuse, n=92	
Within last 3 years	63 (68)
> 3 years ago	23 (25)
Unsure	6 (6)
Where Abuse Occurred, n=91	
Home village/town	49 (54)
While fleeing	20 (22)
While abducted	18 (20)
Non home village	2 (2)
IDP camp/town	1 (1)
Other	1 (1)
How Long Abuse Lasted, n=91	
Less than one week	55 (60)
One week to 1 month	16 (18)
1-6 months	10 (11)
More than 6 months	10 (11)
# Women Pregnant at Time of Assault	22 (23)
Months Pregnant During Assault, mean ± SE (range)	3.1 ± 0.47 (1-7)
Abuse †	
Rape	84 (89)
Being forced to undress/stripped of clothing	35 (37)
Abduction	31 (33)
Gang rape	31 (33)
Molestation	13 (14)
Sexual slavery	14 (15)
Forced marriage	9 (9)
Insertion of foreign object	4 (4)
Consequences of the Abuse †	
Bodily injury/physical disability	48 (51)
Self reported "sexually transmitted disease"	32 (34)
Self reported "reproductive complications/miscarriage"	19 (20)
Stigmatized/rejected by family and/or community	14 (15)
Fear of STD/AIDS	9 (9)
Self reported "pregnancy" after the assault	6 (6)
Other	19 (20)

Effect on relationships with family and friends, n=89	
Not at all	29 (32)
A little	18 (20)
Quite a bit	15 (17)
Extremely	27 (30)

* Values are number (percent) unless stated otherwise
† May list more than one

FIGURE 4:
Proportion of Participants Reporting Fear of Sexual Assault



Characteristics of Assistance Needs among Respondents Reporting War-related Sexual Violence

Of the 94 respondents reporting war-related sexual violence, 61 reported the incident(s) to another person (Table 6). Of those who did not report the attack, the most common reasons were "feelings of shame or social stigma" (18, 64%), fear of being stigmatized/rejected (8,28%) and not having trust in anyone (6, 21%). Fifty women reported seeking help after the attack and 40 of these women reported that they informed a health care provider of the specifics of the attack. On average, these women sought help five months after the attack(s) occurred. Hospitals (25, 50%), traditional healers (20, 40%) and health centers (19, 38%) were the most common places where women sought help after the attacks.

TABLE 5:
Reported Sexual Violence of Respondents (n=79) by Offender

Reported Assaults	RUF	"Rebels"	AFRC	West Side Boys	Ex-SLA	SLA	CDF	ECOMOG	UN
All Assaults, 213	129 (61)	21 (10)	18 (8)	19 (9)	12 (6)	10 (5)	0	4 (2)	-
Rape, n=75	48 (64)	10 (13)	5 (7)	4 (5)	4 (5)	3 (4)	0	1 (1)	-
Abduction, n=34	21 (62)	2 (6)	4 (12)	3 (9)	1 (3)	3 (9)	0	0	-
Stripped of clothing, n=39	22 (56)	3 (8)	4 (10)	4 (10)	3 (8)	2 (5)	0	1 (3)	-
Gang Rape, n=30	16 (53)	3 (10)	3 (10)	4 (13)	3 (10)	0	0	1 (3)	-
Molestation, n=14	8 (57)	3 (21)	0	1 (7)	1 (7)	0	0	1 (7)	-
Sexual Slavery, n=12	7 (58)	0	1 (8)	3 (25)	0	1 (8)	0	0	-
Forced marriage, n=9	7 (78)	0	1 (11)	0	0	1 (11)	0	0	-

Women reported what helped most after the attack was trying to forget about the incident (43, 46%), support of family (33, 35%), a health care provider (31, 33%), and country medicine/traditional healer (30, 32%). Figure 6 shows what respondents felt were the most needed assistance that would help their state of mind and ability to cope with the sexual assault experience.

Beliefs about Justice among Respondents Reporting Sexual Violence

Of 88 respondents, 37 (42%) thought those who had committed sexual violence against them should be punished (Table 7). Of the 51 respondents who indicated that their perpetrator should not be punished, the most common reason given was "in the spirit of reconciliation" (35, 68%), followed by fear of reprisal (13, 25%), no confidence in the system for such punishments

FIGURE 5:
Proportion of Sexual Assault Abuses by Offender

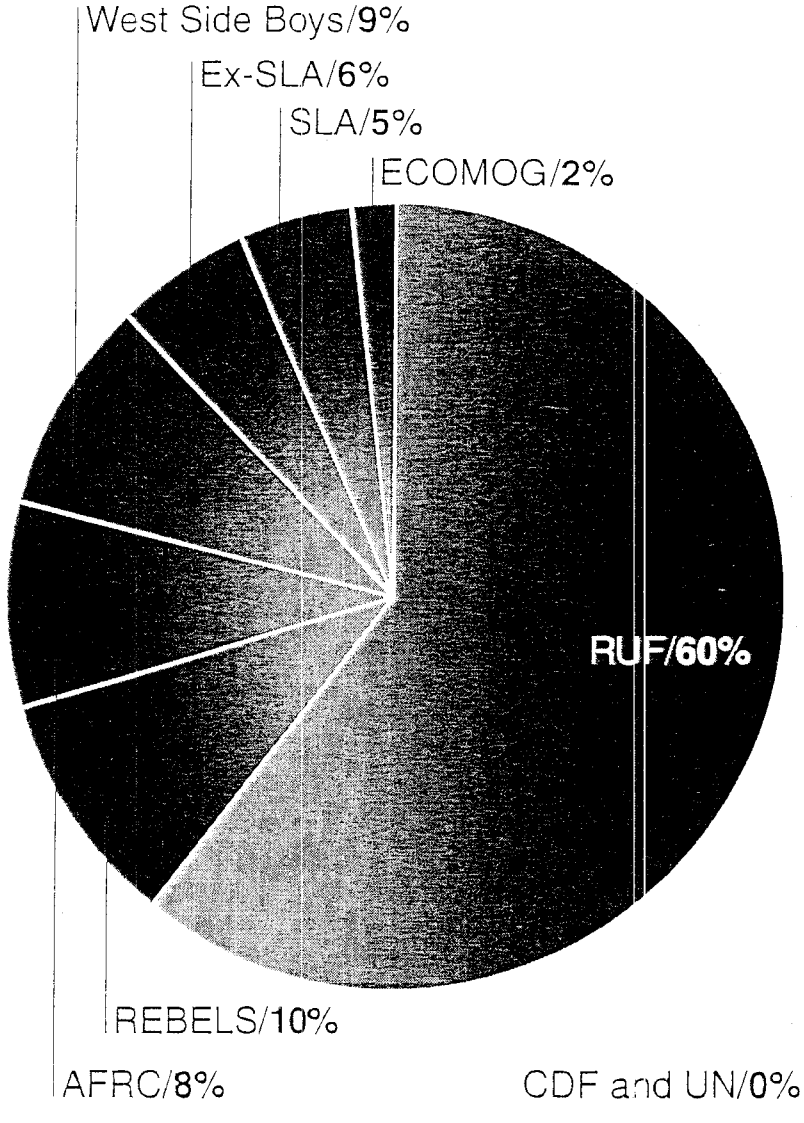


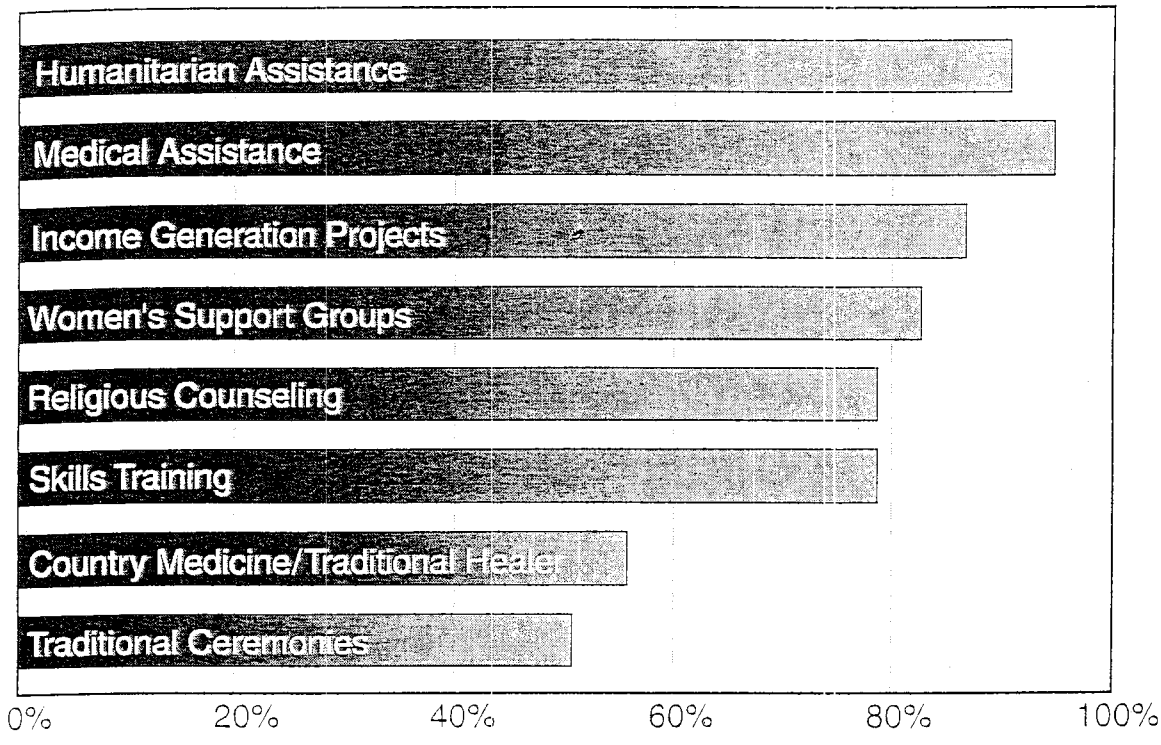
TABLE 6:
Characteristics of Assistance Needs Among Respondents Reporting Sexual Violence

Characteristic	Respondents Reporting Sexual Assault* n=94
Told Anyone About the Incident	61 (65)
Reasons for Not Telling Anyone About Incident, n=28 †	
Feelings of shame or social stigma	18 (64)
Fear of being stigmatized/rejected	8 (28)
Do not trust anyone	6 (21)
Fear of rejection by my husband/family	5 (18)
No one asked	2 (7)
Fear of physical retaliation by perpetrator	1(3)
Other	6 (21)
Sought Help After Sexual Assault	50 (53)
Sought Help After Sexual Assault # days, mean ± SE (range)	161 ± 50 (1-1460),
Where Help Was Sought After the Sexual Assault, n=50 †	
Hospital	25 (50)
Country medicine/traditional healer	20 (40)
Health center	19 (38)
NGO	3 (6)
Informed Health Care Provider of Specifics of Sexual Assault, n=50	40 (80)
What Has Helped the Most After Assault †	
Trying to forget about it	43 (46)
Support of family	33 (35)
A health care provider	31 (33)
Country medicine/traditional healer	30 (32)
Discussions with family members	18 (19)

* Values are number (percent) unless stated otherwise
† May list more than one

(8, 16%), or they wanted to forget about the incident (4, 8%). Of the 94 respondents reporting sexual violence, punishment was supported by 17 (18%) for "all those involved," 30 (32%) for the perpetrators of the attack(s), and 17 (18%) for the commanders. Thirty-four of the respondents reporting sexual violence believed their attacker's commander was aware of the attack. Thirty-three women believed that punishment of perpetrators would prevent sexual violence from happening to others. Twenty-two of the 94 women reporting sexual violence to PHR were willing to give their names to the proposed Special Court and/or the Truth and Reconciliation

FIGURE 6:
Assistance That Would Help State of Mind and Ability to Cope with Your Experience



Commission. Given the prevalence of war related sexual violence as reported to PHR, PHR believes that there may be thousands of female IDPs in Sierra Leone who have experienced sexual violence and who may be willing to provide testimony to the Special Court or the TRC.

Attitudes of Women's Human Rights and Roles in Society

More than 90% of women agreed that women and girls should have the same access to education as men and boys (Table 8). More than 80% of women agreed that women should be able to express themselves freely, that there should be legal protection for the rights of women, and that women and girls need more education about their reproductive health. However, more than 80% of women also indicated that a good wife obeys her husband even if she disagrees. More than 70% of women felt that family problems should only be discussed within the family, that women have the right to control the number and spacing of their children, and that more should be done to protect women and girls from having sex when they do not want to. More than 60% of women expressed the view that a man has the right to beat his wife if she disobeys, and that it is a wife's duty/obligation to have sex with her husband even if she does not want to. The same proportion of women (more than 60%) indicated women and girls need more education about their right to refuse sex.

TABLE 7:
Beliefs about Justice among Respondents Reporting Sexual Assault

Belief	Respondents Reporting Sexual Assault* n=94
Who Should Be Punished for Sexual Assaults †	
Perpetrators	30 (32)
Commanders	17 (18)
All involved in attacks	17 (18)
Believe Perpetrator Should Be Punished, n=88	
Yes	37 (42)
No	51 (58)
Reasons Why Perpetrators Should Not Be Punished, n=51 †	
In the spirit of reconciliation	35 (69)
Fear of reprisal/revenge	13 (25)
No confidence in a system for such punishments	8 (16)
Respondent just wants to forget about incident	4 (8)
Other	13 (25)
Believe Perpetrators Commander Was Aware of Assault	34 (36)
Believe Punishment of Perpetrators Will Prevent This From Happening to Others	33 (35)
Willing to Give Name to Truth and Reconciliation Commission or the Special Court	22 (23)

* Values are number (percent) † May list more than one

Comments on Survey Findings

The findings of this study indicate that combatants (primarily, members of rebel forces) have committed widespread human rights abuses against civilians in Sierra Leone, including: abductions, beatings, killings, sexual violence against women and men, being "captured" for less than 24 hours, torture, forced labor, gunshot wounds, serious injuries, and amputations. These abuses were experienced on an individual level by a substantial number of participants and their household members. The respondents in this study reported at least one of these abuses had occurred during the past ten years of conflict among 94% of households surveyed (Figure 7). Recent PHR surveys in Chechnya[168] and Kosovo[169] found abuse rates of 19% and 31% respectively among participant households. The burning of homes and/or looting of property was also

[168] Physicians for Human Rights, *Endless Brutality: War Crimes in Chechnya*, PHR, 2001.

[169] Physicians for Human Rights, *War Crimes in Kosovo: A Population Based Assessment of Human Rights Violations Against Kosovar Albanians*, PHR, 1999.

TABLE 8:
Majority Opinions Among Primary Respondents on Women's Rights and Gender Roles in Society

Shared by more than 90% of women
• Women and girls should have the same access to education as men and boys
Shared by more than 80% of women
• Women should be able to express themselves freely
• There should be legal protections for the rights of women
• Women and girls need more education about their reproductive health
• A good wife obeys her husband even if she disagrees
Shared by more than 70% of women
• Family problems should only be discussed with people in the family
• Women and girls need more education about their rights to refuse sex
• More should be done to protect women and girls from having sex when they don't want to
Shared by more than 60% of women
• A man has the right to beat his wife if she disobeys
• It is a wife's duty/obligation to have sex with her husband even if she does not want to
• Women have the right to control the number and spacing of their children

commonly reported among household members. The majority of these abuses experienced by interviewees occurred between 1997 and 1999. Forty percent of these abuses were attributed to RUF forces; however, of those who could identify a perpetrator, 58% of abuses were reported to be due to the RUF. Fifty-three percent of respondents and 47% of all female household members reporting "face to face" contact specifically with RUF forces reported experiencing sexual violence. Sexual violence was reported by less than 6% of respondents reporting "face to face" contact with any other combatant group.

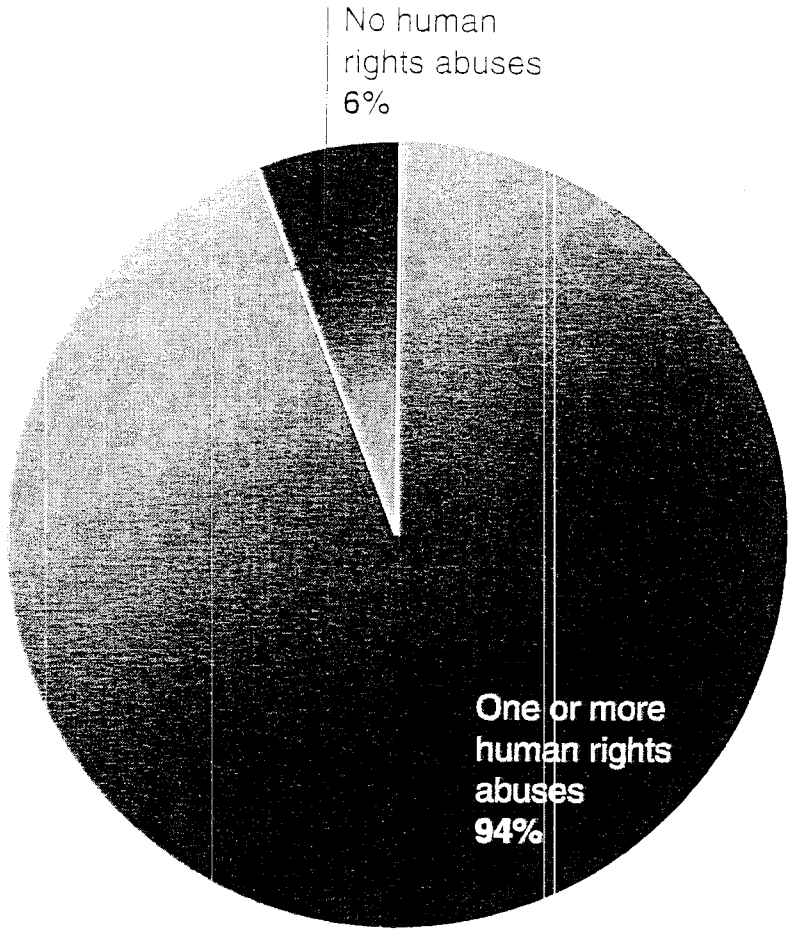
Sexual violence in war has increasingly been recognized as a means of demoralizing individuals, families and communities[170] and is used as a weapon to disable an enemy by dissolving bonds between family and society.[171] Today, in the context of war, rape and other forms of sexual violence have been recognized as instruments of genocide, crimes against humanity,

[170] Swiss, S., Giller, J.E., "Rape as a Crime of War: A Medical Perspective," *JAMA*, 1993;270:612-615; Human Rights Watch, *Shattered Lives: Sexual Violence During the Rwandan Genocide and its Aftermath,* New York, NY: Human Rights Watch: 1996; Herman, J.L., *Trauma and Recovery,* New York, NY: Harper Collins: 1992.

[171] Goldfeld, A.E., Mollica, R.F., Pesavento, B.H. & Farone, S.V., "The Physical and Psychological Sequelae of Torture," *JAMA*. 1988;259:2725-2729.

1947

FIGURE 7:
Proportion of Households Reporting Human Rights Abuse



means of torture, and crimes of war[172] and can be prosecuted as such.[173] They also constitute crimes against humanity "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack."[174]

To generate population estimates of sexual violence among the IDP and non-IDP females in Sierra Leone, the PHR/UNAMSIL team assumed a total IDP population of 1.0-1.3 million (55% female)[175] and a non-IDP population of 2.7-3.0 million (50% female).[176] By extrapolating the number of incidents of war-related sexual violence reported by participants in

[172] Kunarac, Kovac & Vukovic IT-96-23 and IT-96-23/1 "FOCA." Available at: www.un.org/icty/foca/trialc2/judgement/index.htm.; Rome Statute of the International Criminal Court (adopted 7/17/98). Available at: untreaty.un.org/English/notpubl/rome-en.htm.; Askin, K.D., *War Crimes Against Women: Prosecution in International War Crimes Tribunals*, The Hague, M. Nijhoff Publishers, Distributed by Kluwer Law International, 1997; Askin, K., "Women and International Humanitarian Law," in Askin, K.D. & Koenig, D.M. editors, *Women and International Human Rights Law*, Ardsley, NY: Transnational. 1999. Vol. I.

[173] Kunarac, Kovac & Vukovic; Askin, K.D., *War Crimes Against Women: Prosecution in International War Crimes Tribunals*; Askin K. "Women and International Humanitarian Law"

the sample to the total female IDP population, PHR estimates that approximately 50,000 to 64,000 Sierra Leonean IDP women may have suffered such human rights abuses. The prevalence of sexual violence among IDP women and girls, including war-related or non-war-related, in this study was 17%, or an estimated 94,000-122,000 individuals. If non-war-related sexual violence among non-IDP females is added to the IDP totals (assuming a 9% prevalence rate), as many as 215,000-257,000 women and girls in Sierra Leone currently may have been affected by sexual violence.

This study indicates that war-related rape and other forms of sexual violence were committed on a widespread basis among IDPs in Sierra Leone. In fact, the prevalence of war-related sexual violence (8%-9%) was equivalent to the lifetime prevalence of non war-related sexual violence (9%) among the study participants, increasing Sierra Leone's total prevalence rates to 17%.[177] The lifetime prevalence of rape in the United States is 9%, though the average life span of an American is more than twice that of a Sierra Leonean.[178]

Rates of sexual violence vary based on research methodology and populations surveyed. Studies of sexual violence in Sierra Leone that include non-probability samples[179] or select populations such as clinic patients[180] generally report higher prevalence rates of sexual violence but cannot be generalized to broader populations. The prevalence of war-related sexual violence in this study was less than that reported in Liberia (15%),[181] but

---

[174] Rome Statute; Askin, K.D., *War Crimes Against Women: Prosecution in International War Crimes Tribunals*; Askin, K., "Women and International Humanitarian Law"; United Nations, Draft Statute of the Special Court for Sierra Leone, S/2000/915.

[175] United Nations Office for the Coordination for Humanitarian Affairs (UNOCHA), UNOCHA Database: IDP Census (data collected February 2001), UNOCHA, February, 2001.

[176] Norwegian Refugee Council, Sierra Leone Section: Population profile and figures, Available at: www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/1c963eb504904cde41256782007493b8/fdc6d215bab90118c12569dd002b1aec?OpenDocument; United Nations High Commissioner for Refugees, available at: unhcr.ch/un & ref/numbers/numb2000.pdf.

[177] One percent of participants had experienced both war-related and non-war-related sexual violence.

[178] Crime Victim Research and Treatment Center, *Rape in America*, Charleston, SC: Medical University of South Carolina: 1992.

[179] Coker, A.L., & Richter, D.L., "Violence against Women in Sierra Leone: Frequency and Correlates of Intimate Partner Violence and Forced Sexual Intercourse, *African Journal of Reproductive Health*, 1998; 2(1):61-72.; Giller, J.E., Bracken, P.J., Kabaganda, S., "Uganda: War, Women, and Rape," *Lancet*, 1991;337:604.

[180] Shanks, L., Ford, N., Schull, M. & de Jong, K., "Responding to Rape," *Lancet*, 2001;357:9252; Human Rights Watch, "Women's Rights Project" in: *Human Rights Watch World Report 1998*, New York, NY: Human Rights Watch: 1998.

exceeded that found in other population-based assessments of refugees and displaced persons (0-0.1%),[182] including a prior study conducted in Freetown, Sierra Leone (2%).[183]

Physical injuries and self-reported "depression" were among the most common consequences reported following sexual violence. The adverse physical and psychological consequences of sexual violence are described in other studies.[184] The prevalence of sexual violence, including war-related or non-war-related, suggests a serious health burden for individual and community members that cannot be addressed adequately by services that currently exist in Sierra Leone. The assistance needs most commonly identified by women reporting sexual violence included humanitarian assistance, including food and shelter, medical care, income generating projects, and women's support groups. These needs were not significantly different ($p<0.05$) from Sierra Leonean women who did not experience sexual violence but did experience other human rights abuses.

The majority of participants reporting sexual violence indicated the belief that their perpetrators should not be punished and, among these women, the most common reasons cited were "in the spirit of reconciliation" and "fear of reprisal/revenge." This highlights the need to protect survivors of war-related sexual violence including those that come forward to testify. Twenty-three percent of these women indicated an interest in giving their names for the Truth and Reconciliation Commission and the Special Court that are expected to be established in 2002. This may be explained by feelings of shame, and/or fear of being stigmatized or rejected also reported in the study, as well as a desire to put the incident(s) behind them. Such concerns are not unfounded in societies where women are financially dependent on their husbands or extended family and are subjected to structural social inequality on many levels.[185] Being cast out of a community or family can have dire consequences not only for the woman but her children as well.[186]

---

[181] Swiss, S., Jennings, P., Aryee, G., et. al. "Violence against Women during the Liberian Civil Conflict," *JAMA*, 1998; 279:625-629.

[182] PHR, "A Population-based Assessment of Human Rights Abuses against Ethnic Albanian Refugees from Kosovo," *American Journal of Public Health*, 2001;91(12); Physicians for Human Rights, *Endless Brutality: War Crimes in Chechnya*, Physicians for Human Rights, May 2001:1-143; Physicians for Human Rights, *Women's Health and Human Rights in Afghanistan: A Population-Based Study*, Physicians for Human Rights, May, 2001.

[183] de Jong, K., Mulham, M. & van der Kam, S., *Assessing Trauma in Sierra Leone: Psychological Questionnaire: Freetown Survey Outcomes*, Doctors Without Borders/Médecins sans Frontières, January 11, 2000. Available at: www.doctorswithoutborders.org/publications/reports/2000/sierraleone_01-2000.shtml

[184] Resnick, H.S., Acierno, R., Kilpatrick, D.G., "Health Impact of Interpersonal Violence, 2: Medical and Mental Health Outcomes," *Behavioral Medicine*, 1997;23:65-78; Schafran, L.H., "Topics for Our Times: Rape is a Major Public Health Issue, "*American Journal of Public Health*, 1996;86(1):15-17.

Despite 80% of women expressing that there should be legal protection for the rights of women, more than half of women reported that their husbands had the right to beat them and that it was a wife's duty to have sex with her husband even if she did not want to. The apparent disparity between such beliefs and international principles of human rights suggests a need for public discourse and education on local, regional and international levels.

Limitations

It is likely that the prevalence of war-related sexual violence in the study was underestimated because of willful non-disclosure of sexual violence and the lack of privacy in some of the interviews, despite efforts to ensure privacy. Reasons for willful non-disclosure often include fear of retribution by an assailant, of being stigmatized and rejected, blamed for the attack, and/or the psychological consequences of disclosure.[187] In addition, the average age of participants (female heads of households) reporting war-related sexual violence (34 ± 0.48 years) was more than twice the average age of females experiencing non war-related sexual violence reported in the study (15±1.2 years). Although interviewers were careful to explain there would be no material or other gain by participating in the survey, the number of abuses reported in the study may have been over or underestimated if IDPs judged that it was in their material, political or psychological interest to exaggerate or conceal claims of abuse.

---

[185] Ulin, P., "African Women and AIDS: Negotiating Behavioral Change," *Soc Sci Med.* 1992;34(1):63-74; Bruyn, M., "Women and AIDS in Developing Countries," *Soc Sci Med.* 1992;34(3):249-262.

[186] Ibid.

[187] Koss, M.P., "Detecting the Scope of Rape: A Review of Prevalence Research Methods," *Journal of Interpersonal Violence,* 1993;8:198-222.

1952

IV. QUALITATIVE COMMENTS AND TESTIMONIES OF SIERRA LEONEAN WOMEN AND GIRLS

In order to gain insight into individual experiences of human rights abuses of Sierra Leonean women and their families, the PHR study included qualitative assessments of abuses as well.[188]

Two primary approaches were used to elicit qualitative information. Seven open-ended questions were included in the questionnaire itself, and longer semi-structured interviews were conducted with survivors of human rights abuses that were not survey participants. Throughout this chapter, wherever possible, the exact words of the women and girls interviewed have been used in order to give expression to their individual experiences. All participants were informed of the purpose of the interview and of how the data would be collected and used. In the interest of confidentiality, their names have been changed and identifying information removed.

Case Examples from In-Depth Interviews

Case testimony of survivors of war-related human rights abuses was collected during two separate investigations to Sierra Leone. A PHR delegation visited Sierra Leone in March, 2000 to assess the medical consequences of human rights abuses committed during the war, including sexual violence. During that trip, members of the team with specialized training in sexual violence interviewed more than two dozen survivors of abuses. To mitigate the risk of re-traumatization, most of the testimony gathered during the 2000 investigation was taken from individuals who were already participating in programs for rape survivors. The interviews were semi-structured and covered a range of topics including basic biographical information, the circumstances of violations, details about perpetrators, medical and psychological consequences of the abuses, what types of services had been available and helpful to them, and what their concerns were for the future. The interviews took place at NGO offices,

[188] Quantitative and qualitative modes of inquiries each may have value independent of the other when the research questions address meaningful human rights issues and the studies are designed and interpreted within relevant historical and political context. Using both quantitative and qualitative modes of inquiry also may be complementary serve as one line of inquiry may serve to corroborate, or challenge, another.

UNICEF's headquarters in Freetown, health clinics, IDP camps, and programs for women who had become pregnant as a result of rape.

Testimony was also collected at the time the survey was conducted in February, 2001. Researchers administering the questionnaire were asked to identify women who had experienced human rights abuses who were willing to describe their experiences in more detail. These women then recorded their stories on audio and videotape in a private room in the health clinic on the outskirts of the camp. Most interviews were conducted in the first language of the victim and translated simultaneously by the researcher who first interviewed the woman or a translator, or they were translated at a later date from a tape recording.

A number of testimonies taken by PHR in March 2000 were from survivors of rape who had become pregnant by their attackers. These young women are particularly vulnerable as they must not only recover from the trauma of their ordeals while often facing stigma from their communities, but at the same time must learn to care for and support a baby with few resources. As part of a larger effort to assist rape victims in Freetown after the January 1999 incursion by rebel forces, a local NGO, the Forum for African Women Educationalists (FAWE), established a program providing medical, psychological and educational support to these women and their children. A number of the young women participating in the program acknowledged to PHR the importance of the program in helping them to cope with what had happened to them.

Cases of Sexual Violence

Bola N.

In February 2001, Physicians for Human Rights interviewed a fifteen year-old girl, Bola N. Rebels had abducted her four times since 1999. At the time of the interview she told PHR she was two months pregnant and living at an IDP camp in Port Loko. She described her first abduction to the interviewer:

> *When they first attacked the village, we fled to the bushes. When they removed us from our village we were frightened ... they held us, they cut some hands, they killed some, they forced us to be tied, we were taken to the bush where the sexual act was forced on us. ... Nine men raped me. ... My mother was taken away, my things, belongings, taken. I slept three days in the bush after they had raped me. I was unconscious, not myself. ... After they had raped me to their satisfaction, they left me in the bush. I was beaten, bruises on my body, part of my body. Some around were amputated. I was not well.*[189]

[189] PHR Interview, February, 2001, Port Loko, Sierra Leone.

As she described her multiple abductions, she wrapped her arms around herself and lowered her tone to almost a whisper:

> *My first captivity was when the nine men raped me. Then I was left in the bush. Second time I was held a little over a month, taken to base. There are many, many combatants there. There are also many other young women held there, too. I was not assigned to just one man, as long as you are good looking, you have intercourse with all of them. In the third captivity they remembered me. They knew me. They use abusive language. I escape during the night. The fourth time was last year: they did an ambush [on an outing of women from the IDP camp]. They came for us, raped us, they asked us to go back to the village to prepare food for them, so we had to escape. We were afraid to go to the village. So we escaped.*[190]

Over the course of her multiple abductions and gang rapes, she had two miscarriages. She had been engaged to one man at the time of the first gang rape, but he left her when he heard of the event:

> *I was just engaged to someone. So when I went to the bush, I was pregnant. Because of the nine men who raped me, I had to abort. So my husband had to resign from continuing the engagement. The husband I have now is a new person.*[191]

She said that this new husband did not know what had happened to her in the bush. She told PHR that she had not gone to a doctor for prenatal care because she did not want anyone to know she was pregnant, although she stated that she would go to the doctor once the pregnancy was visible. She had not gone to the hospital for the miscarriages because they asked for 1,000 Leones (approximately 30 cents) simply to register. The cost for medical care had further prevented her from seeking help for the multiple health problems she had experienced since the abductions.

She stated that she was not able to sleep through the night. Every night she wakes up and cries. Her family had been killed. Her first fiancé had left her. She was afraid to tell anyone about the violence she had experienced. When asked if she had told anyone of these events before PHR interviewed her, she acknowledged that she had told her friend who had taken her to the hospital after the first attack, but no one else. No one in her family knew what had happened to her.

Sampa K.

Another woman, Sampa K., had 11 children under her care when the rebels attacked. She told PHR that they abducted her for two years, sepa-

---

[190] PHR Interview, February, 2001, Port Loko, Sierra Leone.

[191] PHR Interview, February, 2001, Port Loko, Sierra Leone.

rating her from all but one of the children. Some were killed, others were scattered. Sampa described the initial attack:

> *I woke up in the morning about two o' clock and cleaned my house. ... As soon as I lifted a load I was trying to carry, my daughters said, "Mama! The rebels are coming!" I dropped everything. I am ready to flee to the bush with the baby on the back. Then there are so many, I cannot escape. They hit me, they took the baby from my back and threw the baby, the baby is too tired. Then he started to do the act on me - there are many of them.*[192]

During her subsequent servitude to the rebels, she tried in vain to save her infant child:

> *I was now crying with my baby, the baby was crying, I tried to let the baby suck the breast milk. And it was not completely five days, [when] I lost the baby. The baby was having trouble. Everyday I had to sleep with the boys. Every day I sleep with the boys and I cannot refuse - guns all over, they threaten me with guns. Guns all over. And then one says give the breast to the child. And every time I gave the breast to the child, he refused me. And so for three days I did not feed the child.*[193]

She traveled for two years, living as the "wife" of one particular rebel. He kept her compliant by feeding her drugs:

> *Every day this man would give me some tablets to take, some are green, some are blue, some are red. I was using the tablets so that I wouldn't get any problem with the man. The man used to tell me to take this tablet it is good for you.*[194]

Throughout the interview, Sampa kept a blank look on her face, giving the facts of her abduction and sexual enslavement in a straightforward manner. It was not until she was asked what might help her that her demeanor shifted. In response to this question, she described a nightmare she had recently had, in which she was again chased by the rebels. They brandished knives that filled her with fear. They chased her, intending to kill her once they caught her, up to a bridge. The dream ended with her standing on the edge of the bridge, prepared to jump to her death rather than be caught again.

Aminata K.

Twenty-year-old Aminata K. wanted to tell her story, but did not want to be recorded. She was eight months pregnant at the time of the interview. Aminata was captured by the a breakaway faction of the AFRC, the West

---

[192] PHR Interview, February, 2001, Port Loko, Sierra Leone.

[193] PHR Interview, February, 2001, Port Loko, Sierra Leone.

[194] PHR Interview, February, 2001, Port Loko, Sierra Leone.

Side Boys, in Mafore village in the Port Loko area in 1999 and held for almost two years. According to Aminata K., they killed one young man, left some old women and took Aminata, along with one young boy and two other women, to their base. She said she was forced to leave behind her eight-month-old baby. She told PHR that she was held at the base for a year and a month and forced to marry a young member of the West Side Boys called James. Initially she was closely watched and then was forced to go with others to villages to loot, a practice the rebels refer to as "jaja". She saw them burn many houses. The leader was referred to as 'Pape' or 'Sammy'. She said that she escaped by telling the rebels that she was going to wash her clothes and then ran away to her home village where she found her family seeking food. Aminata told PHR that she is pregnant as a result of being raped and now reports feeling depressed and hopeless. Before she was abducted, she was married and had three children. One of her children died, but two are living. Her parents took care of the baby. Since returning from her captivity, her husband left her and they have divorced. She said that after she returned he kept saying, "this is not my child – you are pregnant with child – this is not my child," and after a few months he left her. She wanted to abort using herbs, but her family asked her not to as it might kill her and offered to help raise the new child. She said she is worried, however, because she has no husband or means and is completely dependent. They are currently living in the IDP camp, but they go back to their village from time to time to see if they can rebuild their house – but she does not see much hope for the future.[195]

Kadiatu S.

Kadiatu S. was 16 years old at the time of the PHR interview. She was abducted when she was fourteen years old. She had no formal education, but worked for her mother, a businesswoman in Kono. "The rebels attacked the town and we ran. I was separated from my parents and for nine days I walked in the bush with five other girls to the next town. We were grabbed by rebels. They used me and threatened to kill me with a gun." A commander stopped them from killing her and took her back to the base. ECOMOG attacked the base. An ECOMOG soldier took her for his wife. She traveled with ECOMOG and stayed in Kailahun for approximately one year. She hitched a ride from a car full of rebels. "If you are a willing rebel wife you can get a ride in the rebel cars into town to shop." She told them she was going to visit family in Makeni. They assumed she was a rebel and would return. Kabiatu managed to find her way to Freetown, where she contacted her aunt. She was taken to her uncle, a doctor, and diagnosed six months pregnant. She was devastated. Kabiatu states that she does not cry, though she is

[195] PHR Interview, February, 2001, Port Loko, Sierra Leone.

very sad and angry about the pregnancy. Her mother came to Freetown to collect her.[196]

Hawa

Seventeen year-old Hawa told PHR that she delivered a stillborn baby girl in the bush after carrying her unwanted child for eight months.

> *The rebels burned my father's house and my mother jumped out the window. The rebels shot her in the chest and killed her. My father is too depressed to work. He lives in the house and is making the repairs. The rebels took me to the bush and kept me for six months. I was made a real wife.*[197]

She showed the interviewer the scars on her right thigh – "RUF." She said they had traveled a route from Freetown to Collage, then to Occra Hills and to Makeni. She reported that the rebels starved her for 2-3 days, drugged her with cocaine and infected her with a sexually transmitted disease. She told PHR that ECOMOG came into the bush and rescued her and delivered her to Waterloo camp.

Katmara B.

Katmara B., a 13-year-old girl told PHR she was abducted, beaten, raped and forced to become a rebel's "wife." She said she was released during the latter stages of her pregnancy and now has a baby girl. The story of what happened to her and her family during the rebel incursion into Freetown in January 1999 captures the anarchy of those days which left the capital city and its people profoundly fearful:

> *...that night, houses were being burned down in our neighborhood, so we ran to the local mosque for sanctuary. There were so many people hiding in there. We tried to run away. They began to shoot and killed some people in the mosque. They forced us to sit down on the side and went into the mosque and killed about 15 people in there. I saw them do it. Then they called us to come and look at the bodies. My cousin's father and my aunt were shot. An uncle's hand was hacked off. My mother was inside the mosque, when she saw me, she called out to me, one of them heard her and said "If you call her, we'll kill you." So she didn't call me again. Then they took us outside and told us to change our clothes and gave us combat clothes to wear. We were told that we had to do anything they told us to do. We were told that when they addressed us, we were to respond with "Yes sir". At that point we were given guns and cutlasses, and told that we were to go and cut hands off. On our way to wherever they were taking us, we met up another group*

[196] PHR Interview, March 2000, Freetown, Sierra Leone

[197] PHR Interview, March 2000, Freetown, Sierra Leone

1952

called "Born Naked". The people in this group roamed the streets naked, the way they were born, and when they met people, they killed them. When the members of "Born Naked" saw us, they told the others that they should kill us since they had been warned not to take any more hostages.

So, on our way to be killed, we were taken to a house with about 200 people held in it. My older cousin was sent to go and select 25 men and 25 women to have their hands chopped off. Then she was told to cut off the first man's hand. She refused to do it saying that she was afraid, I was then told to do it. I said I'd never done such a thing before and that I was also afraid. We were told to sit on the side and watch. So we sat. They chopped off two men's hands. My cousin couldn't watch and bowed her head down to avoid the sight. Because she did that, they shot her in the foot. They bandaged her foot and then forced her to walk. We left the two men whose hands had been cut off behind. We were then taken to a mosque in Kissy. They killed everyone in there...They were snatching babies and infants from their mother's arms and tossing them in the air. The babies would free fall to their deaths. At other times they would also chop them from the back of their heads to kill them, you know, like you do when you slaughter chickens...One girl with us tried to escape. They made her take off her slippers and give them to me and then killed her...one time we came across two pregnant women. They tied the women down with their legs eagle-spread and took a sharpened stick and jabbed them inside their wombs until the babies came out on the sticks...[198]

Isata

Isata, a 15-year-old Mandingo girl, was abducted and gang raped by rebels. She described her experiences and their continuing effects on her health:

...I don't have any children. I was a virgin before. They ruined me. The story is long, much too long. I was at home when they came and kidnapped me...They demanded money. My family has no money. They demanded Le 200,000.00 ($83.00)...they said to my parents, come and see how we use your children. They undressed five of us, laid us down, used us in front of my family and took us away with them. They wouldn't release us, they kept us with them in the bush. ...When I escaped, I couldn't walk – the pain. I was bleeding from my vagina. That night, God gave me strength to walk...I can't remember how long I was held...I don't like to talk because of the memories. When I made it back,

[198] PHR Interview, March 2000, Freetown, Sierra Leone

my mother couldn't believe it. Since I got back I have been so sick...I never used to get sick like this...I would like to go back to school, but I can't concentrate anymore, I can't do anything...[199]

Binta K.

Binta K., an 18-year-old girl, told PHR she was abducted, beaten, raped and forced to become a rebel's "wife." She was released during the latter stages of her pregnancy and at the time of the interview had a two-month old baby girl. She recounted to PHR:

...As the rebels were pulling out of Freetown, they came to our house and captured us. They even killed some of the other girls in our house. I was hiding with some girls when they found us. We were told that if we didn't come with them, they'd kill us. While I was begging them not to take me, a little boy, about ten years old who was with them piped up "If she doesn't want to come, pass her over to me and I'll chop her hands." I agreed to go. I was raped and held there in the bush. I wanted to run away, to escape, but there was no way. If you were caught trying to escape, you were killed or put in a box...[200]

Later in that same interview, she expressed her sorrow that many of her family members blame her for not having tried harder to escape. She and her baby were living with a girlfriend at the time of the interview.

Zainab K.

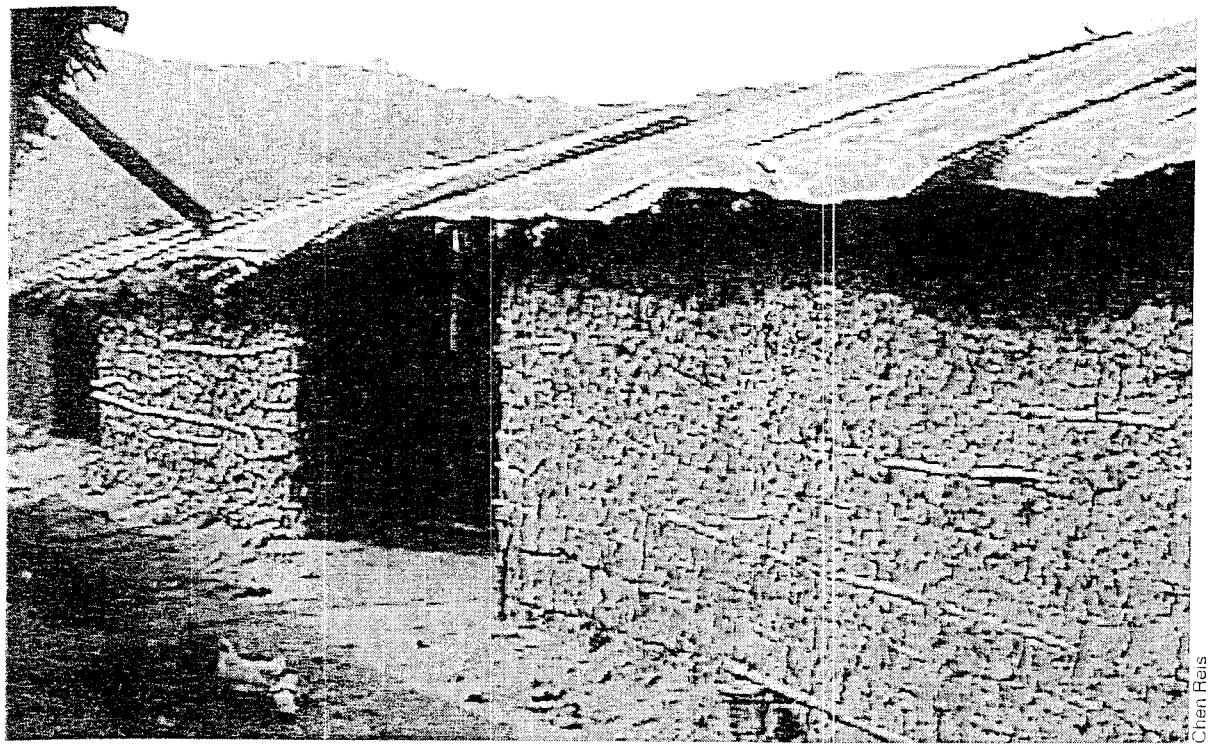
Zainab K. told PHR she was abducted when she was seventeen during the January 1999 incursion into Freetown. She recounted her story in English in measured, unemotional language. She had attended school through second form (12-14 years).

Zainab was taken from her home in Wellington by RUF and ex-SLA combatants and then taken to Calaba Town with two neighbors the same age. She said that she was raped by two older men who were very brutal. She was a virgin. They beat her and carved "RUF" on her chest with a knife. She said that she remained in Calaba Town for three days and then walked 20 miles to Waterloo carrying cartons of water. She had to forage for food and ate Cassava plants by the roadside. She stayed in Waterloo for one week and then walked for three days to Masiaka. There, she recounted, the CDF attacked. About 100 girls escaped, leaving 50 with the rebels. From then on, she said, soldiers guarded them and told them they would shoot them if they tried to escape.

They then walked for two weeks to Makeni. She told PHR that she knew she was pregnant because she had morning sickness. She stayed with

[199] PHR Interview, March 2000, Freetown, Sierra Leone.

[200] PHR Interview, March 2000, Freetown, Sierra Leone



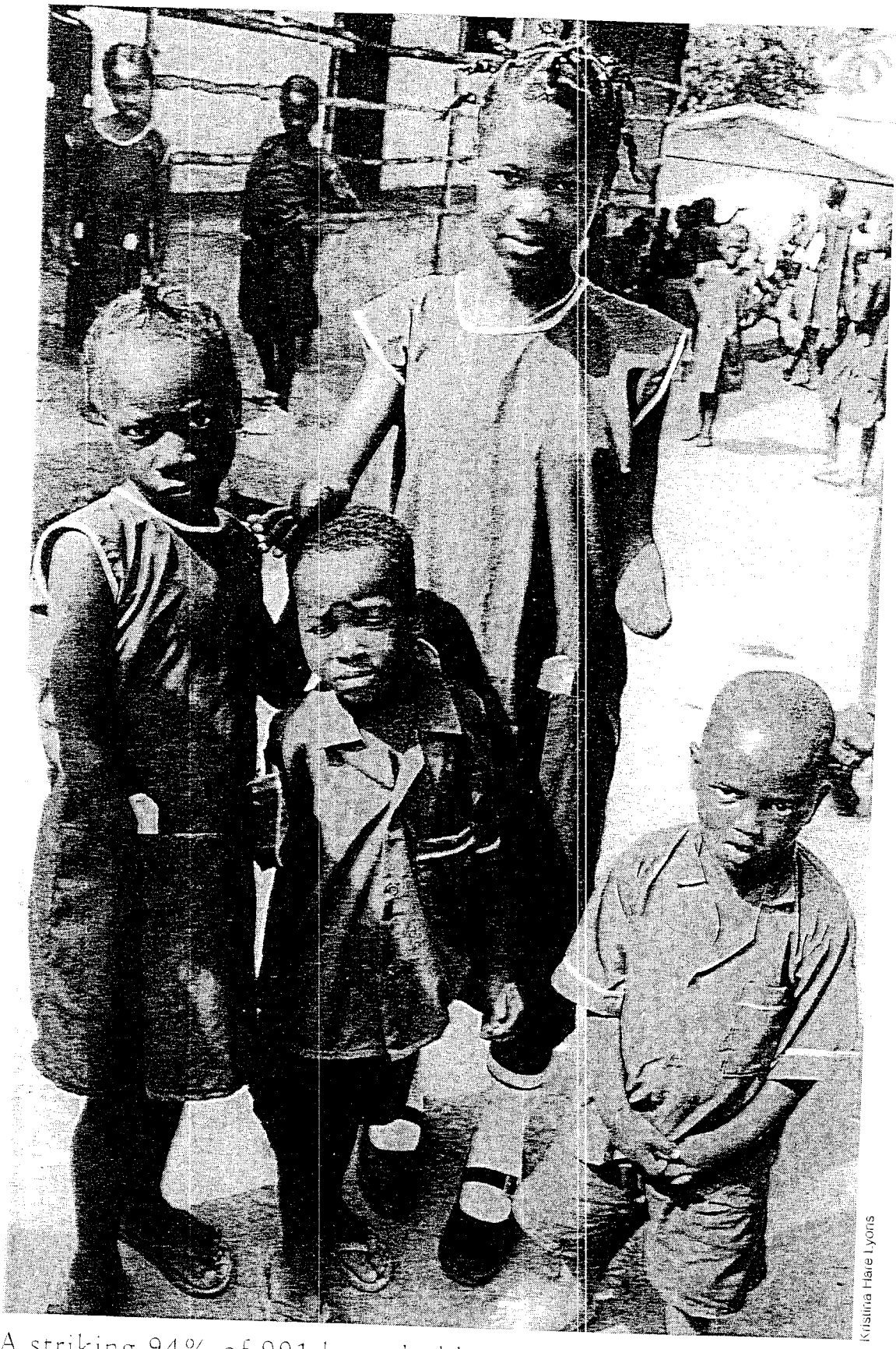
Chen Reis

The PHR/UNAMSIL team randomly sampled 1,048 households in three internally displaced persons (IDPs) camps (near Freetown, Port Loko, and Kenema) and one community with a large number of IDPs—Mile 91 Township. The camps/locales represented 91% of the registered IDP population.



Beth Vann

A total of 991 female heads of households participated in the PHR study (response rate = 95%). Nine percent of respondents reported war-related sexual violence. A striking 53% of respondents reporting "face to face" contact specifically with RUF forces reported experiencing sexual violence. One third of the women who reported sexual assault reported being gang raped.



Kristina Hare Lyons

A striking 94% of 991 households interviewed by PHR/UNAMSIL reported among its members at least one of the following serious abuses during the past ten years of conflict: abductions, beatings, killings, rape and other forms of sexual violence, capturing for less than 24 hours, torture, forced labor, gunshot wounds, serious injuries, and amputations. These children were among the many Sierra Leonean children that had their limbs amputated by rebel forces.

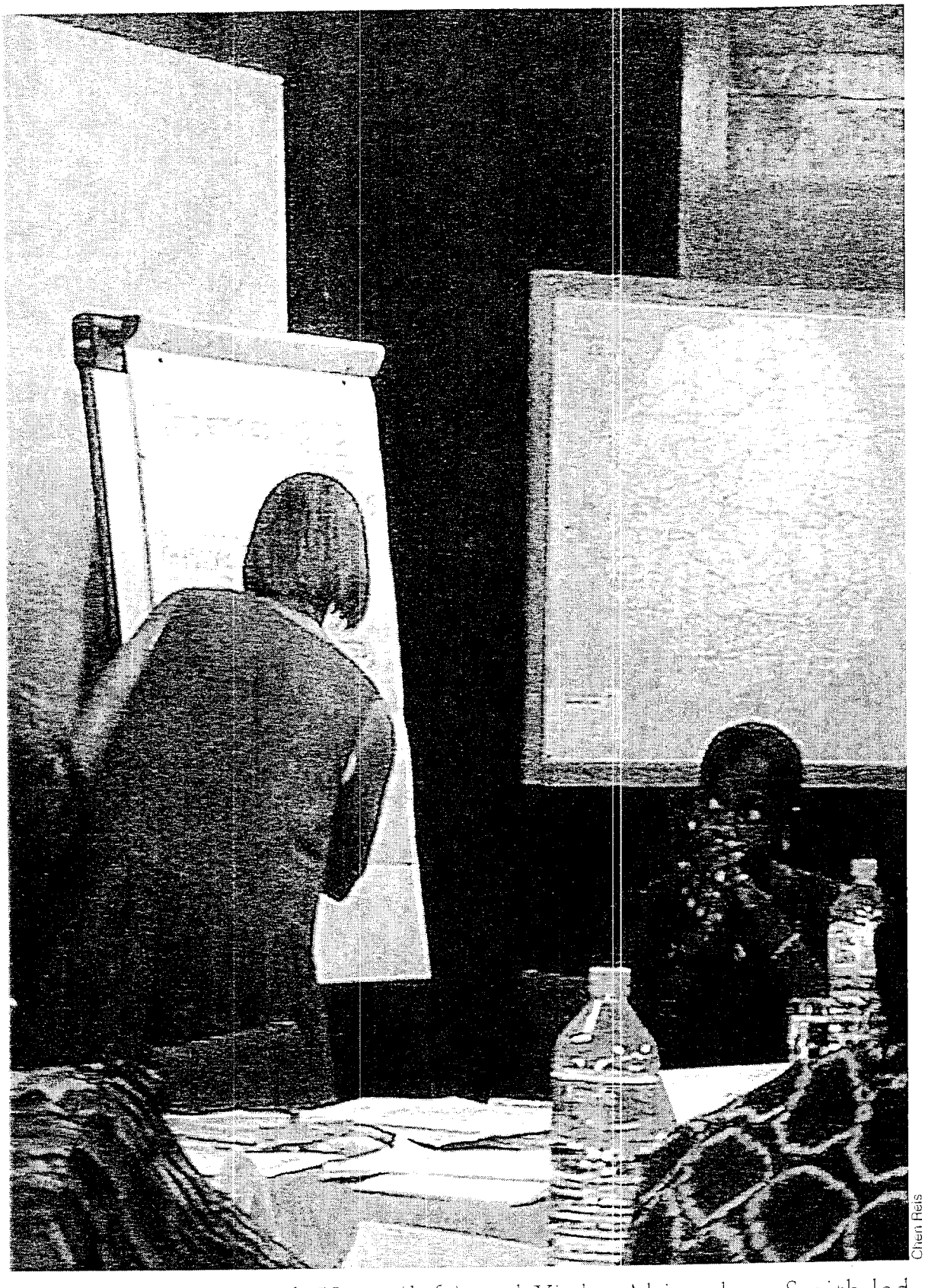


Beth Vann

The majority of the women interviewed by PHR/UNAMSIL perceived their general health (89%) and mental health (94%) as "fair" or "poor".



PHR program associate Kristina Hare Lyons (left) interviews a Sierra Leonean woman in March 2000.



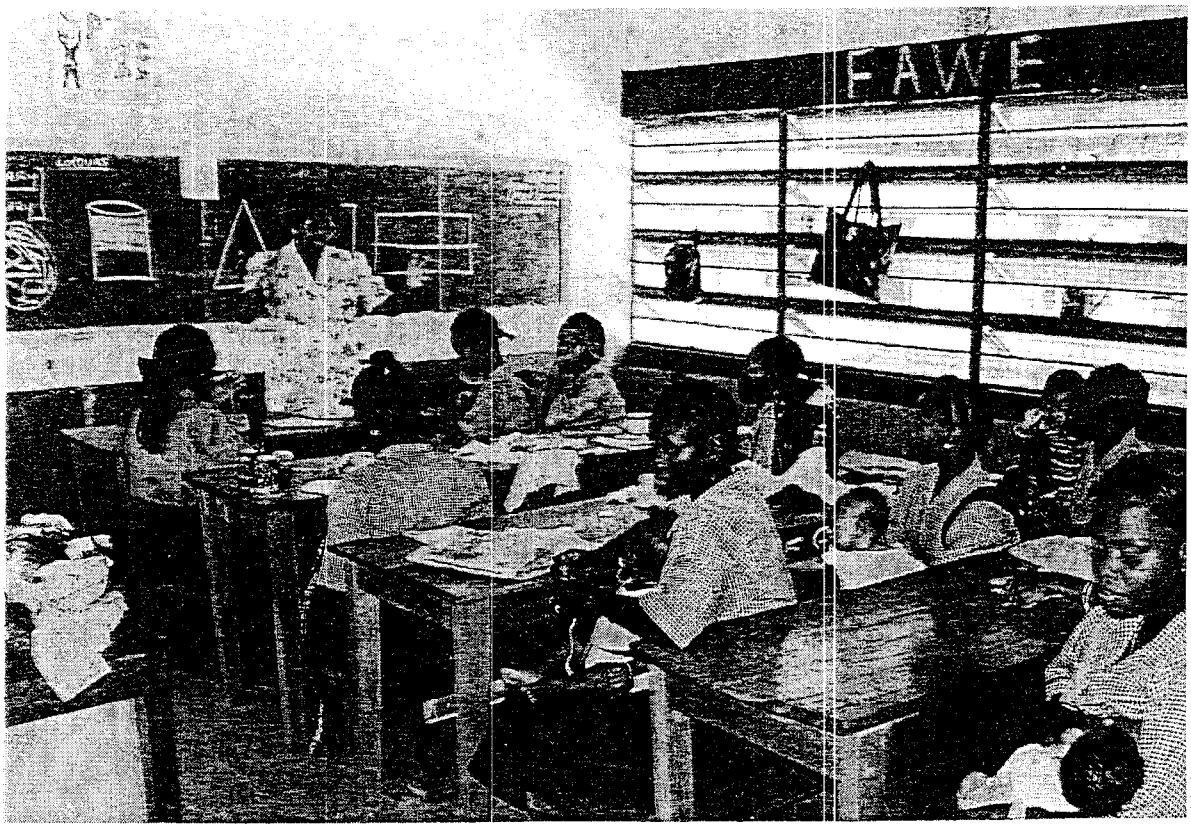
Cheri Reis

PHR consultants Beth Vann (left) and Yinka Akinsulure-Smith led training sessions for local Sierra Leonean researchers who later conducted the survey.



Chen Reis

PHR/UNAMSIL survey researchers prepare to conduct interviews at an IDP camp.



Kristina Hare Lyons

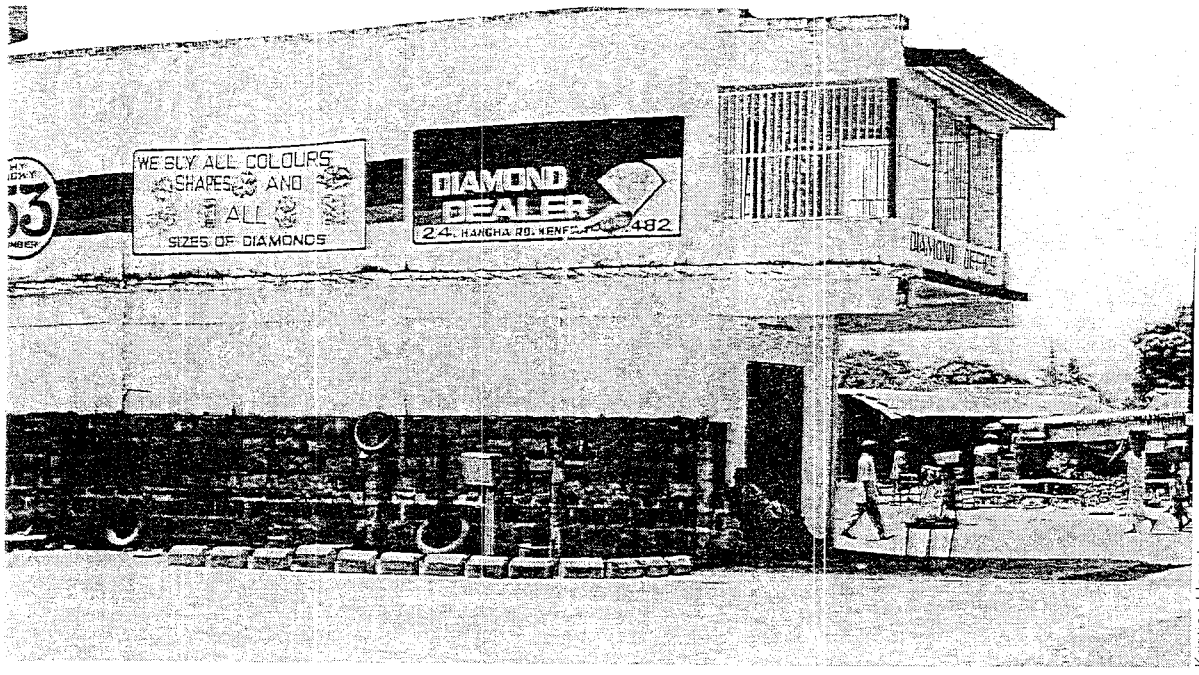
The Forum for African Women's Educationalists (FAWE) is a pan-African NGO that has been successful in promoting education for girls. FAWE expanded their mandate to respond to the needs of rape victims after the January 1999 incursion by rebels into Freetown and became the primary organization providing medical and counseling services to rape survivors.



Kristina Hare Lyons

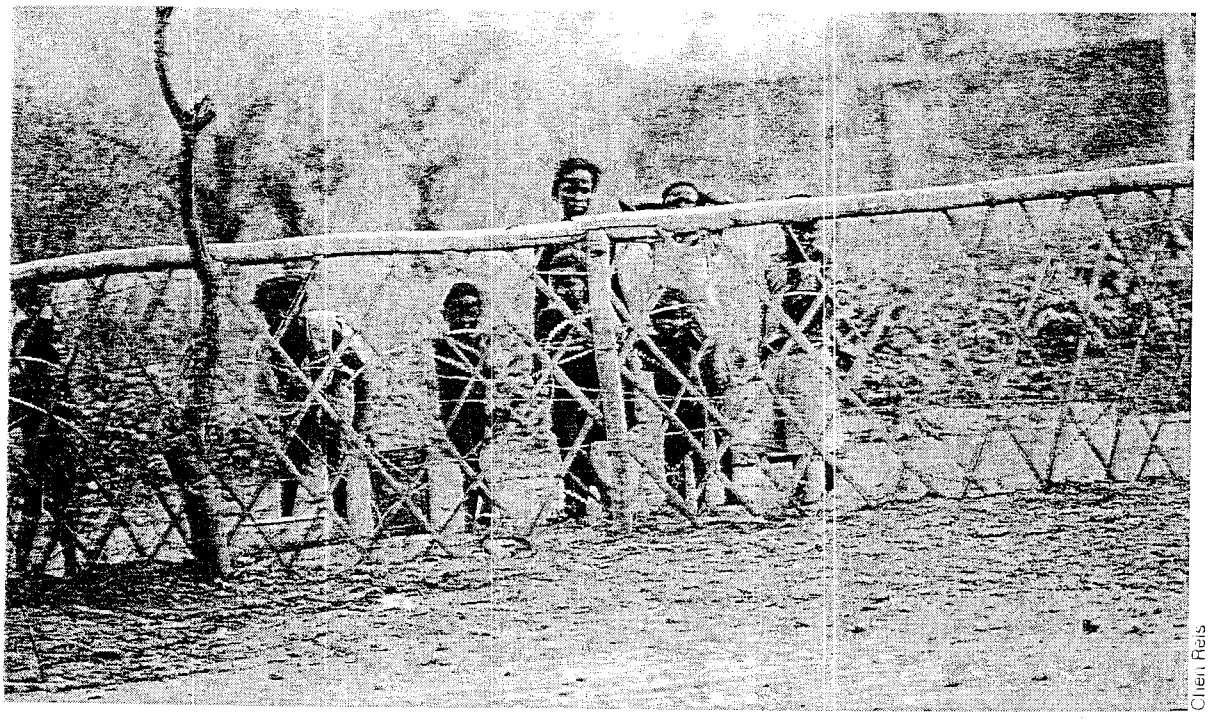
The US government and other donors should ensure that women are included in all aspects of planning for peace, demobilization, reintegration and rebuilding and support local organizations working to promote women's full participation and rights.

1966



Kristina Hare Lyons

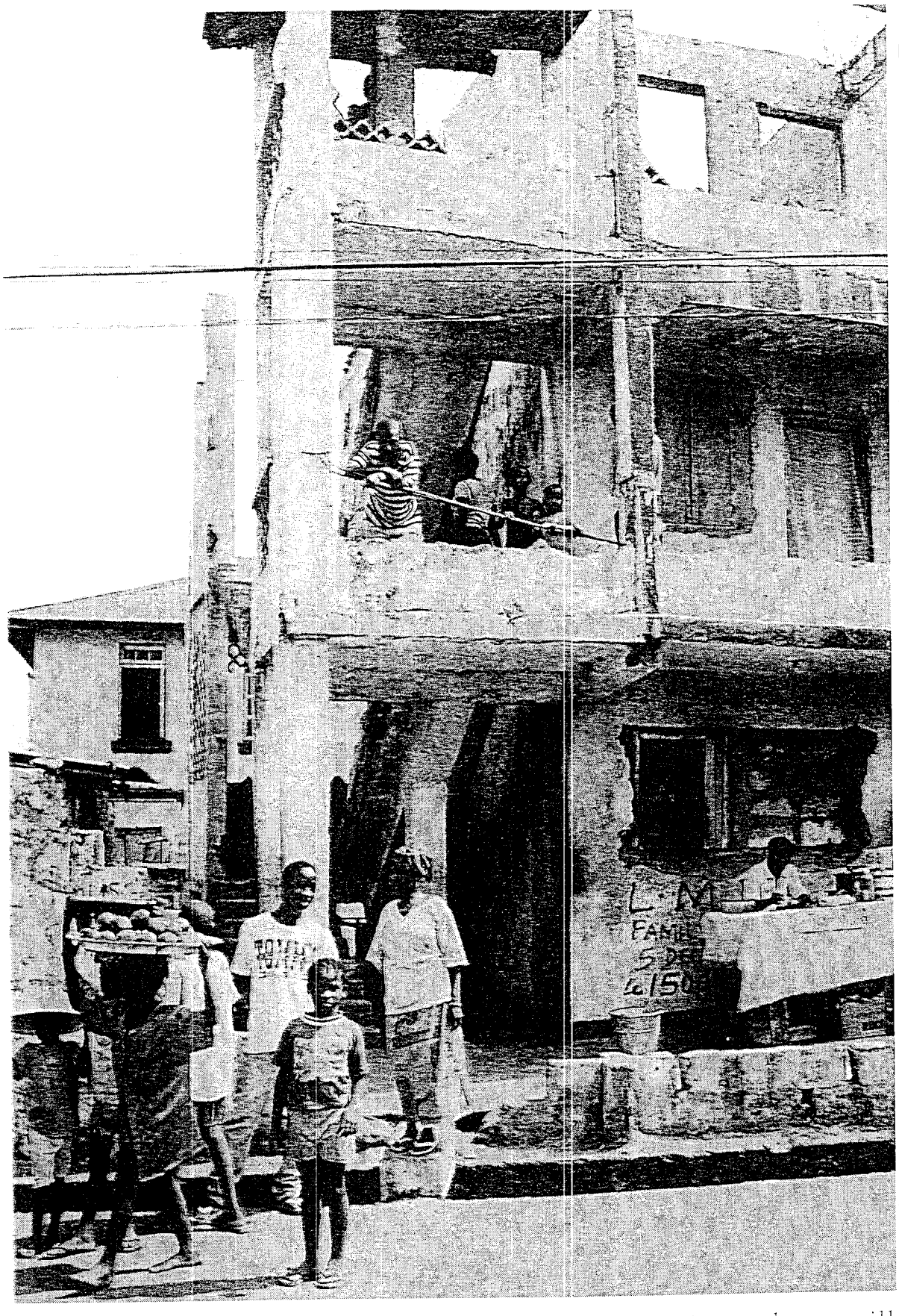
Sierra Leone's rich diamond resources have largely been fueling the brutal war. Diamonds, discovered in Sierra Leone in 1930, are found in about a third of the country's territory—mostly in the east and southeast. Governments, activists and representatives of the diamonds industry are working to regulate the import and export of the gems.



Chen Reis

In 2001, Sierra Leone was the least developed country in the world, according to the United Nations Human Development Index. Sierra Leoneans average life expectancy of 38.3 years is the lowest in the world and the under five mortality rate is the highest in the world. Nearly one third of children in Sierra Leone die before their fifth birthday. Twelve percent of children under 14 years of age, such as the orphans pictured here, have one or both parents dead.

1967



Kristina Hare Lyons

Destroyed buildings in Freetown, such as the one pictured, are still occupied. Sierra Leone's infrastructure has been devastated by the war. Thirty-six percent of Sierra Leoneans do not have access to health care. Thirty-four percent do not have access to clean water. The average per capita income is $448. More than 3,000 communities were destroyed resulting in flight from homes of nearly half the country's population.

one man, Mohammed, who was ex-SLA. She said that she begged him to release her but he said she should stay until she had the baby, so she could leave the child with the rebels. She told PHR that if she refused to have sex he would beat her – though he stopped beating her when she was four months pregnant. No other men touched her after that. Mohammed's boss took care of her and gave her food. From Makeni she was brought to a base in Occra Hills.

One day when she was about six months pregnant she said that she was sent to do laundry by the stream. She left the clothes and took a bush path with another girl. They came to an area where soldiers had surrendered and found transportation back to Freetown. She said that she found her mother who was pleased to see her, but her aunt said her mother should not take her in. She said that her mother, however, insisted and her father has also been supportive. She was scared to go home, but since she went to FAWE and got counseling she feels much better. She came to FAWE two weeks after arriving back in Freetown. A neighbor in Wellington had told her and her mother about the program and brought her to the office. At first she could not sleep and would always wake up at night, but now after the FAWE counseling sessions she is able to relax.

Her baby, Fatmata, was four months old at the time of the interview. Zainab had no problems with the delivery and likes being a mother. She knew she wanted to keep the baby when she was pregnant. She said she is scared Mohammed will come for the baby. Though she does not think he should be punished, she never wants to see him again and wants to try to forget about him. She also has anxieties about what will happen when the program ends. At the time of the interview she was not interested in getting married in the future, but in gaining skills so she can support her child.[201]

Other Human Rights Abuses

The PHR study revealed the severity of human rights abuses in addition to sexual violence experienced by IDPs at the hands of combatants. Ninety-four percent of households interviewed by the PHR/UNAMSIL team were affected by one or more serious physical abuses. The trauma experiences by those who suffered sexual violence must, therefore, be understood in the context of trauma suffered from a range of abuses committed against the individual, her family and community. In addition to the reported levels of trauma and physical abuse experienced, many of those PHR interviewed spoke of loss. This loss went beyond the loss of basic human needs such as housing, food and medical care. It concerned safety, trust, control, self-esteem, and intimacy. Participants interviewed expressed shock, anger, horror, sadness, and a sense of countless additional losses – loss of property, society, family, loved ones, health and a sense of well being. In a society

[201] PHR Interview, March 2000, Freetown, Sierra Leone

1969

where the extended family plays an integral function, this primary means of support was irrevocably damaged. Several women who had not suffered sexual violence spoke of the range of abuses they and their families had experienced and the multiple losses they faced. A young woman, Marie K., described to PHR her and her family's experience:

> *...They killed many of us, many people...about 100, we were in an unfinished house when they came and kicked at the doors and demanded to know who was in there. They yelled that if we didn't come out they would kill us or burn the house down. Someone near the door opened it. The rest of us were hiding in a room, huddled together. They came in and began to hit us with their weapons yelling "get out, if you don't come out we will kill you." Those who refused to come out, they lit the house up and burned it with them inside the house...*[202]

Aminata B.

Aminata B., a 21 year-old Limba woman who was 12 years old when the war started, told of the destruction of her family's farm by rebels

> *...I grew up with my parents in the Kenema area – Bahamaconta. When the war came, we had to run away, everything we had was burned down or taken away. My father was killed and we couldn't even bury him, we had to just leave him behind...we don't know whether he was ever buried. My mother, sisters and I fled to Makeni. When we lived in Bahamaconta I used to go to school, but when we fled to Makeni, my mother could no longer afford to send my sisters and me to school. We tried to sell water (put in small plastic bags for drinking purposes) to make money to survive...* [203]

Musu

Musu was abducted when she was 12 years old and at the time she was interviewed by PHR in March 2000 she had twin nine-month-old boys. She told PHR her story:

> *I had gotten up and bathed and was getting ready to go to school when the rebels came. I heard shooting and hid under my bed. They searched my house. They shouted, they'd launch an attack on the house and set it on fire if we didn't go with them. I was so frightened I felt I had to use the toilet – the rebels told me I could relieve myself right there in front of them. They took me out of my house and threatened to kill me if I resisted. I saw a neighbor and warned her to run. She was seated and had already surrendered. I surrendered also. We were forced to walk in*

[202] PHR Interview, March 2000, Freetown, Sierra Leone

[203] PHR Interview, March 2000, Freetown, Sierra Leone

the bush for one week and three days. My feet swelled with pain until my toenails came off. We traveled from Kambia to Malal Hill in Makeni. We stayed one week then we trained as commandos for one month and three days, after which we were attacked by government troops. They (rebels) moved out in the middle of the night and traveled on foot to Rotifunk where we all stayed for one year and six months. In 1997, I was with the rebels when they attacked Freetown, but I returned with the rebels because I saw no family there. I never killed anyone. I [lied to them and] told them I had surgery on my eyes and could not see to shoot. They believed me because my eyes were always swollen and red [from crying] because of the things I saw. When the rebels returned to Freetown in 1999 I was pregnant. I convinced a lady to allow me to stay with her. I told her no harm would come to her. I stayed in her house until one day I ran into my aunt on the street. I told her my story and she invited me to come stay with her.[204]

Women's Attitudes about Punishment of Perpetrators

A striking finding from both the in-depth interviews and survey was how many women did not want their perpetrator to be punished. The survey revealed that only 42% of those who responded to this question thought their perpetrators should be punished. Because of the destruction of the war, many Sierra Leoneans do not have experience with a functioning judiciary – this may have been a factor in some women's responses. Some of the women indicated to PHR that what they had experienced was so horrific that they did not believe justice to be possible, others feared retaliation by their perpetrators. Most did not seek justice or revenge, but rather peace and reconciliation, a theme that was echoed in the long form testimonies.

Mary J., 16 years old at the time of the interview, explained her reasoning for not wanting to seek punishment for her persecutors:

...My parents died during the war – they were killed by rebels. I was there and saw it. They captured me and took me with them to the bush. I was a virgin. Two men used me, they ruined me. I escaped when we came near Freetown...so many problems since. I became ill, stomach aches...Finally I was taken to the hospital. I wanted to die. In the hospital, they told me they had to do emergency surgery, my people did not have any money...If they catch them and try to do to them what they did to me, it won't even come near the hell I've been through. So they should just leave them. If they try to punish them, the punishment that I have gotten is more than theirs. I wanted to die during that time. If the emergency operation had not been performed, I would have died...If I

[204] PHR Interview March 2001, Port Loko, Sierra Leone.

ask for punishment for them, it will never amount to what I went through, so the best thing is just to leave them so that we can have peace in Sierra Leone.[205]

A desire for a return to peace was also expressed by Fatmata, a 21 year-old woman with two children:

I was dragged out of the house, but when they saw me, they said that they wanted a virgin, even then I was told to undress...a gun was put to my head, I was kidnapped and constantly threatened with rape...I just want peace in the country, I want things to go back to the way they were in the old days...[206]

Madina K., a young woman, was one of the women who expressed a desire to bring one of those involved in her attack to justice:

...They'd wanted to burn the house down with me in it...I was beaten, raped, forced to go with them. They told me to do bad things, they threatened me with death and beat me. Two men raped me. The first one would go and call other men to come and join in. Others intervened and saved me...I don't want revenge. I don't even remember who they were. The only one I want punished is the one who kidnapped me. I want him to be punished for his wickedness...[207]

Some victims revealed that their attackers made explicit threats. A 30 year-old woman from the north was raped and beaten by two RUF members in 1997. Her husband was also beaten and their home burned and looted. She told PHR, "They [the attackers] were saying to me after they raped me if I will say it to anyone, they will come and kill me."

In spite of the risks, women did offer to give their names to the Special Court or the TRC. One victim who agreed to testify said enthusiastically: "I am ready to go anywhere in the world to explain myself."

The PHR survey administered in 2001 concluded with a series of six open-ended questions for those respondents who reported war-related sexual violence to provide more details about their experiences and additional information about their health, their future, and other concerns. All participants were also encouraged to provide additional comments at the end of the interview. The experiences and concerns women described in their answers to these questions are briefly described here.

Identity and Affiliation of Attackers

Participants were asked to provide identifying information about their attackers and their affiliation:

---

[205] PHR interview, March 2000, Freetown, Sierra Leone

[206] PHR interview, March 2000, Freetown, Sierra Leone

[207] PHR interview, March 2000, Freetown, Sierra Leone

1972

Do you know anything that could identify your attackers? Did they call each other by name? How do you know which military group your attackers were with?

Many respondents were able to provide first names of their attackers – both real names and *noms de guerre* such as Blood, Pepper, Nasty, Bullet, Cut Hand, Poison, God Father, Rebel Baby, Dry Gin, Rambo and Commando Around the World. While one woman was gang-raped by eight members of the RUF, she only named one perpetrator: "His name is Body Naked and if I see him now I will identify him." Several women offered the full names of their attackers as well as descriptions of them.

The affiliation of perpetrators was understood primarily through verbal communication, "They call their leader's name, Foday Sankoh and their commander Superman;" "They call themselves West Side Boys and they took me to their base and I was with them until I escaped." A twenty-five year-old woman from Port Loko who was captured by the AFRC in 1998 and whose husband was tortured said that the perpetrators referred to themselves as "our junta the AFRC." Two women specifically identified members of the Sierra Leone Army, though it is possible that they were part of the military that turned on the government: "They said they were the Sierra Leone Military Group."

Dress also played a role in linking individuals to a group in the minds of those who were attacked. One woman told PHR, "They were running after us and they were calling Superman, Colonel Issa, and everybody knows that these people were RUF, because they were always at the bush and wore T-shirts with "RUF" printed on them. I was given one to wear by Gold Teeth." A 16-year-old from Port Loko who was gang raped by five attackers and held for months was able to identify her attackers "because they were wearing Tupac [Shakur] T-shirts, so I know they were rebels." The RUF were identified numerous times as wearing red scarves tied around their heads. "They identify each other by names. One called himself Abdullah, another Mohammed and the last Sorie. They all had red cloths on the forehead. The Ex-SLA wore their uniforms and identified themselves as Ex-SLA," recounted a woman who had been abducted and gang raped. Another woman who had a similar experience in which she was jointly attacked by RUF and Ex-SLA claimed: "They had red cloth on their forehead and call their leaders name, which is Poppeh,[208] meaning Foday Sankoh." Another woman told PHR, "They had red headbands and green uniforms on and said they were fighting for Foday Sankoh (and) that they were going to fight until Tejan Kabbah goes away."

Of the 93 survivors of sexual violence interviewed in the PHR survey

[208] The name of Poppeh, apparently a nickname for Foday Sankoh, was mentioned by many women in the questionnaire. While it was spelled differently by the various researchers, it is reasonable to assume that they are all referring to the same name.

who were able to identify the affiliation of their perpetrator(s) in the PHR survey, the RUF was named 63 times, four of which were in complicity with ex-SLA soldiers. The West Side Boys were named 14 times, the AFRC eight times, Liberians two times, and the Sierra Leone military twice, though it is unclear whether their loyalty was with the government at the time of the attacks. Most attackers identified themselves verbally as well as by their dress, but also, in the incidents perpetrated by RUF fighters, by declaring their loyalty to their leader. Several victims concluded the affiliation of their perpetrators because they were "based near by."

While no direct evidence of command responsibility was provided to PHR, several women pointed a finger at rebel leadership. A 30 year-old woman from the North who was abducted, raped and beaten by RUF stated, "I just know that the leader of the fighters is the fault because if he stopped them, they would never do it – because he supported it – that's why."

Many participants were clear about the affiliation of their attackers. It must, however, be understood that many of the rebel factions collaborating and loyalties shifted at various times of the war. As such, in some cases, it may be difficult to determine perpetrator affiliation with certainty.

Relationship between Victim and Perpetrator

The complexity of the relationship between victim and perpetrator that has on occasion developed in the bush must be noted. It has been reported that some women and girls who were abducted chose to remain with their captors. There are a number of possible explanations. The PHR survey revealed that some who became pregnant as a result of rape consider themselves married to their captors and believe they have no choice but to remain with their "husbands." Other possible factors contributing to the reported phenomena of abductees voluntarily remaining with their captors include: identification with the abductor, drug addiction, the more desirable food options reportedly available in the bush, fear that they will be rejected by their families and communities if they go home, and the fact that many abductees, particularly those who were abducted as young girls are now accustomed to their new way of life and surrogate families.[209]

For example, one 16 year-old girl from the Port Loko area with no schooling was raped and abducted by a member of the RUF. She thinks commanders were aware of the attacks and she "can identify her attacker because she knows his name and he forced her to marry him." While she expressed fear of contracting a disease and of future sexual violence by combatants, she does not think her perpetrator should be punished now because he is her legal husband and they have a child together.

---

[209] PHR conversations Corinne Dufka of Human Rights Watch, January, 2001 and with NGO representatives who were providing services to returned abductees, March 2000.

A 16-year-old from the Eastern area was abducted by the RUF in 1999 with her sister and forced to marry her captor. She also claims the commander was aware of the attack. She does not think her attacker should be punished because of fear of reprisals and in the spirit of reconciliation:

> *In the bush he was called Lt. Papay, ... He said they were Mosquito's group. That he was pure rebel and would marry me and carry me into the bush and live with me there because they are bad people and want to destroy me and even the country.*

What Perpetrators Said During the Attacks

More than half of the women who reported sexual violence answered the question, "What did [your attackers] say to you, or to each other?" About a fourth of these reported that their attackers explicitly claimed to be targeting supporters of Pa (Tejan) Kabba. Of these, many women were directly told to go tell Pa Kabba about what had happened to them: One woman told PHR 'They told me to go complain to Tejan Kabbah after they have burnt my clothes and house, then raped me." Another reported that "they told me if I refuse to lie down they will kill me and after they finished they told me to go and report to Pa Kabba." This was almost identical to what was reported to PHR by another woman: "They told me they are going to kill me if I refuse to follow them and they told me to lie down. They also used all sort of obscene language at me and they told me to go and tell Tejan Kabba." These remarks suggest that the attacks were politically motivated.

Other women reported comments made by their attackers that suggest political motivation. According to one participant, "they asked me, 'whom are you going to vote for?'" Another told PHR "they said they are coming with their boss Foday Sankoh to take over from Pa Kabbah, and that we should support them." A 22 year-old woman who was abducted by the RUF with her husband's other wife quoted her attackers; "We will never release you until we marry you... Because Foday Sankoh is not president, that's why we are doing this to women." Another told PHR "they said they were fighting because the government was corrupt." A 19 year-old woman was raped along with all seven other female members of her household. "They were saying we are not ready for disarmament until they release Foday Sankoh from prison to come to us."

Many also reported to PHR that they were threatened with violence or death by their attackers if they did not cooperate, as evidenced by some of the statements above. A woman from Port Loko whose husband was beaten, whose sons were abducted and are still missing, and who was raped along with her daughter and her husband's other wife reported the

1975

rebels saying to her "that if I don't allow them to rape me they were going to kill me, so I allowed them."

Why Did Respondents Think Combatants Attacked Women?

In response to the question posed by the PHR/UNAMSIL team, "Why do you think combatants did these things – sexually abusing women and girls – during this war?" the majority of women did not reply or stated that they did not know. Many of those who answered gave the question over to God, saying only God knew why the assailants did those things. Among those who ventured an opinion, most maintained that the combatants targeted women because women are weak, they cannot fight back, or run away. Some women stated simply that the men wanted sex. A smaller, but significant, group of respondents indicated that the men committed acts of sexual violence because they did not respect women or their mothers. Other women cited the sense of omnipotence felt by their attackers. As one woman explained, "They are rebels. They could do anything." Another said, "because they wanted young women and they have money and guns."

Several responses suggested the actions of the perpetrators were strategic: "They use women as human shields in their campaign against the government and whenever they have planned attacks women lead in order to be spies." "They know what they did it for – they hold the gun and their motive was to see women and rape them."

Women's Concerns about the Future and about Their Health

The majority of women who responded to the two questions about their biggest worries about the future in general and about their health referred to the financial and personal insecurity they faced as a result of the war. Women expressed fear that the war would not end and that they would experience future attacks and abuse. They spoke of their lack of livelihoods, homes, and husbands to provide for them. As one woman told PHR "Presently my husband is no more. Who will take care of me in the future? They have looted my properties and I do not have anything for now." A number of women expressed fear about how they would provide for themselves or for their children, including offspring from the rapes they experienced. One woman told PHR, "I am homeless, bankrupt, and where can I get help to take care of my unborn child?"

In their responses about overall worries about the future, some respondents linked their fears about their vulnerability as "violated" women without a male partner or family with concern about their health:

> *There will be no better future for me because I am broken. No man will marry me or take me seriously. I don't want to become sick, to get what they call AIDS. People will begin to say a lot about me if they know what happened to me.*

1976

The concern about having contracted a sexually transmitted disease or AIDS was a prominent concern expressed by several participants in response to the question about specific health worries. Women described experiencing diffuse abdominal and pelvic pains and expressed worry that these represented sexually transmitted diseases. Yet, they were afraid of the stigma associated with seeking help for rape-related health problems:

> *I don't want to have AIDS. I am afraid to go to the hospital. I don't want people to know if it is true that I have AIDS. I don't know whether I have AIDS or not.*

Other women expressed a desire for medical treatment, but spoke of their lack of access to medical assistance at the IDP camps. Many of the respondents, both those who had directly suffered sexual trauma and those who had not, spoke in general terms of being physically and mentally sick, but with little hope of receiving necessary medical care.

In addition to the series of open-ended questions asked by PHR of those who survived sexual violence, all participants were given the opportunity to provide additional comments at the end of the interview.

Many respondents expressed a strong desire for an end to the war so they can return home and resume their previous routine including work, food and housing: "I want the government to help with all possible means to put an end to this war. I am fed up being displaced. I want to go back. I want perfect peace so that our children can go back to school and we would no longer have fear."

Many, however, did not know the state of their homes, which they feared or knew had been burned or looted: "When the rebels attacked us at night, I left naked and ran into the bush. They burned and looted everything in our house." In the camps many women have little to do but gather firewood to occupy their time, which some sell to earn money. Some complained of food shortages and lack of access to medicines: " I worry about my daughter because she never discloses anything about her experience when she was abducted. I want the government to help me with money so that I will be able to take her to the hospital for medical check up since she refuses to talk to me. I need clothes for my children and also for myself." Another expressed her desperation:

> *Since four years back they abducted my son – until now I don't know if he's dead or alive. I want to see him. The condition we are living in is deplorable. We are praying and asking for rapid deployment – we want to return. There is nothing to live on unless the mere bulgur. My sides are paining me from laying on the ground – we have no place to sleep.*

A number of women who had lost their husbands in the war stressed the need for education and skills training for women and assistance in sup-

porting their children: "Now that they have killed my two children and also my husband is dead, how am I going to maintain the other children as we need assistance?" 1977

> *Now I have lost my husband so I do not have a husband. I have no money. I am also an old woman. All that I had was left to the mercy of the rebels because I had to run when they were behind us. As you can see, my feet are swollen, I cannot walk – I cannot do anything. The first thing is that I do not have money – If I had money I would start doing something. All I can say now is that I wish the war would end.*

Women requested loans for business purposes, as well as a need for assistance with school fees so they could send their children back to school: "We are praying that this war ends. We will also like to see rehabilitation take place in our community. We want our homes rebuilt, but most of all education for our children. We know that once they are educated, they in return will help build our nation." Several women not only recognized the importance of education for the long-term success of the country, but specifically noted education for girls:

> *We want education in our land. The saying goes that when you educate a woman, you educate a nation. We want our girl children to go to school, learn skills – and even we parents, if need be. We want loan schemes because some of us were traders, but today the rebels have suffered us.*

Many of the additional comments could be categorized to reveal the most common concerns among IDP women who did not report sexual violence. The prevailing response was a desire for the war to end (168/424): "My heart's desire now is to see that the war ends so that we can go back home. Those who took the guns on us, we want God to take the guns from them so that we can go to our homes in peace." A quarter (108/424) said that they wanted to return home: "Only begin the perpetrators to come out of the bush and lay down their weapons for us to go home – we're homesick." Education for children was also mentioned (30/424) – and education/skills for the participant by (10/424). A thirty-four year-old woman with five young children who had been displaced since January 1999 and is separated from her husband said that she "needs help from any NGO to set up women's groups for the promotion of women's activities to become self-reliant."

Fifty-eight women expressed a need for clothing, food or other household items including pots for cooking, utensils and bedding. Twenty requested financial assistance and 15 medical assistance. Fifteen requested assistance with building and repair.

Of those who reported sexual violence, 79 provided additional comments. The comments they provided were related to the preceding ques-

tions which focused on details about their perpetrator and their concerns about their health and their future. The most common comments among this group also had to do with a desire for an end to the war and for going home. Other concerns cited in descending order of frequency were: health/medical, schooling/training, clothing, shelter, cooking tools, financial support/loans, child care, food, family tracing, justice, and fear of future attacks. "Help me with school fees as I want to be a lawyer in the future. My mother is poor and do not have money. Protect women also."

Many of these women also asked for assistance to simply begin rebuilding their lives, in some cases their pleas reflect an acute helplessness and desperation more evident among those who reported sexual violence. Many have lost their husbands, their homes, their children, their possessions and in some cases their ability to work due to disability and disease. "I am going to let the human rights people help me for medication. I am slowly dying – please help." "Let the government and other NGOs decide on any help for us." "We have suffered greatly during this war – even something to eat and wear we do not have, so please help us." "Provide enough medicines because only panadol (paracetamol[210]) is available. Rebuild our homes, send doctors who are very well with their jobs." "Please UNAMSIL, help us. We are tired of this war. We want to return back. Please UN come help us with this war – help us return to our homes."

Even those who felt less defeated pleaded for help: "I am thanking all those who ask you people to come and interview us about our experiences in the war in Jesus name. I greet them all. I pray God will touch the heart of the human rights people to think of our plight and bring immediate help for us."

[210] Also known as acetaminophen or Tylenol.

1979

V. APPLICATION OF RELEVANT INTERNATIONAL LAW

1980

The acts of sexual violence, killings, and torture documented in this report that were perpetrated against civilians in Sierra Leone are crimes against humanity and war crimes as defined by international legal standards.[211]

Traditionally, rape and other forms of sexual violence were regarded as legitimate spoils of war, and sexual access to the vanquished women viewed as an incentive to capture a town. During the Middle Ages, wartime rape was increasingly prohibited, though rarely punished. Sexual violence was generally viewed as an unfortunate but inevitable byproduct of war. Although evidence of rape, enforced prostitution, sexual slavery, forced abortion, forced pregnancy, forced sterilization, sexual mutilation, and sexual humiliation was entered into the official transcripts of the Nuremberg and Tokyo War Crimes Trials held after World War II, attempts to prosecute the crimes were very limited.[212]

As recent events in such conflicts as those in the former Yugoslavia and Rwanda have demonstrated, sexual violence is increasingly used as a powerful weapon of war, a means to cause serious bodily and mental harm to not only women, but to all members of the opposing group. Rape and other forms of sexual violence, including reproductive crimes, are now regarded as means of inflicting terror and destruction upon the civilian population and the armed forces protecting them.[213] Partly as a result of reports of women being detained and systematically raped in the Balkan conflict and during the Rwanda genocide, the international community has recognized these acts as serious crimes which merit prosecution and punishment. This acknowledgement has led to the inclusion of gender-based crimes in not only the Statute of the International Criminal Court, but also the Statutes of the International Criminal Tribunal for the former Yugoslavia[214] and International Criminal Tribunal for Rwanda.[215] Several judgments rendered by these tribunals have recognized various forms of

---

[211] Rome Statute of the International Criminal Court (adopted 7/17/98). See www.untreaty.un.org/English/notpubl/rome-en.htm

[212] See Askin,K.D., *War Crimes Against Women: Prosecution in International War Crimes Tribunals* (1997).

[213] See discussion in Askin, K.D., "Women and International Humanitarian Law," in Askin, K. & Koenig, D., eds. *Women and International Human Rights Law, vol. I*, 1999.

[214] Statute of The International Criminal Tribunal for the Former Yugoslavia (adopted 5/25/93) www.un.org/icty

sexual violence as instruments of genocide, means of torture, crimes against humanity, and war crimes, regardless of the nature of the conflict as international or internal.[216] Sexual violence, including rape and sexual slavery, is specifically included in the Statute of the Special Court for Sierra Leone.

Humanitarian law

The legal instruments that constitute what is referred to as international humanitarian law, or laws of war, set out protections that apply in times of conflict. These overlap and supplement the protections offered by human rights law.

In the case of an internal conflict, such as the one in Sierra Leone, the protections that exist are less complete. Nonetheless, rape, extrajudicial killing, and torture are clearly prohibited under any circumstance. The origin of these standards is codified in Article 3 common to all four of the 1949 Geneva Conventions, which afford protections to civilians, prisoners of war, and others rendered *hors de combat* in internal armed conflicts.[217] The 1977 Additional Protocol I which regulates international armed conflicts and Additional Protocol II, which regulates non-international armed conflict, expand on these protections.[218] Sierra Leone is a party to all four of the 1949 Geneva Conventions[219] and both Additional Protocols.[220]

Common Article 3 which applies to all parties in internal conflicts such as Sierra Leone's, prohibits "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" and "outrages upon personal dignity, in particular humiliating and degrading treatment." Additional Protocol I that regulates international armed conflict specifies that "Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent

---

[215] Statute of The International Criminal Tribunal for Rwanda (adopted 11/8/94). See www.ictr.org

[216] See especially Prosecutor v. Jean-Paul Akayesu, Judgement, ICTR-96-4-T, September 2, 1998; Prosecutor v. Anto *Furund`ija*, Judgement, IT-95-17/1-T, December 10, 1998; Prosecutor v. Zejnil Delalic et al., Judgement, IT-96-21-T, November 16, 1998; Prosecutor v. Kunarac et al., Judgement, IT-96-23-T & IT-96-23/1-T, February 22, 2001.

[217] See e.g., Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, August 12, 1949, 75 UNTS (1950) 287-417.

[218] 1977 Geneva Protocol II Additional to the Geneva Conventions of 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, June 8, 1977, 1125 UNTS (1979) 609-99 [hereinafter Additional Protocol II]. Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts June 8, 1977 [hereinafter Additional Protocol I].

[219] Succession: June 10, 1965

[220] Ratified: October 21, 1986

assault."[221] Additional Protocol II which applies in certain internal armed conflicts expands upon and explicitly forbids "violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation"[222] and "outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault."[223] The jurisprudence of the ICTY and ICTR has reinforced the principle that serious violations of these provisions constitute war crimes. As such, the acts of rape, killing and torture documented in this report, which were committed with a nexus to the armed conflict, are war crimes and international crimes prosecutable regardless of the presence of an armed conflict if committed in the context of crimes against humanity or genocide.

Human Rights Law

Sierra Leone has signed or ratified several international human rights treaties that prohibit the abuses committed against civilians documented in this report. These include the International Covenant on Civil and Political Rights (ICCPR),[224] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),[225] and the Convention on the Rights of the Child (CRC).[226] These treaties protect the right to life, and the right to be free from torture and arbitrary detention. Sierra Leone is also a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).[227]

International human rights law distinguishes certain rights as non-derogable. These must be respected in all circumstances including times of conflict. The right to life is one such right and is set out in the ICCPR[228] and, in the case of children, the CRC.[229] Another non-derogable right identified in the ICCPR is the right to be free from torture.[230] This right is set out in more detail in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Sexual violence including rape is

---

[221] Additional Protocol 1, Article 76 (1)

[222] Additional Protocol II, Article 4(2)(a).

[223] Ibid, article 4(2)(e).

[224] Acceded: August 23, 1996.

[225] Signed: March 18, 1985; ratified by parliament March 1, 2001

[226] Signed: February 13, 1990; ratified: June 18, 1990

[227] Signed: September 221, 1988; Ratified: November 11, 1988. Sierra Leone's initial and second and third periodic reports were due December 11, 1989, 1993 and 1997 respectively

[228] ICCPR, Article 6(1)

[229] CRC, Article 6(1)

[230] ICCPR, Article 7

1985

also recognized as a form of torture in reports by the Special Rapporteur on Torture, and in cases before the European Commission on Human Rights and the Inter-American Court of Human Rights.

The Slavery Convention defines slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised."[231] As recognized in the Kunarac Case, indicia of slavery may include "sex; prostitution; and human trafficking" as well as "control of sexuality."[232] The case stood for the proposition that enslaving women and girls and subjecting them to rape constituted sexual slavery. Also, article 8 of the ICCPR states that "No one shall be held in servitude"[233] and prohibits forced labor.[234]

Non-State Actors

Regarding international humanitarian law, the provisions of Common Article 3 of the Geneva Conventions apply to all parties to a conflict, this includes armed opposition forces such as the RUF and the AFRC. As such, these non-state actors may be held accountable for their violations of international humanitarian law.[235]

The Kunarac Case in the ICTY recently emphasized that under international humanitarian law, the "presence of a state official or of any other authority-wielding person in the torture process is not necessary for the offense to be regarded as torture."[236] Thus, whereas human rights law might require state action or sanction of torture, international humanitarian law and international criminal law does not. This is consistent with the Statute for the International Criminal Court, which also deleted the state-actor requirement.[237] All persons, regardless of whether acting in an official capacity or not, can and should be held individually criminally liable for international crimes, including war crimes and crimes against humanity. The perpetrators of the crimes documented in the PHR survey can and should be prosecuted for their crimes.

The PHR study documented that 6% of abuses were committed by government forces However, most abuses for which the affiliation of perpetrators was identified were committed by the RUF or unspecified rebels

---

[231] Slavery Convention Article 1(1) www.hri.ca/uninfo/treaties/28.shtml

[232] Kunarac et al, paras. 542-43.

[233] ICCPR, Article 8(2)

[234] ICCPR Article 8(3)

[235] E/CN.4/2001/73 Report of the Special Rapporteur on violence against women, its causes and consequences Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000)

[236] Kunarac et al., para. 496.

[237] Rome Statute untreaty.un.org/English/notpubl/rome-en.htm

(86%). As an armed opposition group, the RUF is not a party to the human rights instruments above, however the characteristics of the RUF and the nature, pattern, and seriousness of the abuses are such that the RUF may be held to the standards contained therein.

The Special Court for Sierra Leone

Background

At the request of the Government of Sierra Leone, the United Nations proposed establishing an international court for prosecution of those responsible for the commission of atrocities during the war. UN Security Council Resolution 1315, adopted on August 14, 2000, requested negotiations for creation of a court to prosecute "crimes against humanity, war crimes and other serious violations of international humanitarian law,"[238] and to try those "persons who bear the greatest responsibility"[239] for these crimes.

Following negotiations, it was determined that the court for Sierra Leone would differ from the International Criminal Tribunals for the Former Yugoslavia and Rwanda in several ways.

The Sierra Leonean Court would be based on a treaty or agreement between the United Nations and Sierra Leone. As such, unlike the ICTY and ICTR, it cannot assert primacy over national courts of other states nor can it order accused individuals located in another state to surrender.

Staff for the Special Court, including the judges and prosecutors, will be composed of both Sierra Leoneans and people from other countries.[240] The Court's subject matter jurisdiction will include acts in violation of international humanitarian law as well as certain crimes under Sierra Leonean law.[241]

The Special Court will try cases of events occurring since November 30, 1996.[242] Although the conflict started in 1991, it was believed that extending the temporal jurisdiction to that time would impose too much of a burden on the court.

Security Council Resolution 1315 refers to voluntary contributions of funds, services and equipment,[243] implying that the Security Council intended this to be the primary method of meeting the Special Court's

---

[238] UN Security Council Resolution 1315, adopted on August 14, 2000 Available at www.un.org/Docs/scres/2000/res1315e.pdf.

[239] Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, Article 1 Available at: www.un.org/Docs/sc/reports/2000/915e.pdf .

[240] Ibid Arts 2 & 3

[241] Statute of the Special Court for Sierra Leone. Article 1 Available at www.un.org/Docs/sc/reports/2000/915e.pdf.

[242] This is the date of the signing of the Abidjan accords, the first peace agreement between the RUF and the Sierra Leonean Government.

[243] UN Security Council Resolution 1315 8(c)

costs.[244] The UN Secretariat's Office of Legal Affairs has estimated that the Special Court's budget for the first three years will be about $57 million of which some $16.8 million will be required for the first year of operation.[245] As of the end of November 2001, the UN had received contributions for $14.3 million for the Court's first year. It had only received pledges for some $20.4 million for the next two years. Initial steps toward the establishment of the court have taken place despite lack of funding.[246]

Gender-Based Crimes in the Special Court

The Statute of the Special Court for Sierra Leone explicitly includes gender-based violence in its definition of several categories of crimes that the Court has the power to prosecute.

The Statute, in its listing of Crimes against Humanity, includes "rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence"[247] as prosecutable crimes when "committed...as part of a widespread or systematic attack against any civilian population."[248]

The Court also expressly includes "rape, enforced prostitution and any form of indecent assault"[249] as violations of humanitarian law as enshrined in Common Article 3 and Additional Protocol II.[250] As mentioned above, the court has the power to try certain offenses under Sierra Leonean law. Some of these may be used to prosecute gender-based violence against girls under the age of fourteen.[251]

The term "systematic" requires a qualitative judgment by adjudicators as to active and passive complicity and the extent to which these crimes were committed. It is important to consider the high rate of sexual violence documented by the PHR survey. The frequency of sexual violence and other human rights abuses, especially those committed by the RUF, suggests that commanders are likely to have been aware of the crimes perpetrated by the forces under their command.

---

[244] Amnesty International, *Sierra Leone: Renewed Commitment Needed to End Impunity,* 24/09/2001 Available at www.web.amnesty.org/aidoc/aidoc_pdf.nsf/index/AFR510072001ENGLISH/$File/AFR5100701.pdf p.7

[245] Ibid, p.9

[246] UN Daily Briefing, "Annan Authorizes Planning Mission for Sierra Leone Court", January 3, 2002, http://www.un.org/News/ossg/hilites.htm.

[247] Statute of the Special Court for Sierra Leone Art 2 (g) Available at www.un.org/Docs/sc/reports/2000/915e.pdf

[248] Ibid, Article 2 chapeau

[249] Ibid, Article 3 (e)

[250] Ibid, Article 3 chapeau

[251] Ibid, Article 5

1986

The Truth and Reconciliation Commission

The Lome Peace Agreement of July 7, 1999, provides for the establishment of a Truth and Reconciliation Commission (TRC) to "address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story [and] get a clear picture of the past in order to facilitate genuine healing and reconciliation"[252] by addressing human rights violations committed from the start of the conflict.

Enacted in 2000, the Truth and Reconciliation Commission Act[253] provides more detail about the TRC, which will look at cases occurring prior to the signing of the Lome Agreement. As part of its mandate to "work to restore the human dignity of victims and promote reconciliation,"[254] the TRC will pay "special attention to the subject of sexual abuses."[255] Some education efforts about the TRC have begun[256] and preliminary steps towards selection of Commissioners and preparation of a budget have been taken.[257] The TRC, however, is not expected to begin operations until after the elections in 2002. Most importantly, the nature of the relationship between the TRC and the Special Court has not yet been resolved.[258]

It will be particularly important for both the Court and the Commission to consult with and hire persons with expertise in and sensitivity to gender-related crimes, including sexual violence and to ensure the protection of women that come forward to testify.

---

[252] Peace Agreement Between The Government Of Sierra Leone And The Revolutionary United Front Of Sierra Leone Art. XXVI http://www.sierra-leone.org/lomeaccord.html

[253] The Truth and Reconciliation Commission Act 2000. Available at www.sierra-leone.org/trcacat2000.html

[254] TRC Act Part III 6 (2)(b)

[255] TRC Act Part III 6 (2)(b)

[256] http://www.sierra-leone.org/trc.html

[257] Eleventh Report of the Secretary-General on the United Nations Mission in Sierra Leone p.7 www.un.org/Docs/sc/reports/2001/857e.pdf

[258] Amnesty International, *Sierra Leone: Renewed Commitment Needed to End Impunity,* 24/09/2001; pp. 13-14 www.web.amnesty.org/aidoc/aidoc_pdf.nsf/index/AFR510072001ENGLISH/$File/AFR5100701.pdf

1997

VI. RESPONSES TO THE SIERRA LEONE COMPLEX HUMANITARIAN EMERGENCY

1988

Humanitarian Assistance

Numerous non-governmental and international organizations are working in Sierra Leone to address the complex humanitarian emergency that has emerged from the ongoing conflict. These groups are doing their best to provide a range of basic services under extremely difficult conditions. There are, however, significant gaps in services due to funding, coordination and security problems. The task is made all the more challenging by the frequent movement of populations including the periodic surges of returnees from neighboring countries. United Nations Office for Coordination of Humanitarian Assistance (UNOCHA) is the lead coordinating body for humanitarian relief in Sierra Leone with Sierra Leone's National Committee for Relief Reconstruction and Rehabilitation (NCRRR).

After the peace process deteriorated in May 2000 most relief agencies were forced to evacuate the country and humanitarian assistance temporarily ceased. Relief activities resumed, however, in the second half of 2000 as agencies regained access to affected areas. The cease-fire agreements between the RUF and the Government of Sierra Leone as well as the recent opening of roads has allowed much improved access to areas of the country previously beyond the reach of aid agencies.[259]

Numerous agencies are working to build shelter; feed and provide healthcare for the displaced; reintegrate adult and child soldiers; reunite families; care for orphans; mitigate the ill effects of the civil war, particularly for children, women and the injured; provide food security; educate the population and rebuild the infrastructure of the country.[260] Meeting the food needs of the displaced, one of the greatest challenges to the relief community, has been managed by four implementing agencies: Care, Catholic Relief Services (CRS), World Vision and the UN World Food Program (WFP). The provisions of shelter, education and healthcare have also been priorities.

Basic health services are offered in clinics set up temporarily in some IDP and demobilization camps by organizations such as International

[259] Sierra Leone-Complex Emergency Situation Report #1 (FY2001), April 20, 2001 p 1.

[260] For a more detailed list of organizations working in Sierra Leone specifically on the issue of sexual violence, see Appendix C.

Committee for the Red Cross (ICRC), Médecins sans Frontières (MSF), the International Medical Corps (IMC), and the International Rescue Committee (IRC), though like the PHUs they suffer from a shortage of trained staff, equipment and medications.[261] Some of those who were maimed in the fighting or who had their limbs amputated by rebel forces have received more comprehensive assistance from various NGOs including Handicap International (HI), MSF, and Christian Children's Fund (CCF). Such programs involve reconstructive surgery, prostheses, physical therapy, counseling and vocational training.

Despite several rebel incursions, the capital, Freetown, has been one of the most secure areas in the country and provided a base for the various aid organizations working in Sierra Leone. This concentration of services has led to problems of coordination in the Western area, as well as inadequate services in the provinces, although both issues are beginning to be addressed as the security situation continues to stabilize.[262] UNOCHA and UNHCR are making significant progress in developing maps on who is doing what and where in the humanitarian arena. The maps of individual international non-governmental organizations are now available, in electronic form, at the Humanitarian Information Center in Freetown.

NCRRR is providing emergency recovery funding and technical support in over one-third of the country, which is accessible in the following sectors: agriculture, capacity building, community infrastructure, education and health facilities rehabilitation water and sanitation, and roads.

Relief agencies, with the support of international donors, are also responding to the needs of half a million refugees in Guinea by setting up camps and providing food, medical care and education.[263]

International Community Response to the Crisis in Sierra Leone

Though a number of international and non-governmental organizations have had operations on the ground providing humanitarian and development assistance for decades, the international community has been particularly active in promoting peace in Sierra Leone since the signing of the Lome Accord in 1999. Efforts to end the crisis have included strengthening the UN peacekeeping mission, taking concerted action to curb the trade in diamonds used to procure arms, supporting the demobilization effort, and resolving to establish a Special Court for Sierra Leone in an effort to end impunity.

The United Kingdom (UK) has played a particularly prominent role in the marked improvements in the security situation over the past year. The

---

[261] During a March 2000 investigation, PHR observed that many clinics had no gloves, antibiotics or antibiotic cream.

[262] USAID, BHR, OFDA, Humanitarian Situation Report #1, October 3, 2001.

[263] USAID, BHR, OFDA, Situation Report #1, October 3, 2001.

UK sent a team of Special Forces in response to the May 2000 crisis. Since then, the British have maintained a high-profile military presence and are actively screening new recruits and training the new Sierra Leonean army. While the United States has declined to send American soldiers to Sierra Leone, in an effort to build regional peacekeeping capacity the US has trained battalions of peacekeepers in Nigeria, Senegal[264] and Ghana who could serve under the West African Regional Peace Keeping Force (ECOMOG) and/or or the United Nations Department of Peace Keeping Operations (UNDPKO) in the future, and has provided logistical and technical support to UNAMSIL and ECOMOG.

The US and the UK have also assumed a leadership role within the UN structure to address conflict diamonds as well as the involvement of Charles Taylor and Liberia in the conflict.

While many developed countries have been active diplomatically and through humanitarian efforts, only developing countries including: Nigeria, India, Kenya, Jordan, Zambia, Bangladesh, Pakistan, Ghana, Guinea, and Nepal have contributed troops to the peacekeeping force.

Multilateral and Bilateral Support

While the international community is actively engaged in ending the conflict and is funding UNAMSIL in the amount of millions of dollars per day, Sierra Leone has historically received inadequate humanitarian and development assistance.[265] Of over $64 million requested by UN agencies for humanitarian assistance for Sierra Leone in 2000, only 65% was funded through contributions – and a portion through carry-over funds for the previous year. The increased appeal (CAP) of $74 million in 2001 was also underfunded by 35%, or approximately $26 million.[266] Most donors channeled assistance to Sierra Leone through either the United Nations agencies or international NGOs, rather than through bilateral assistance given the weak state of the government. The primary donors involved in Sierra Leone are the European Union, The African Development Bank, The United Kingdom Department for International Development (DFID), The United States Agency for International Development (USAID), and the World Bank. The World Bank's activities have focused on agriculture, education, infrastructure and health. In addition to advising the government on economic reform, the Bank has provided funds of over $650 million to various initiatives since 1995[267] and manages the

---

[264] Fisher-Thompson, J, US Aid West African Force in Sierra Leone on Track www.reliefweb.int/w/rwb.nsf/s/440FC9976409CA70C1256A1D003CB447

[265] Pratt p. 24

[266] 2001 UN Consolidated Inter-Agency Appeals for Humanitarian Assistance Summary of Revised Requirements and Contributions by Affected Country/Region. November 6, 2001.

[267] World Bank web site www.worldbank.org, Countries: Sierra Leone

trust fund for the DDR process.[268] Among the largest government donors of assistance to Sierra Leone are the US, UK, Norway, Germany, Sweden, Canada, Japan, France, Denmark and the Netherlands. The European Commission has earmarked 15.5 million Euros in 2001 to meet the needs of refugees, IDPs and host communities in Sierra Leone and Guinea. In both countries funds are channeled through partner organizations including Premiere Urgence, Action Contre La Faim, Enfants Refugies du Monde, Oxfam, International Medical Corps (IMC) and the International Federation of the Red Cross which are providing food, water and health care to the targeted population, assistance for IDPs, assistance for humanitarian agencies working on the ground, and special support for children, amputees and war-affected women.[269]

While the international community has provided increased humanitarian aid, particularly in 2001 in response to the refugee crisis in Guinea, many urgent humanitarian and development needs remain unmet due to the sheer scale and complexity of the crisis. Furthermore, Sierra Leone has historically received less development assistance in real terms and per capita than other nations in the region. In fact, official development assistance figures reveal that aid to Sierra Leone declined from $133.4 million ($30.6 per capita) in 1992 to $106.3 ($21.9 per capita) million in 1998.[270] Though countries including the US may have hesitated to invest in a country wracked by political instability and corruption, now that the security situation is improving, it is vital that Sierra Leone receive strategic capital infusions in order to consolidate the delicate peace.

The current level of international involvement coupled with the relatively conciliatory position of the RUF offers the most optimistic outlook for peace in years. With active support for development and good governance by the international community, Sierra Leone with all its potential could become a model for the positive involvement of the international community. In the absence of adequate funding, it is likely that conflict in the country could reoccur as well as a broadening of the conflict in the region with serious humanitarian and security implications.

In addition to short-term engagement to enforce peace and longer-term development and nation building efforts to foster a climate less conducive to conflict, there is a particular need for greater assistance for women and girls who, even before the war, were disadvantaged due to discriminatory laws and cultural practices. Women and girls who have lost their fathers, sons and husbands due to the war are now heading households with severely limited resources while trying to recover from displacement and

---

[268] World Bank, "Fact Sheet: Sierra Leone Disarmament Program and Donor Conference" Washington DC June 5 2001 Available at www.worldbank.org/afr/sl_pr_factsheet.pdf.

[269] IRIN-WA, "ECHO Director Visits Guinea, Sierra Leone," May 16, 2001.

[270] UNDP, *Human Development Report 2000*.

human rights abuses. Funding is urgently required for medical treatment, housing and skills training for survivors of sexual violence and for improved education, law enforcement, and judicial processes in order to better protect the population from sexual violence in the future. 1992

United States Assistance

The US Government has provided more than $300 million in humanitarian assistance to Sierra Leone since the war began ten years ago from a number of departments within the United States Agency for International Development (USAID) and the US Department of State. These include: the Office of Food for Peace (USAID/FFP), the Africa Bureau (USAID/AFR), and the Bureau of Population, Refugees and Migration (State/PRM). The total USAID humanitarian assistance in FY 2000 was nearly $40 million.[271] The total US Government humanitarian assistance to Sierra Leone for FY 2001 was over $75 million. That figure includes approximately $20 million in support for humanitarian assistance programs[272] in agriculture, health, IDP resettlement, nutrition, shelter, water/sanitation, and education and training for ex-combatants, as well as electoral/political processes support and support for the reconciliation process, including human rights; $37.3 million in food assistance,[273] and nearly $10 million for programs to assist returning refugees.[274]

The US also provided substantial support for Sierra Leonean refugees in Guinea. In addition to $60 million provided in response to UNHCR's Global Appeal for Africa for 2001, which was not earmarked, as well as $33 million earmarked for West Africa, over $22 million was allocated in 2001 (more than twice last year's figure) to address the refugee crisis in Guinea largely through international non-governmental organizations.[275] Programs in Guinea and Sierra Leone addressing war-affected women that received funding from PRM in 2001 include the Center for Victims of Torture (approximately $1.5 million) for psycho-social assistance to traumatized refugees in Guinea and Sierra Leone, the IRC (approximately $250,000 for programs addressing sexual and gender-based violence, and IMC ($725,000) for gynecological surgeries.[276]

---

[271] USAID Pledges $2 million to Sierra Leone to Aid War-Affected., USAID Press Release June 27, 2000.

[272] Organizations receiving US funds include: Action Contre La Faim, Africare, CARE, CRS, Merlin, International Medical Corps, UNICEF, World Vision, and WFP.

[273] Food assistance is distributed between WFP, CRS, CARE, and World Vision

[274] Sierra Leone-Complex Emergency Situation Report #1 (FY2002), October 3, 2001. P.12

[275] From a phone conversation with Mary Lange of PRM/State, October 26, 2001. Organizations receiving PRM funds in Guinea and Sierra Leone include: UNHCR, IOM, WFP, UNICEF, WHO, OCHA, FAO, ICRC, Center for Victims of Torture, WHO, The Red Cross, Action Contre La Faim, American Refugee Committee, IMC, Save the Children, IRC

[276] From a phone conversation with Mary Lange of PRM/State, October 26, 2001

USAID's Office of Transition Initiatives (OTI), is focusing its activities on supporting reconciliation and reintegration activities. OTI began working in Sierra Leone in January, 1997 and will exit in March, 2002 after handing off activities to other donors. In FY 1999, OTI supported the Sierra Leonean peace process with 232 small grants to civil society groups working in the areas of human rights, peacebuilding and youth activism for community development. This assistance for civil society's peace-building initiatives is particularly related to reconciliation and reintegration of war-torn communities in the provinces, and civic education to prepare for upcoming elections has been ongoing since FY 2000 and 2001. Also in 1999, OTI sent representatives to the Lome Peace talks. In 2000, at the request of the Sierra Leonean government, OTI provided specific technical assistance to establish the Commission for the Management of Strategic Resources, National Reconstruction and Development (CMRRD), the Truth and Reconciliation Commission (TRC), and the Commission for the Consolidation of Peace (CCP).[277]

OTI has also been supporting a nationwide, non-formal education initiative intended to reach 40,000 ex-combatant and civilian young adults. This two-year program, which began in January, 2000 combines reintegration orientation and counseling, life-skills training, vocational counseling, agriculture skills and development, civic education, and functional literacy training. The Youth Reintegration Training and Education for Peace (YRTEP) program focuses simultaneously on reintegration of ex-combatants and war-torn communities, and remedial education for youth who were unable to attend school due to the war. As of August 2001, 36,180 male and female war-affected youth and ex-combatants are participating in the program in over 1750 sites throughout the country. Approximately 18% of those enrolled were officially discharged combatants.[278] The initiative addressed sexual violence only in one question as part of a 20-minute segment on responsible sexuality, which includes a discussion question related to sexual violence.[279] This year the program has been expanded to include a second track of adult non-formal education, aimed at private and public sector leaders nationwide. So far, 180 civil servants, traditional and religious leaders, civil society leaders and leaders of professional groups, youth groups and women's groups are participating in the program.[280] OTI has also funded efforts by the Sierra Leone Ministry

[277] Documents provided to PHR by OTI summarizing their activities in Sierra Leone

[278] Ibid

[279] Email correspondence with Patrick Wingate, OTI/USAID to PHR , October 29, 2001.

[280] OTI's international implementing partners in Sierra Leone are World Vision, Management Systems International (MSI), Common Ground Productions, and the International Foundation for Election Systems (IFES).

of Gender and Children's Affairs to create public awareness and build consensus on the role of women as peacemakers and agents of reform.

The OTI FY 2001 budget for Sierra Leone of $3,804,081[281] is divided between five principal efforts:[282]

- Assistance to the Government of Sierra Leone for development of a new diamond policy and operations to address the conflict diamond problem;
- A continuation of the Reintegration Training and Education for Peace Program;
- A continuation of funding for a small grant program for civil society's peace building initiative with an added focus on the reintegration of war-affected women and girls and the development of community leadership;[283]
- Communication support through NCDDR for demobilization, reconciliation, and reintegration, and to media and distance learning support for OTI's non-formal education program; and
- Co-funding with the UK (DFID and other USAID offices) to provide election assistance for national parliamentary, local and paramount chief elections scheduled to be held in 2001.

The US also pays 27% of the cost of the peacekeeping force in Sierra Leone. Though it is an assessed contribution, and therefore mandatory, several holds have been placed on the transfer of funds in the past year. Most of the funds were ultimately released, however, the problem of arrears adversely impacted the force and may have hampered the ability of the UN to get firm commitments of troops from member nations.[284]

The United Nations

The UN is deeply invested in Sierra Leone with the largest peacekeeping force in the world and most agencies operational on the ground including: UNHCR, OCHA, WFP, WHO, UNFPA, UNICEF, and UNDP. UNAMSIL is working to ensure that a human rights perspective is mainstreamed throughout the system and boasts the first permanent child rights protec-

---

[281] Sierra Leone-Complex Emergency Situation Report #1 (FY 2001) April 20, 2001, p.2.

[282] In FY 2000, OTI provided $3,284,000, and in FY 2001 is expected to contribute $3,770,000.

[283] OTI provided funding for programming for girls and women war victims to FAWE through World Vision, according to PHR correspondence 6/12/01 with Stephen Grant, USAID Sierra Leone Desk Officer.

[284] According to the UN contributions office, as of August, 2001, the US had paid $44 million for all peacekeeping operations in 2001 and owed $1.8 billion, of which $800 million was arrears.

tion officer connected to a UN peacekeeping operation. The UN's recognition of the particular circumstances faced by women in the Sierra Leonean war is reflected in more recent programs that have been carefully designed to ensure that the needs of women are addressed. At least 15 projects presented for funding in the Inter-Agency Consolidated Appeal for 2001 focus on the special needs of women.[285] In addition, the United Nations Special Rapporteur on violence against women, Ms. Radhika Coomaraswamy, visited Sierra Leone in August 2001.

199's

[285] UN Consolidated Inter-Agency Appeal for Sierra Leone 2001

1996

VII. THE FUTURE FOR WOMEN IN SIERRA LEONE

Women, already disadvantaged and vulnerable prior to the outbreak of fighting in Sierra Leone,[286] have suffered in egregious ways, as documented in the PHR survey. Many women have lost the protection of husbands, fathers and sons – the PHR survey revealed that 23% of IDP women were widowed or separated due to the war. Not only are women targets of violence simply because of their gender, but the low social status of women interferes with their ability to obtain treatment and ensure protection from future attacks, particularly in the climate of social breakdown that has existed in the country for much of the past 10 years.

Thousands of former combatants who have spent years murdering and raping are returning to their communities without punishment or accountability for their crimes to live among women and children who are likely traumatized. The greatest concern consistently expressed by survivors of sexual violence in interviews with PHR was an extreme fear that the fighters would return to abuse them again. Education for spouses, family members and communities is also important to mitigate social rejection.

The RUF and other factions have been reluctant to release abducted women and children in spite of their obligation to do so under the Lome Peace Accord.[287] Girls and young women who escaped from the rebels or who were released, suffer a variety of consequences such as: sexually transmitted infections (STIs), including HIV/AIDS; trauma with symptoms of Post-traumatic Stress Disorder (the symptoms of PTSD are: recurrent and intrusive memories of a distressing event (intrusive memories in the form of visual or auditory flashbacks), persistent avoidance of things that remind one of that event and hyperarousal, i.e., hypervigilance, inability to sleep or stay asleep, inability to concentrate, and anxiety; stigmatization and alienation by their communities and families; unwanted pregnancies and unsafe and illegal abortions; scarring and serious gynecological problems, such as prolapsed uterus and bladder perforations.[288] Some are pregnant or are now single mothers of so-called "bush babies."[289] Some women who were raped, now suffer from vesico-vaginal

---

[286] Conciliation Resources, "Gender and Conflict in Sierra Leone," 1997 Available at www.c-r.org/occ_papers/briefing5.htm

[287] Peace Agreement Between The Government Of Sierra Leone And The Revolutionary United Front Of Sierra Leone, Article XXI Available at: www.sierra-leone.org/lomeaccord.html

fistulas (VVF). This condition can leave them incontinent and often renders them social outcasts.[290] UNICEF reported that one 16-year-old who was gang raped and suffered VVF would not leave the hot, dark hut of her refugee camp for fear of being teased and humiliated.[291]

Many of those who became pregnant as a result of rapes are now faced with the task of raising their babies as single mothers. Many have few parenting skills, and are limited in their ability to support themselves and their children. In some cases, families reject either their daughters or their babies, leaving these young women and their children in extremely vulnerable positions.[292] Some live in fear that the fathers, members of rebel groups, will come back from the bush to claim their babies.[293]

The consequences of human rights abuses including sexual violence are not merely physical. Previous studies by PHR and others[294] suggest that a high level of psychological trauma is associated with displacement and exposure to human rights abuses. A Sierra Leonean psychologist who participated in both investigations reported that most of those she interviewed exhibited acute signs of distress in all four of the following spheres: physical, cognitive, emotional, and behavioral. Survivors of abuses spoke to her of numerous physical symptoms – aches, pains, trembling, startle responses to sudden sounds or movement, anxiety attacks, upset stomachs, elevated blood pressure and excessive fatigue. Additionally, there were cognitive symptoms related to difficulties in decision mak-

---

[288] Summary report from March 2000 investigation into the medical consequences of human rights abuses committed during the war in Sierra Leone (available at www.phrusa.org/campaigns/sierra_leone/sierra_tripreport.html) and also World Health Organization, *Reproductive Health during Conflict and Displacement: a guide for programme managers*. Department of Reproductive Health and Research World Health Organization, 2000.

[289] PHR Summary report from March 2000 investigation.

[290] PHR interview with Rabih Torbay of International Medical Corps, Freetown, March 2000 and January 2001.

[291] PHR interview with Glennis Taylor of UNICEF, Freetown, January, 2001; These women and girls, who are unable to begin to recover from their trauma, could be helped with specialized surgery; there is, however, currently no one in the country with the necessary expertise. A number of organizations including, Marie Stopes, MSF, and IMC have been trying to secure funding to bring a gynecological surgeon to the country. IMC has recently applied for a $300,000 grant from USAID for a range of services for survivors of sexual violence including vaginal fistula repair

[292] Observations of counselors at FAWE and COOPI who had been working with girls who had become pregnant as a result of rape as told to PHR, March. 2000.

[293] Ibid.

[294] PHR, *The Taliban's War on Women: a Health and Human Rights Crisis in Afghanistan*, 1998; PHR, *Women's Health and Human Rights in Afghanistan A Population-Based Assessment (2001)*; MSF-Holland, "Assessing Trauma in Sierra Leone :Psychosocial Questionnaire: Freetown Survey Outcomes," 2000. Available at: www.doctorswithoutborders.org/publications/reports/2000/sierraleone_01-2000.shtml

ing, poor concentration, memory loss, flashbacks, and confusion. On an emotional level, many reported symptoms related to depression, anger, anxiety, fear and resentment. Finally, all reported behavioral changes – withdrawal from friends and family, changes in normal behavior patterns, inability to function the way they did before the war. These symptoms of distress were particularly remarkable in those women and girls who reported experiencing sexual violence.[295] These clinical observations are consistent with the PHR survey findings.

Responses to Sexual Violence in Sierra Leone

Support services for rape survivors in Sierra Leone were, until fairly recently, virtually non-existent.[296] In response to conflict related sexual violence, a number of local and international non-governmental organizations have developed services to aid survivors including: medical care, psychological counseling, housing and skills training for young mothers, family mediation to encourage parents to accept returned abductees, and public education efforts. These organizations are, however, only able to assist a fraction of victims. They lack the capacity to address the needs of the many who have not yet been released able to escape from the rebels and arrive in Freetown where until recently virtually all[297] of the programs were based. Even if access to populations in the rebel-held east and north continues to improve, there is limited infrastructure in place to respond to the needs of a population which may have experienced particularly high levels of sexual trauma.

UNICEF has been a leader in coordinating services for girls who have suffered sexual violence. UNICEF reports that two specialized programs that provided for girls who were raped and have subsequently borne children, have been enormously helpful.[298] Despite the successes of UNICEF, FAWE, COOPI, MSF, IMC and others, there are no government or UN-led multi-sectoral efforts in place to prevent or respond to sexual violence in Sierra Leone.

---

[295] Observations made by psychologist Dr. Yinka Akinsulure-Smith, who interviewed survivors of abuses on behalf of PHR in March, 2000.

[296] Human Rights Watch, *Sexual Violence within the Sierra Leone Conflict*, February 26, 2001.

[297] The IRC has a program servicing Kenema and Bo.

[298] PHR interviews with Glennis Taylor of UNICEF, Freetown, March, 2000 and January, 2001.

1991

VIII. APPENDICES

2005

APPENDIX A:

Sexual Violence Survey Instrument

Sierra Leonean Women's Health Survey
(PRIMARY PARTICIPANTS ONLY) 6 Feb 01

1A. CASE ID _____ (1-2,000) ID

1B. Household member interviewed: ___A___ HMC

2. Date of interview _____ - _____ - 2001 DATE
(month) (date)

3. Researcher code_____ ICD

4 Language code _____(1, 2, 3, 4, 5, 6) TCD

5. Location code _____(1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20) LCD

6A. Participation Outcome: [Circle ONE] OUTC 1 2 3 4a 4b 4c 4d 5a 5b 5c 5d
Eligible/Survey Complete = 1
Not Eligible = 2
Not Available = 3
Refusal= 4a=No Time; 4b=Fear Reprisal; 4c=Oppose Study; 4d=No explanation; 4e=Other
Unable to Complete= 5a=Interrupted; 5b=Emotional; 5c=Safety; 5d= Lack of privacy; 5e=Request to stop; 5E=Other
Unable to conduct interview due to language =6

6B. Was participant referred to another organization(s)? [Circle ONE] Yes.....1 (GO TO Q6C) REFR
No.....0

6C. If yes, which organizations? (list) WORG

Read ONLY text that is in *italics*
For a response of 'don't know' code DK. If no response to a question, code NR

1) *Hello, my name is_____I am working with the UN and Physicians for Human Rights, an American NGO. I would like to speak to the woman who knows the most about the persons in the household.* [once you have identified the woman ..... continue with introduction]

2) Our purpose: *We are gathering information from displaced women, which we hope will help to better promote and protect the health and human rights of women.*

3) *We are only here to ask questions. We are not here to provide humanitarian assistance.*

4) Confidentiality *We will not report the information in a way that will reveal your identity.*

5) *We would like to speak to you and perhaps other women in the household. We want to ask you questions about your experiences during the war*

6) *We are conducting this survey in many households in Sierra Leone and have chosen your home randomly from this camp.*

7) *It is important that we have some privacy for our conversation because some of the questions may be sensitive*

8) *If you do not understand a question, please ask me to explain it to you. You are free to stop at any time during the interview. If a question makes you uncomfortable, we will skip the question and go to the next question. Do you have any questions before we begin?*

2001

7. *What is your tribe?* [circle ONE] ETH

Krio 1
Temne 2
Mende 3
Limba 4
Kono.....5
Other [SPECIFY] _____ 6

9. *I want you to tell me-- are you married?*.....
[READ ALL CHOICES; Circle ONE] MAR

Married and living with husband now....1
Never Married .....2 (GO TO Q 12)
Separated due to the war.....4
Divorced/separated not because of war..... 3
Did your husband die because of the war?...5
Did your husband die NOT because of the war?.....6

11. [IF SHE IS OR WAS EVER MARRIED] *Are you/were you the only wife?*

Only wife.....1

Which wife are/were you?

First.....2 WIFN
Second.....3
Third.....,4
Fourth.....5
Other.....6 [specify]_____

12. *What is your religion?* [Circle ONE] RELG

Muslim.....1
Christian.....2
Other [SPECIFY]_____...3

13. *What level did you complete in school?* _____ level [number years of school]_____
EDU

14. *What was your job before you fled your home?* _____ WRK

15. *Where were you born* [be sure to use correct spelling]

A. *Province*_____ *LVPR*

B. *District*_____ *LVDS*

C. *Chiefdom*_____ LVCH

D. *Town or Village* _____ *LVVL*

E. *If not born in Sierra Leone, which country?*_____ *LVCT*

16. *When were you first displaced?* _____ year; _____ month MLV

17. *Where did you live at the time before you were first displaced?*

A. *Province* _____ BDPR

B. *District* _____ BDDS

C. *Chiefdom* _____ BDCH

D. *Town or village* _____ BDCT

202

18. *How many times have you fled the fighting?* (number of times)_____ FLED

19. *How long have you lived in this camp?* number_____ weeks/ months/years [circle one] NHME

20. *I will give you four choices to answer this next question about your health. The question is: In the last 2 years, how has your general health been? And the four choices are:* [CIRCLE ONE] GH

In the last two years, my health has been Very good .....1.....E good-o. I noh get wan problem.
OR -In the last two years, my health has been Good .....2.....E fine.
OR -In the last two years, my health has been Fair .....3.....I dey manage.
OR -In the last two years, my health has been Poor .....4.....E bad off. E noh good at all.

Which one of those things I just read is most correct for you? [read choices again if needed]

22. *For this question, again I will read you some choices so you can answer the choice that is most correct for you: How would you describe your state of mind since your displacement?* [Circle ONE] PSY

Is your state of mind since displacement Very good .....1.....E good-o. I noh get wan problem.
Is your state of mind since displacement Good .....2.....E fine.
Is your state of mind since displacement Fair .....3.....I dey manage.
Is your state of mind since displacement Poor .....4.....E bad off. E noh good at all.

24. *Since the war, have you ever had thoughts that you were better off dead?* DED

YES.....1
NO.....0

25 *Since the war, have you ever tried to hurt yourself or end your life?.* SUI

YES 1
NO.....0

26. *I am going to read you a list of things – For each one, I want you to tell me if that thing would help your state of mind?*

2003

[READ ALL CHOICES: circle all that apply]

	YES	NO	
26A Women's support groups	*1*	*0*	*GWSG*
26B Country medicine/ traditional healer	*1*	*0*	*GTRD*
26C Traditional ceremonies	*1*	*0*	*GTCR*
26D Religious counseling/support	*1*	*0*	*GRCS*
26E Mental health counseling	*1*	*0*	*GMHC*
26F Medical assistance	*1*	*0*	*GMAS*
26G Income generating projects	*1*	*0*	*GIGP*
26H Skills training	*1*	*0*	*GSKT*
26I Education	*1*	*0*	*GEDU*
26J Humanitarian assistance/ food & shelter	*1*	*0*	*GHUM*

26K Anything else? (Other) [SPECIFY] _____ *GOTR*

28. *We want to ask about the people living IN YOUR HOUSEHOLD sleeping and eating under the same roof before you were first displaced* **[fill in first 3 columns for each person. After you complete the first 3 columns for every member of the household, ask:]** *Did any of these people experience any human rights abuses since the war started such as: beatings, gunshot wounds, torture, killing, capture, abduction, sexual assault including rape, amputation, and other abuses? Let's discuss the experiences of one person at a time starting with you*

Use coded responses for all household members reporting specific abuses. Continue on next page if needed

Person	Sex	Current age	Did she/he have face-to-face contact with combatants?	Suffer any abuses or violence by combatants? [DO NOT READ CHOICES; list all codes that apply]	When did abuse(s) occur	Group membership of Perpetrator	Name of Perpetrator	After Effects [DO NOT READ CHOICES, list all codes that apply]	[ONLY If person NOT here now:] Unable to flee?	Reason unable to flee
SELF	F									
PERS Husband Mother Father Son a, b… Daughter a, b… Sister a, b… Brother a, b… Other wife a,b. Child of other wife Other Relative Non-relative	GEN D F or M	CAGE D=Dead	FTF YES or NO YES =1 NO=0	1=Beating ABU 2=Gunshot Wound 3=Amputation 4=Torture 5=Killing 6=Captured for less than 1 day 7=Sexual assault, No Rape 8=Rape 9=Abduction 10= Burned dwelling 11= Looting 12= Other [SPECIFY] 13=No Response 14= Don't Know 99=No Abuse	WHEN	WHOM 1=RUF 2=AFRC 3=EX-SLA 4=SLA 5=ECOMOG 6=UN 7=CDF 8= West Side Boys 9= Other [SPECIFY]	PNOM	CONQ 1=Killed 2=Injured 3=Got pregnant 4=Gave birth 5=STIs 6=Stigmatized 7= Rejected 8=Nothing / no problems/ no after effects 9=No Response 10=Don't know 11= Other [SPECIFY]	PUTF YES= Unable to flee NO=Able to flee from the incident, but NOT in household now, at this camp YES=1 NO=0	RUTF 1=Abuse caused injury/disability that prevented travel 2=Killed due to the abuse 3=Rejected because of abuse 4=Abducted 5=Death/Disability unrelated to abuse 6=Don't Know 7=Other [SPECIFY]

2054

Person	Sex	Current age	Did she/he have face-to-face contact with combatants?	Suffer any abuses or violence by combatants? [DO NOT READ CHOICES; list all codes that apply]	When did abuse(s) occur	Group membership of Perpetrator	Name of Perpetrator	After Effects [DO NOT READ CHOICES; list all codes that apply]	[ONLY If person NOT here now:] Unable to flee?	Reason unable to flee
PERS Husband Mother Father Son a, b.... Daughter a, b. Sister a, b . Brother a, b.. Other wife a,b. Child of other wife Other Relative Non-relative	GEND F or M	CAGE D=Dead	FTF YES or NO YES =1 NO=0	1=Beating ABU 2=Gunshot Wound 3=Amputation 4=Torture 5=Killing 6=Captured for less than 1 day 7=Sexual assault, No Rape . 8=Rape 9=Abduction 10= Burned dwelling 11= Looting 12= Other [SPECIFY] 13=No Response 14= Don't Know 99=No Abuse	WHEN	WHOM 1=RUF 2=AFRC 3=EX-SLA 4=SLA 5=ECOMOG 6=UN 7=CDF 8= West Side Boys 9= Other [SPECIFY]	PNOM	CONQ 1=Killed 2=Injured 3=Got pregnant 4=Gave birth 5=STIs 6=Stigmatized 7= Rejected 8=Nothing / no problems/ no after effects 9=No Response 10=Don't know 11= Other [SPECIFY]	PUTT YES= Unable to flee NO=Able to flee from the incident, but NOT in household now, at this camp YES=1 NO=0	RUTT 1=Abuse caused injury/disability that prevented travel 2=Killed due to the abuse 3=Rejected because of abuse 4=Abducted 5=Death/Disability unrelated to abuse 6=Don't Know 7=Other [SPECIFY]

285

Sierra Leonean Women's Health Survey
(PRIMARY PARTICIPANTS ONLY) 9 Feb 01

206

1A. CASE ID _____ (1-2,000) ID

1B. Household member interviewed: ___A___ HMC

2. Date of interview _____ - _____ - 2001 DATE
(month) (date)

3. Researcher code_____ RCD

4 Language code _____ (1, 2, 3, 4, 5, 6) TCD

5. Location code _____(1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20) LCD

6A. Participation Outcome: [Circle ONE] OUTC 1 2 3 4a 4b 4c 4d 5a 5b 5c 5d
Eligible/Survey Complete = 1
Not Eligible = 2
Not Available = 3
Refusal= 4a=No Time; 4b=Fear Reprisal; 4c=Oppose Study; 4d=No explanation; 4e=Other
Unable to Complete= 5a=Interrupted; 5b=Emotional; 5c=Safety; 5d= Lack of privacy; 5e=Request to stop; 5E=Other
Unable to conduct interview due to language =6

6B. Was participant referred to another organization(s)? [Circle ONE] Yes.....1 (GO TO Q6C) REFR
No.....0

6C. If yes, which organizations? (list) WORG

Read ONLY text that is in *italics*
For a response of 'don't know' code DK. If no response to a question, code NR

1) *Hello, my name is _____ I am working with the UN and Physicians for Human Rights, an American NGO. I would like to speak to the woman who knows the most about the persons in the household.* [once you have identified the woman ..... continue with introduction]

2) Our purpose: *We are gathering information from displaced women, which we hope will help to better promote and protect the health and human rights of women.*

3) *We are only here to ask questions. We are not here to provide humanitarian assistance.*

4) Confidentiality *We will not report the information in a way that will reveal your identity.*

5) *We would like to speak to you and perhaps other women in the household. We want to ask you questions about your experiences during the war.*

6) *We are conducting this survey in many households in Sierra Leone and have chosen your home randomly from this camp.*

7) *It is important that we have some privacy for our conversation because some of the questions may be sensitive*

8) *If you do not understand a question, please ask me to explain it to you. You are free to stop at any time during the interview. If a question makes you uncomfortable, we will skip the question and go to the next question. Do you have any questions before we begin?*

44. *As a result of the incident, did you seek help for your <u>health</u>?* [Circle ONE] SHLP

YES.....1 (GO TO Q45)
NO.....0 (GO TO Q50, NEXT PAGE)

2007

45. *Where did you seek help for your <u>health</u> ?*
[READ CHOICES; circle all that apply]

45A Hospital SHHO
45B Health center *SHHC*
45C Country medicine / Traditional healer *SHCM*
45D NGOs *SHNG*
*45E Other [SPECIFY]*_____ *SHOT*

46. *How long after the incident(s) did you seek this help?* TTSH

days_____months_____years_____

47. *Did you tell the health care provider what happened to you?* [Circle ONE] THCP

YES.....1
NO.....0

50. *What has helped you through all this you have suffered?*
[DO NOT READ CHOICES; Circle all that apply]

50A Discussion with other survivors of sexual violence HLDS
50B. Discussions with friends HLDF
50C Religion HLRL
50D Discussions with family members HLFA
50E Assistance from NGO workers HLNG
50F A medical care provider HLMC
50G Not telling anyone about the incident HLNT
50H Support of family HLSF
50I Country medicine/ traditional healer HLCM
50J Traditional ceremonies HLTR
50K Work/job/employment HLWK
50L Taking care of household HLHW
50M Trying to forget about it HLFR
50N Other [SPECIFY] _____ HLOT

51. *I am going to read a list – please tell me which things on this list you think would help you with your state of mind and help you cope better with your experience?*
[READ ALL CHOICES; circle all that apply] COPE

2008

	YES	NO	
51A *Women's support groups*	1	0	SWSG
51B *Country medicine/ traditional healer*	1	0	STRD
51C *Traditional ceremonies*	1	0	STCR
51D *Religious counseling/support*	1	0	SRCS
51E *Mental health counseling*	1	0	SMHL
51F *Medical assistance*	1	0	SMAS
51G *Income generating projects*	1	0	SIGP
51H *Skills training*	1	0	SSKT
51I *Education*	1	0	SEDU
51J *Humanitarian assistance/ food & shelter*	1	0	SHUM

51K *Other* [SPECIFY] _____ SOTR

53. *Do you think your attacker's commander was aware of his attack on you?* [Circle ONE] CMDR
YES 1
NO 0

54. *Should your attacker(s) be punished for what they did to you?* [Circle ONE] PUN
YES.....1 (GO TO Q56)
NO.....0 (GO TO Q55)

55. *Why do you say you don't want your attacker to be punished?*
[DO NOT READ CHOICES; Circle all that apply]

55A Fear of reprisal/revenge NPIR
55B Fear of rejection/ stigmatization NPSJ
55C Respondent doesn t want to be reminded of the incident; wants to forget NPNR
55D In the spirit of reconciliation NPRC
55E No confidence in a system for such punishments NPNC
55F Other [SPECIFY]_____ NPOT

GO TO Q58

56. *Do you think punishment of perpetrators might prevent this from happening to others?* [Circle ONE]
PREV
YES.....1
NO.....0

57. *Of all those people who did these things to you, which ones should be punished?*
[DO NOT READ CHOICES; Circle all that apply]
57A Perpetrators PUPR
57B Commanders PUCM
57C All involved in the attacks PUAL
57D No One PUNO
57 E Other [SPECIFY] _____ PNOT

Now I want to know if there is anything more you can tell me about what happened.

2009

58A. Do you know of anything that could identify your attacker, such as:
Did they call each other by name?

58B. How did you know which military group your attackers were with?

58C. What did he/they say to you, or to each other?

59. Why do you think combatants did these things – sexually abusing women and girls -- during this war?

60. What are your biggest worries about your future after what you have suffered?

61. What are your biggest worries about your health?

2011

30. *Do you believe that perpetrators of human rights abuses should be punished?* BELP

YES.....1
NO.....0

33. *Now, please tell me – at any time in your lifetime, have you ever had any of these things happen to you:*

sexual violence such as molestation, being forced to undress or stripped of clothing, forced intercourse or other sexual acts ***committed by FAMILY MEMBERS, FRIENDS, OR CIVILIAN STRANGERS?***

Age at assault	Types of sexual assault	Perpetrator
DAGE	SXAS 1=Molestation 2=Being forced to undress/Stripped of clothing 3=Attempted rape/attempted intercourse 4=Rape/ intercourse 5=Other sexual acts [SPECIFY] 99 = NO ABUSE	PERP 1=Boyfriend 2=Husband 3=Father 4=Son (4a, 4b..) 5= Brother (5a, 5b..) 6= Uncle(6a, 6b..) 7 = Other Relative (7a, 7b) [SPECIFY] 8= Other Non-relative known to individual (8a, 8b..) [SPECIFY] 9= Stranger

34A. *About this sexual violence committed by COMBATANTS - How much you are afraid that it could happen to you or your family? Like before, I will give you four choices for your answer.*

2011

[READ ALL CHOICES; Circle ONE] COMF

Are you worried about this Not at all.....1.....E noh day worry me at all.
Are you worried about this A little.....2.....E day worry me small, lili bit, no moh.
Are you worried about this Quite a bit.....3.....E day worry me plenty..
Are you worried about this Extremely.....4.....E day worry me pass mark. Bad bad wan.

34B. *And now this sexual violence committed by FAMILY MEMBERS, FRIENDS, OR CIVILIAN STRANGERS – How much are you afraid of this for yourself and your family?*

[READ ALL CHOICES; Circle ONE] DOMF

Are you worried about this Not at all.....1.....E noh day worry me at all.
Are you worried about this A little.....2.....E day worry me small, lili bit, no moh.
Are you worried about this Quite a bit.....3.....E day worry me plenty..
Are you worried about this Extremely.....4.....E day worry me pass mark. Bad bad wan.

35 *I am going to read some statements, one at a time. For each one, please say if you agree or disagree*

		Agree	Disagree
35A	*Women and girls should have the same access to education as men and boys.*	EDAC....1	0
35B	*Women should be able to express themselves freely.*	EXPR....1	0
35C	*Family problems should only be discussed with people in the family*	PROB....1	0
35D	*A good wife obeys her husband even if she disagrees*	OBEY....1	0
35E	*It's a wife's duty/obligation to have sex with her husband even if she doesn't want to*	OSEX...1	0
35F	*A man has the right to beat his wife if she disobeys him*	BEAT....1	0
35G	*Women and girls need more education about their rights to refuse sex*	EDRS....1	0
35H	*More should be done to protect women and girls from having sex when they don't want to*	PRRS....1	0
35I	*Women and girls need more education about their reproductive health*	RHLT....1	0
35J	*Women should have the right to control the number and spacing of their children*	BSPC....1	0
35K	*There should be legal protections for the rights of women.*	LPRW....1	0

REVIEW Page 5, Question 28:

Did she report human rights abuses for any other female member of the house over age 13?

IF YES, go to Question 62 (page 14). IF NO, go to Page 15.

62. *You told me that other female household members suffered some kind of war-related abuse. When you and I finish, can you introduce me to them so I can ask if they will let me interview them?*

2012

YES .....1 [GO TO NEXT PAGE] PRMI
NO 0

63. *Tell me why you cannot introduce me to them?*

Family member reported in Q28 FNI	Why unable to be introduced FNIW
(use same codes from Q28, page 5)	[DO NOT READ CHOICES; Circle all that apply] 1=Not available 2=She doesn't want to talk. 3=Not permitted by others to talk. 4=Too young (< 13 years old) 5=Dead 6=Missing 7=Other [specify]

TAKE A MOMENT TO REVIEW THIS FORM: Be sure all questions are answered and any refusal/inability to answer a question is noted on this survey

For Participants who report NO human rights violations: GO TO PAGE 16.

For Participants who report Human Rights violations by combatants that they themselves have suffered:

Everything that you have told me so far will be kept confidential which means that your identity will not be revealed .

There are now plans for a Special Court to punish people like your attacker(s) for their crimes and to get justice for the victims and for a Truth and Reconciliation Commission. I am going to tell you more about these plans:

There are plans to create a Special Court with the support of the UN. This Special Court will bring to justice those people most responsible for war crimes and crimes against humanity, such as mass killing, wide-spread mutilation, sexual violence against girls and women, sexual slavery, abduction of children and adults ,and forced conscription.

The Lomé Peace Agreement provides for the establishment of a Truth and Reconciliation Commission "to break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story and to get a clear picture of the past to facilitate genuine healing and reconciliation". The Truth and Reconciliation Commission will only be established once there is sustainable peace. Since the outbreak of fighting in May 2000 its establishment has been on hold though some preparations towards its establishment are taking place.

The Truth and Reconciliation Commission and Special Court will be looking for persons who have suffered human rights abuses during the war. If you are willing to be contacted by the Truth and Reconciliation Commission or Special Court staff, I will take your name.

1A *Do you want us to give your name to the special court ? We understand if you prefer to remain anonymous.* Yes.....1 [check SP on PAGE 17] SP
No.....0

1B *Do you want us to give your name to the Truth and Reconciliation Commission?*
Yes.....1 [check TR on PAGE 17] TRC
No.....0

If respondent answered YES to 1A and / or 1B , GO TO PAGE 17 – Question 2.

Sierra Leonean Women's Health Survey
(PRIMARY PARTICIPANTS ONLY) 6 Feb 01

201+

1A. CASE ID _____ (1-2,000) ID

1B. Household member interviewed: ___A___ HMC

2. Date of interview _____ - _____ - 2001 DATE
(month) (date)

3. Researcher code _____ ICD

4 Language code _____ (1, 2, 3, 4, 5, 6) LCD

5. Location code _____ (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20) LCD

6A. Participation Outcome: [Circle ONE] OUTC 1 2 3 4a 4b 4c 4d 5a 5b 5c 5d
Eligible/Survey Complete = 1
Not Eligible = 2
Not Available = 3
Refusal= 4a=No Time; 4b=Fear Reprisal; 4c=Oppose Study; 4d=No explanation; 4e=Other
Unable to Complete= 5a=Interrupted; 5b=Emotional; 5c=Safety; 5d= Lack of privacy; 5e=Request to stop; 5E=Other
Unable to conduct interview due to language =6

6B. Was participant referred to another organization(s)? [Circle ONE] Yes.....1 (GO TO Q6C) REFR
No.....0

6C. If yes, which organizations? (list) WORG

Read ONLY text that is in *italics*
For a response of 'don't know' code DK. If no response to a question, code NR

1) *Hello, my name is_____I am working with the UN and Physicians for Human Rights, an American NGO. I would like to speak to the woman who knows the most about the persons in the household.* [once you have identified the woman ..... continue with introduction]

2) Our purpose: *We are gathering information from displaced women, which we hope will help to better promote and protect the health and human rights of women.*

3) *We are only here to ask questions. We are not here to provide humanitarian assistance.*

4) Confidentiality *We will not report the information in a way that will reveal your identity.*

5) *We would like to speak to you and perhaps other women in the household. We want to ask you questions about your experiences during the war.*

6) *We are conducting this survey in many households in Sierra Leone and have chosen your home randomly from this camp.*

7) *It is important that we have some privacy for our conversation because some of the questions may be sensitive*

8) *If you do not understand a question, please ask me to explain it to you. You are free to stop at any time during the interview. If a question makes you uncomfortable, we will skip the question and go to the next question. Do you have any questions before we begin?*

SP_____ TR_____ 2015

2. Surname _____

First name _____

Middle Name _____

Current address_____

3. I know that you will not be living in this camp forever. Where do you plan to go when you leave the camp:

A. *Province*_____

B. *District*_____

C. *Chiefdom*_____

C. *Town or Village*_____

4. Is there someone else whose name and residence information you can give us who will know how to contact you after you leave this place?

Name_____

Address _____

_____

Relationship to participant_____

APPENDIX B:

2016

Summary of PHR/UNAMSIL Researcher Training and Supervision

Overview

The field surveys were conducted by a staff of 21 Sierra Leonean women primarily from the Temne, Mende, and Kono ethnic groups. These researchers were selected based on education, experience or knowledge about sexual violence, and language skills. All researchers were fluent in English, Krio, and at least one other language. All had completed high school level education, several had attended university classes, and a few had university level degrees. All of the researchers were affected by the war, most of them were displaced at least once, and approximately half had lived as refugees in Guinea for a period of time. None of the researchers had prior experience with quantitative surveys such as this one.

There were five Field supervisors for the project who provided extensive training and supervision of the researchers, among other duties. Each supervisor brought a specialized set of skills and experience to the team. In combination, this knowledge and experience made a complementary and highly skilled team of supervisors for the project:

> Binta Mansaray, Sierra Leonean, specialized training and experience in qualitative research on sexual violence through in depth individual interviews with Sierra Leonean women
>
> Adeyinka Akinsulure-Smith, PhD Psychology, Sierra Leonean, specialized training and experience in psychological counseling with survivors of sexual violence and other forms of torture
>
> Chen Reis, JD, MPH, specialized training and experience in quantitative research and human rights issues
>
> Beth Vann, MSW, specialized training and experience in West Africa humanitarian aid field work, national staff training, and sexual violence aid programs with Sierra Leonean refugees/IDPs
>
> Louise Taylor, MBA, LLM, UNAMSIL liason, human rights officer

Researcher training consisted of eight to nine days classroom teaching and experiential role play followed by at least one day of field observation. At the end of the 7th day, trainees were tested on skill and ability. After testing, trainees were divided into two groups. Group I proceeded to

the field to begin supervisory observation and conducting the survey. Group II stayed in the classroom for an additional day of intensive training and observation before joining Group I.

Training was conducted at UNAMSIL headquarters in Freetown.

Training commenced with 24 trainees. Three of the trainees were unsuccessful when tested, and supervisors determined through observation that they were unable to accurately conduct the survey. By the end of the 10th training day, there were 21 researchers trained, observed by supervisors, and sufficiently prepared to conduct the survey in the field.

There was at least one supervisor, and usually two, at each field site. Supervisors managed the sampling by making assignments for areas or zones, and also provided supervision, guidance, and support for the researchers.

Throughout each day, the supervisor remained in a designated central location to provide any support or assistance needed. In the morning, researchers were given assignments, survey forms, and supplies. Around mid-day, each researcher checked in to review her completed surveys, hand them in, and gather a fresh supply of forms and another assigned area if needed. This was repeated at the end of the day. Researchers were encouraged to return to the supervisor at any time for questions, problems, and to discuss particularly severe situations they encountered. For each field site, supervisors had information about services available for referrals, such as health care, counseling, etc. When the affected research participant agreed, supervisors made referrals for follow up by local or international organizations best able to provide assistance.

Training

Training was interactive; researchers provided input on the questionnaire and interview procedures and observed and participated in role play. A training schedule was developed in advance and revised frequently to meet the needs of the trainees. The survey was printed in English, but researchers learned to administer it in Krio.

During Days 3 – 6, revisions were made to the survey instrument for easier translation from English to Krio. Sentences and questions were reformed to better follow the pattern of Krio speech. These changes enhanced researchers' ability to both understand the intended meaning of the questions and to translate them into any language they would be using.

2018

Day 1 Training

Introductions

- Intro to Physicians for Human Rights, UNAMSIL Human Rights Section
- Purposes and Overview of the project
- Confidentiality and Conduct Agreement (discussion, signatures)
- Training plan, field work plan and logistics

This was the researchers' first exposure to quantitative research. At first, it was difficult for them to understand their role as data collectors and not "counselors". The Confidentiality Agreement proved to be an extremely useful tool for conveying the nature and purposes of the project. The Agreement included detailed descriptions of expectations for researcher conduct, professional integrity and dignity, confidentiality, information sharing, impartiality, and accuracy in transmission of information from the research participant. Item by item discussion of the standards and expectations, in Krio, clarified many questions from the researchers. After this discussion, they were much better able to discuss the project and asked questions more relevant to the work at hand.

Day 2 Training

Sexual Violence:

- Definitions and types of sexual violence, myths and facts
- Causes and contributing factors
- After-effects and consequences – health, emotional, legal psychological after-effects – cognitive, behavioral, and emotional
- Exploration of our own personal values, biases, attitudes – how to keep these out of the interview process
- Emotional responses of research assistants to secondary trauma

Human Rights and Lome Peace Agreement

- Overview of international human rights documents
- Special Court for Sierra Leone War Crimes
- Truth and Reconciliation Commission (TRC)

The purpose on this day was to ensure that all researchers would be working with the same definitions and concepts for the topics on the

2019

agenda. For many, this was the first candid description of the various forms of sexual violence, and there were many questions.

Detailed descriptions of the variety of cognitive and behavioral aftereffects was necessary for researchers to understand the types of behaviors they might see that could help them identify problems needing referral, and choose strategies for interviewing.

Discussion of the special court and TRC was part of the survey, and it was important that all researchers thoroughly understand so that they could explain it to research participants as needed.

Day 3 Training

Interview skills

- Developing trust
- Body language
- Techniques for eliciting narrative accounts of individual experiences
- Privacy
- Confidentiality

Survey instrument

- Reading, explanation item by item

Included a practical and detailed discussion of various strategies and words (in Krio) to encourage participants to disclose private and potentially embarrassing information.

Day 4 Training

Survey instrument

- Translation to Krio, item by item
- Discussion, question and answer
- Practice role plays in groups of 3

After going through the survey in Krio, supervisors determined it was time to suspend the full classroom didactic methods and begin experiential learning. Researchers were divided into groups of three. They were given three role play scenarios for practice interviews. One person played the researcher, one the participant, and one an observer. After each interview, they were to listen to feedback and switch roles until each person had practiced at least once as researcher.

Supervisors circulated among groups observing, giving feedback, and gathering information about common areas of confusion or misunderstanding. From time to time, supervisors called the group together to discuss and clarify issues.

2c 20

Day 5-7 Training

Continue Practice

- Role plays in groups of 3, feedback, switch roles
- Discussion with entire group for common issues and problems
- Instrument revisions and instruction

End of Day 7

- Test

During these three days, supervisors became familiar with each researcher's strengths and weaknesses. At the end of Day 7, a test was administered to all researchers: the two Krio speaking supervisors conducted a mock interview while the researchers observed as a group, each completing her own survey instrument form.

In the evening, supervisors reviewed and made corrections and notes on the forms using the "Interviewer's" completed form as the guide. Based on these reviews and supervisory observations made during the practice role plays, the trainees were divided into two groups for the next day's session. Group I excelled in their tests and were observed to be well skilled in interviewing. Group II made errors on their tests and were observed to have some problems in conducting interviews.

Day 8 Training

Review tests with individual researchers

Group I:

- Observe individually in role plays, review documentation
- Translation to Temne and Mende; practice

Group II: Focus training on weaknesses

- Techniques for systematic random sampling and the use of sample site maps
- Identification, assistance, referral for serious problems and severe cases

Supervisors distributed tests to researchers and discussed individually each error and area of concern. Researchers were given the responsibility to focus on their own weaknesses during the day's role-plays and discussions. Only three of the trainees performed poorly on the test and had also been observed making interview errors that demonstrated they did not understand the purposes of the survey. These three individuals were excluded from the project, leaving 21 researchers.

Supervisors observed each researcher in Group I conducting a role play interview to verify that her skills were adequate. Group I was then divided into Temne and Mende sub-groups to go through the questionnaire and develop consensus on translation into those languages.

At the end of the day, mapping and methods to be used for systematic random sampling were explained. The role of the supervisor in the field was also discussed, emphasizing the need for researchers to identify and bring forward for supervisory assistance information about any situations they encountered that were problematic.

Day 9 Training

Group I to field site to begin survey and individual observation by supervisors

Group II in classroom for continued practice and individualized training and observation

At the field site, each researcher was observed at least once conducting a complete interview from introduction through closing statements. Supervisors gave immediate feedback, and observed additional interviews if there were problem areas.

In the classroom, Group II (12 people) received individualized assistance. By the end of the day, it was determined they were ready for field observation.

Day 10 Training

Groups I and II at field site conducting surveys

Continue individual observation with supervisors

Group I teaching Temne / Mende translation to Group II

Individual supervisory observation continued until all researchers had been observed and deemed adequately knowledgeable and skilled.

Supervision

2, 22

By the end of Day 10, supervisors were thoroughly aware of each researcher's strengths and weaknesses in conducting the survey and documentation on the instrument. For the duration of the fieldwork, supervisors continued to provide guidance, review, and advice as needed for each individual researcher. A supervisor reviewed each completed survey, giving immediate feedback for any errors or items left blank. Survey skills most closely monitored were:

- ✔ Appropriate and accurate introduction and explanation of purpose of survey
- ✔ Complete and accurate questioning and corresponding documentation
- ✔ Ability to elicit information about private, shameful, and traumatic events in a warm and respectful manner
- ✔ Correct and simple explanation of the Special Court and TRC
- ✔ Appropriate requests to interview other household members
- ✔ Complete and accurate closing statement
- ✔ Ability to accomplish all of this in a rapid fashion while maintaining warmth and respect. Primary interviews were expected to take no more than one hour, with secondary interviews maximum 40 minutes.
- ✔ Accurate counting and selection of households in accordance with sampling method in each field site
- ✔ Ability to find and maintain privacy for interviews in very crowded settings

APPENDIX C

2023

Summary of Existing Treatment and Protection Services for War-Affected Women in Sierra Leone[299]

Prior to the rebel incursion into Freetown in January, 1999, there were no services in the country specifically addressing the problem of sexual violence.[300] The alarming number of women and girls who were sexually abused during the invasion precipitated a response from several organizations including UNICEF, the Forum for African Women Educationalists (FAWE), Cooperazione Internationale (COOPI), and MSF-Holland. A task force was established which created a network of medical practitioners and counseling centers to treat the thousands of reported cases, MSF-H set up a training program for counselors, and COOPI and FAWE opened comprehensive programs to assist women and girls who had become pregnant as a result of rebel rapes.

In response to a growing recognition of the widespread and particularly brutal nature of the crimes committed against women and girls, many new programs are now servicing survivors and beginning to address some of these problems. It is challenging, however, to provide services in Sierra Leone given the continuing insecurity, ever-changing population shifts, lack of awareness and recognition of the scope of the problem, and chronic funding shortfalls. With scarce resources and constant emergency situations, both the government of Sierra Leone and the UN agencies face a number of difficulties in providing coordination, continuity and leadership for the myriad of humanitarian and development needs in the country. Therefore, services addressing the various aspects of sexual/gender violence are fragmented and coordination is a continuing problem. In spite of these challenges, there are a plethora of international NGOs and UN agencies operating in Freetown, many of which are working in highly successful cooperative arrangements. With the improving security situation, some groups are beginning to expand their services to the provinces and are seeking funding to do so.

There was general agreement among all organizations interviewed by PHR that there is a need for development of both prevention and response services to include all relevant sectors, and also for improved coordination among providers and sectors. There was general acknowledgement that some

---

[299] The information about individual organizations was compiled primarily from PHR interviews conducted with representatives of the organizations in March, 2000 and January, 2001, as well as from written information published by the organizations themselves. Additional information was provided by Glenis Taylor of UNICEF, the UN Inter-Agency Consolidated Appeal for Sierra Leone, 2001 and other sources which are cited in the footnotes.

[300] Sexual Violence within the Sierra Leone Conflict, *Human Rights Watch*, February 26, 2001.

of these problems could be alleviated if one agency took the lead, perhaps expanding the UNICEF model to include all survivors of sexual violence. 2024

International Organizations and Non-Governmental Organizations Providing Treatment and Protection Services:

Most organizations working on sexual violence are providing treatment, though several have been documenting abuses and some are beginning to work more strategically to improve protection and the status of women through education and institutional capacity building. UNICEF, Campaign for Good Governance and a handful of others are addressing the problem from a number of angles.

Treatment Services

UNICEF chairs a sexual violence committee in Freetown comprised of international, local and government agencies working on the needs of girls. The committee meets regularly and its members include: COOPI, MSF-Holland, Marie Stopes, CARITAS, GOAL, FAWE, Planned Parenthood Association of Sierra Leone (PPASL), The Ministry of Social Welfare, and the Council of Churches of Sierra Leone with their Child Rights Monitoring Network. The Committee currently acts as a referral system for girls who were abducted and raped. Girls are brought by their parents, families, UNAMSIL representatives, and some simply show up at UNICEF headquarters in Freetown. Though those actively seeking assistance have dwindled in the West, there are many who require services outside of Freetown where programs are not as coordinated. Those groups working in cooperation with the Committee on Sexual Violence in the provinces include: Christian Brothers, War-Affected Girls Association (WAGA), PPSL, CARITAS-Makeni, the IRC in Kenema and FAWE, now with a new branch in the South. Committees on sexual violence were recently formed in the Southern and Eastern provinces.

While UNICEF's efforts are focused on those under 18, the needs of women are also being addressed through their education efforts, which are aimed at the population as a whole. UNICEF is providing training on sexual violence for lawyers and police, as well as in schools, which includes information on rape, its effects, and what to do if raped. They have found that more women and girls are coming forward, but that the judicial process is slow and frustrating. These efforts will continue next year with the aim of reaching all schools in the country and an emphasis on prevention, if funding is available.[301]

The International Rescue Committee (IRC) is providing comprehensive maternal-child health services, sexual violence services and operating an interim care center for former child soldiers in Kenema District. IRC was

[301] Email correspondence with Glenis Taylor of UNICEF, November 18 and 19, 2001.

the first international NGO to focus on sexual violence beginning in November 1999 in Kenema. Kenema was chosen because it was identified as the best place to filter displaced people from rebel areas of Kono and Kailahun. IRC has been providing sexual violence services under the umbrella of a safe motherhood program, which addresses basic reproductive health. The IRC team trains core groups of local women who then reach out to others in their chiefdoms. They are focusing particularly on Lebanese and Blama camps near Kenema, and are expanding their outreach to other camps in the area. For example, in Blama camp there are 21 chiefdoms represented from districts in the South and in the East, and one woman has been selected to represent each group. They use reproductive health and maternal/child health as an entry point, deliver reproductive health kits (which include condoms, family planning, STD/HIV prevention information), and introduce the subject of sexual violence. Basic training on sexual terms and definitions of sexual violence is provided. Sexual violence is not the initial focus because women are generally unaccustomed to talking about sexual violence and women's rights.

The IRC staff has generally found physical needs to be more urgent than psycho-social needs. IRC staff reported to PHR that they are attempting to introduce the program in each community/village and have found that women are responding very positively to their sensitization efforts around the notion of women's rights as human rights. According to IRC staff, the women they are working with generally express excitement when they learn that their husbands do not have the right to beat them.[302] In 2000, IRC conducted a survey in several of the camps in Kenema to learn more about sexual violence in the community. Results were not available at the time of writing.

The Forum for African Women's Educationalists (FAWE) is a pan-African NGO which has been successful in promoting education for girls. FAWE expanded their mandate to respond to the needs of rape victims after the January 1999 incursion by rebels into Freetown and, because there was a vacuum, became the primary organization providing medical and counseling services to rape survivors. Their ultimate goal, in service of their mandate, is to get these girls back to school and as of March 2000 they had been 100% effective in negotiating with parents of girls who had babies as a result of rapes, to keep them in school.

FAWE began their rape victims program in March 1999 with a sensitization effort over radio and TV and by going to secondary schools and communities to let people know that FAWE was offering medical and counseling services. They did this outreach both to make the community aware of the new services being offered, but also as part of an effort to remove some of the stigma around talking about rape. Within one year

[302] PHR interview with IRC field staff, Kenema 2000.

FAWE served over 2,000 women and girls in the Western Area alone. All participants saw a doctor at least once. All participants in the program began with individual counseling two times per week and then transitioned into group counseling. Once girls returned to school, they were monitored by the guidance counselors at their schools who have been briefed by FAWE on their circumstances. FAWE planned to end the program in Freetown because they had largely addressed the need and because they had run out of funds. Once the full-time program concludes in Freetown, FAWE arranged for those participants who still need counseling to see MSF counselors and organized some doctors to take referrals.

FAWE has also been working to sensitize the community at large to accept girls who have become pregnant as a result of rape. Many of these girls have been gang raped and do not know who the father is. There is often a stage of rejection of these babies both by the mother and their communities. FAWE created two training centers in the eastern area of Freetown, which provide comprehensive services to young women/girls and their babies including: skills training, education, parenting skills and medical care for their children. They do not provide human rights training specifically, but do sensitize the adolescents about what is inappropriate treatment. The program was designed very much in response to the needs identified during counseling session with their patients. Those young women participating in the program who were interviewed by the PHR team reported feeling much better since being enrolled in the program (though they were anxious about what they would do when the program concluded) and expressed a keen interest in learning marketable skills so they could care for their children. In 2000, FAWE expanded its programs to Kenema in the eastern area, where sexual violence has been particularly widespread, and immediately enrolled 700 victims.

FAWE has also produced a series of radio programs to educate the public against rape. The discussion/phone-in programs were aired every 2 weeks in 1999, with the hope that they would be aired bi-weekly once funding is available.

COOPI (Cooperazione Internationale), an Italian NGO specializing in international relief and development projects, has been working in Sierra Leone since 1967. In 1998, COOPI expanded its development mandate to help children released by the rebels and operates several interim care centers, that provide family tracing services, medical care, counseling and skills training. One of its centers, the Conforti Welcome Home is similar to FAWE's program for girls who became pregnant as a result of rape, except that it also provides housing. Conforti Welcome Home was set up as a temporary facility for pregnant girls and child mothers who could not go home for reasons ranging from their area of origin being inaccessible for fear of rejection by their families. Those enrolled in the program

expressed a desire for skills training before returning to their families so they have something to offer and are not dependent. COOPI is providing them with such training, as well as general education and literacy, and is working actively to sensitize communities and families to be more accepting and supportive of these young mothers and their babies. COOPI operates the Holy Mary Clinic in the eastern part of Freetown where the women and girls at Conforti Welcome Home receive a full range of reproductive health services including deliveries.[303]

2027

COOPI also has established psycho-social teams, which make 'house calls' in IDP camps and host communities in and around Freetown. They have also created self-help groups in a number of IDP camps in the Western area. COOPI takes referrals from both camp clinics and the community.[304] They are committed to a community-oriented approach to psycho-social care, to developing local capacity and building on indigenous coping mechanisms. Most of the counselors are from the Sierra Leonean community and were teachers or nurses. The organization provides basic training on trauma and then encourages the counselors to adapt the information to their own culture. They have found that their patients are most responsive when they are engaged in a task, and so the self-help groups are organized around activities like needle work. According to one aid worker interviewed by PHR, approximately 40% of the women they see have been sexually abused. COOPI is committed to offering options so survivors of trauma can find the treatment and support that works for them.[305]

Marie Stopes Society (MSSSL), an international NGO headquartered in the UK, is a reproductive health agency. Many sexual violence survivors are seen among the 7,000 women treated each month in the three MSSSL outpatient clinics in west-, central- and east Freetown. MSSSL offers a range of reproductive health services including a maternity center, ante- and post-natal care, and treatment and diagnosis for STDs. While they were forced to close their clinics in Port Loko and Segbwema in the east, they are expecting to open new centers in the provinces, perhaps in Bo and Makeni. The organization accepts referrals for abandoned children and rape survivors in need of delivery services through the Child Protection

[303] PHR visited the Welcome Home in March, 2000 and spoke extensively to COOPI staff there.

[304] Information on COOPI's psycho-social programs is based on a PHR interviews with Patrick Campbell of COOPI and local COOPI counselors in Freetown in March, 2000.

[305] While Coopi started off doing individual counseling, they have often found working in groups to be more culturally appropriate, and therefore effective. COOPI counselors report that children respond best in a group of three or four – though, even under ideal circumstances, it can take 4-5 sessions for them to realize there are no negative consequences in telling the truth and to open up. COOPI mental health providers told PHR that integrating rebel wives has been even more challenging than integrating child soldiers.

Committee on Sexual Violence, which MSSSL fully subsidizes. The director, Pamela Greene, and Dr. Yvonne Harding are actively seeking comprehensive health care services and improved inter-agency referral systems and coordination. According to Dr. Harding, there is a lack of surgical care for the small number of sexual violence survivors who need it, but the psychological scars are more common and sometimes require long-term intervention. Like other members of the Sexual Violence Committee, Marie Stopes does not test patients for HIV partly because of concerns over the lack of an official national policy on confidentiality of test results. Though MSSSL's concerns are valid, hundreds of pregnant women are passing the disease on to their babies or to their partners when transmission could be prevented with medication. MSSSL's funding from DFID is coming to an end in 2001, and at the time of their interview with PHR, the organization was pursuing new grants.

Doctors Without Borders/Médecins sans Frontières-Holland (MSF-H), an international medical relief organization, has been providing a range of health care and psycho-social services in Sierra Leone since 1994. While the French and Belgian branches also have programs in Sierra Leone, MSF-Holland has been more focused on war-affected women and mental health. In January, MSF-H released a report documenting high levels of trauma among the population and has since advocated for governments and donor agencies to provide greater resources for treatment of post-traumatic stress among the general population. MSF-H also identified the need for specialized surgery for VVF and VRF cases. These surgeries were provided for a brief period after the 1999 Freetown invasion, but the specialist was in- country only for a short time. CCSL referred girls who suffered physical consequences from sexual violence to MSF for surgery at Connaught Hospital. MSF has also been providing referral services for FAWE and other members of the sexual violence committee, and has supplied all medications required for participants in the program. At National Workshop IDP camp in the Western Area, MSF-H provided counseling to the displaced population. In addition to Freetown, MSF also had programs in Makeni and Kambia.

International Medical Corps (IMC) is focusing on providing health care to ex-combatants, dependents of fighters, displaced and the community at large. Reproductive health services are offered at IMC clinics, including treatment of STDs. All patients receive information about safe sex and condoms. In April 1999, IMC launched a pilot program with Rural Aid, a local NGO, focused on basic health education including HIV prevention counseling.

Since only medical screenings (no treatments) are available at DDR camps, all referrals of former combatants and their dependents are sent to IMC clinics. IMC health workers have also identified a need for special-

ized VVF and VRF surgeries among their patients. While the organization has secured surgical space at Lungi Hospital, there is a need for an expert surgeon, some additional equipment, and referral/ transport assistance for patients from Freetown.[306] IMC received a grant from the US government to hire surgeons to treat victims of VVF and to train Sierra Leonean surgeons in the procedure.

Planned Parenthood Association of Sierra Leone (PPASL), is a member of International Planned Parenthood Federation (IPPF), and has been promoting maternal and family welfare in Sierra Leone for over 40 years. At its clinics in the major urban areas of the country, PPASL has been offering a range of reproductive health services at reduced rates, including treatment of STDs, laboratory tests, and maternal and child care. PPASL takes referrals from the Council of Churches of Sierra Leone for patients who require medical care due to sexual violence.

Because of its links to IPPF, PPASL is able to tap into the resources of the larger organization to address the AIDS epidemic including educational materials about HIV, general best-practices on reproductive health and a supplies of low-cost condoms. PPASL relies particularly on community members and leaders to act as peer counselors and to educate the population at large. The organization has reached out to the most vulnerable groups with education programs including IDPs, the military, and youths through the school system. PPASL reported to the researchers of the recent WHO/Associates for Global Change study on HIV/AIDS in Sierra Leone that they had virtually no contact with the National AIDS Control Program.

Due to the war, Planned Parenthood has experienced shortages in both staff and supplies, including medications. Health care providers at PPSAL in Kenema reported to PHR a dramatic jump in syphilis and gonorrhea among their clients, which was not a significant problem before the conflict. They also noted that most of their patients do not reveal that they have been victims of sexual violence. It is possible that the hesitancy of survivors to report is exacerbated by the predominance of male clinicians observed by the PHR team during a March 2000 investigation.

Leonet, an NGO funded by Americans concerned about Sierra Leone, works with street/unwanted children, many of whom are sexual violence/abduction survivors. Leonet has been assisting a number of young girl abductees who have been rejected by their families due to resulting pregnancies. UN agencies, government ministries, and NGOs refer the "most hopeless" cases to Leonet. The organization is also operating a day care and skills training centers in Kissy, the eastern part of Freetown, which was harcest hit by the January incursion of 1999, and was operat-

[306] At time of writing, IMC was in the process of obtaining a list of VVF patients awaiting surgery from a physician at Princess Christian Medical Hospital (PCMH) in Freetown.

ing in Port Loko. The building was given to them by the community and is open to other single mothers, but the program is at a standstill because of lack of funding. Leonet uses Marie Stopes for referrals.

Cause Canada, an international relief and development organization, has been active in Sierra Leone since 1989. Their activities include refugee assistance, primary health care, vocational and post war reconciliation, and reintegration of women and girls affected by war. The program for war-affected women and girls consists of counseling, medical treatment, vocational training and community reintegration.

The International Committee of the Red Cross (ICRC) provides a range of services, focusing its activities in the last year on emergency aid and protection of war-affected civilians. ICRC's surgical team has performed hundreds of surgeries on destitute patients with war-related injuries, established and upgraded medical and surgical facilities, assisted thousands in reconnecting families that had been separated due to the war, and raised the coping abilities of vulnerable and displaced women by teaching them skills to increase their self-sufficiency. ICRC is also providing training to the new Sierra Leonean army and UNAMSIL troops on humanitarian law.[307] They are also supporting a community theater program to educate the population about HIV transmission.

Other Groups Working Directly and Indirectly with War-Affected Women and Girls

- CARITAS: a UNICEF Child Protection partner and operates interim care centers in Lunsar and Makeni
- The Ministry of Social Welfare and ICRC collaboration to link children with relatives through the National Family Tracing Network
- A joint effort by UNDP/UNIFEM to create a holistic program for women and girl refugees to support reintegration
- A UNDP project providing medical, social and legal support, as well as micro-credit
- UNAMSIL's Civil Affairs Division has been helping the Government of Sierra Leone restore its authority in rebel-held areas and identifying

[307] ICRC, Update on ICRC activities in West Africa: Sierra Leone-Guinea-Liberia. December 15, 2000. http://www.icrc.org/icrceng.nsf/5cacfdf48ca698b6412562420003b3295/62e58fc7be68051cc12569b6004a9e5c?OpenDocument

[308] In July, 2001, UNAMSIL distributed $45,000 from their trust fund to support the activities of three community-based organizations working with survivors of sexual violence.

urgent humanitarian needs in these regions. The division also raises funds to support locally-based programs to assist sexually abused women and girls and ex-combatants.[308]

Documentation, Education and Protection Services

Campaign for Good Governance (CGG) is a Sierra Leonean NGO based in Freetown that works "to facilitate the full participation of all Sierra Leoneans in the political, social and economic processes of development in Sierra Leone." CGG has been at the forefront of fighting for gender equality and is interested both in improving women's lives by enhancing their status as a group and as individuals, and in improving national government and civil society by involving women at all levels. CGG played a critical role in the success of the 1996 democratic election when the group mobilized market women who took to the streets to insist the election take place. As part of their efforts in both gender equality and human rights, CGG has been addressing sexual violence and human rights on a number of fronts including:

- Establishing a group in 1999 called SOS-Women in Freetown focused on violence against women and children. The group seeks to provide support for victims, promote accountability, and to educate women about their rights. Among their goals is to break the silence around sex and encourage victims and others to speak out;
- Investigating reports of mistreatment of women;
- Playing an active role in the first successfully tried rape case in Sierra Leonean history.[309] CGG has also been active in efforts to change trial procedures, which required victims, including child victims, to testify in front of their rapists;
- Conducting public education presentations about sexual violence on the radio, including the use of short-wave radio to broadcast outside of Freetown since February 2000;[310]
- Establishing a database of women in decision-making positions in government with the intention to advocate for more women in positions of power;
- Monitoring the full range of human rights abuses committed by combatants for the TRC and Special Court;

---

[309] A 65-year-old man was sentenced with 10 years imprisonment for raping a 13 year-old girl. (CGG, 3/2000)

[310] The content of their broadcasts comes mostly from materials sent to them by the US Embassy in Freetown. (CGG, 3/2000)

- Providing legal advice and representation to human rights victims;
- Providing human rights education to schools, groups and communities in an effort to elevate the expectations the public has of their government.

Council of Churches of Sierra Leone (CCSL), a local NGO based in Freetown, created the Child Violations Monitoring Network (CRIVMON) in 1998 with technical and financial support from UNICEF. It works through a country-wide network of child and human rights organizations, as well as individual lawyers to document abuses committed against children. CCSL found sexual violence to be one of the most prevalent violations, with a sharp increase in the number of abuses occurring after the January 1999 rebel incursion into Freetown.[311] It was Helen Bash-Taqi, then CRIVMON Co-ordinator, who informed the Child Protection Committee of the high number of rape cases in the communities. In response, UNICEF invited interested partners to meet and discuss how to facilitate physical and psychological rehabilitation for girls who had been abused by combatants. This led to the formation of the Sexual Violence committee. CCSL has submitted statistical documentation and narrative reports to UNICEF, which they hope will be used for accountability purposes in the TRC and Special Court processes and to bring the attention of the government to the problem, which thus far, has done little to either protect women and girls or prosecute their perpetrators. CCSL has a referral arrangement with Planned Parenthood of Sierra Leone but also makes medical referrals to other partners.

Human Rights Watch (HRW) closely monitors and documents a range of human rights abuses in Sierra Leone, including sexual violence. HRW produces frequent reports and press releases as part of an effort to advocate for accountability, stronger protection for civilians at risk and improved human rights training of former combatants. In February, 2001 HRW released a short report specifically on sexual violence during the conflict.[312]

Amnesty International has also been producing regular reports and releases documenting rights abuses, including rape[313], and advocating

---

[311] PHR interview with Helen Bash-Taqi of CCSL in Freetown, March, 2000. Generally, their research has revealed that most younger children were used as domestic servants, though cases of girls as young as 10 being used for sex have been documented. They also have cases of two boys (15 and 16) who were forced to have sex with their female commander and young boys who were forced to commit rapes.

[312] Human Rights Watch, *Sexual Violence within the Sierra Leone Conflict*, February 26, 2001.

[313] Amnesty International, *Sierra Leone: Rape and other Forms of Sexual Abuse Must be Stopped*, May 30, 2000.

[314] Amnesty International, *Sierra Leone. Rape and other forms of sexual violence against women and girls*, June 29, 2000.

within the Sierra Leonean government and the international community for protection, justice, and concerted action against the diamond and arms trades which are fueling the war. Amnesty also produced a report specifically documenting war-related sexual violence in Sierra Leone.[314]

Women's Forum is a Freetown-based nation-wide network of women's groups established in February 1994 in response to the need among women for sharing ideas, building effective alliances and taking collective action on issues of common concern and interest to the overall advancement of the status of women and the promotion of children's rights. The Women's Forum played a crucial role in ensuring that the first democratic elections since independence from British rule took place in 1996. They are in a position to promote the need for legal reform and put pressure on political parties to address women's rights in the upcoming general elections.[315] The Women's Forum was identified at a forum chaired by UNHCR in 2001 as a potential partner to house a data-base on sexual violence and disseminate information on the issue.[316] With adequate financial support, the Women's Forum could also address the ongoing problems of coordination on the issue.

Network Movement for Justice and Development (NMJD) is a Sierra Leonean NGO, active in Freetown, Kenema, Bo and the Kono district, with a strong foundation and solid experience in civil society, public advocacy, and rural development. NMJD is well suited to provide public advocacy to change the laws governing treatment of women/children, and to promote community development to establish community-based prevention and response systems in both rural and urban areas.[317]

GOAL is an Irish NGO working with street children and commercial sex-workers in Freetown. In a survey conducted in 2000, they found that nearly half of the girls interviewed were between the ages of 13-17, many were formerly with the rebels, and 98% were addicted to drugs. The sex trade is an ongoing problem that has been aggravated by the war and sexual violence continues to be a daily problem in the lives of these girls – perpetrated by customers, boyfriends and military personnel. GOAL has established a drop-in center for these girls where they offer counseling, non-formal education and medical care. GOAL also advocates for the

---

[314] Witness, Witness action in Women and Sexual Violence in Sierra Leone, December 2001 www.witness.org

[316] One of the problems raised at a workshop organized by UNHCR in Geneva in March, 2001, was the non-availability of adequate information and data about the extent of sexual violence in Sierra Leone which makes it difficult to provide targeted support for survivors. It is hoped that the findings of the PHR/UNAMSIL survey will help address this problem.

[317] NMJD received technical and training assistance from a representative of John Snow International in September, 2000 and has also received a small grant to expand their programs from the Washington D.C. based, Reproductive Health of Refugees Consortium.

rights of these girls with the police. Although family reunification has been particularly challenging because there is such a stigma attached to prostitution, GOAL is attempting to mediate with families to allow the girls to go home.

HIV/AIDS Prevention and Care

Society for Women and AIDS in Africa is a regional organization which focuses on the gender dimension of the HIV/AIDS epidemic and works to improve women's access to information, to challenge the cultural and legal constraints of patriarchal societies, and to encourage women's financial independence and self-esteem. The Sierra Leone branch, SWAASL, was set up ten years ago and has played a central role in organizing stakeholders to address the epidemic strategically and cooperatively. Major present and future activities which arose from a conference on best practices convened by SWAASL in 1998 include: establishing an AIDS/STD Resource Center, conducting research on the prevalence and impact of the disease, and orchestrating awareness campaigns targeted at war-affected women, commercial sex workers and other vulnerable groups.

Shepherd's Hospice – Sierra Leone's only hospice has no in-patient capacity, but at the time of this writing had 25 volunteer counselors throughout the greater Freetown area. The hospice has received modest funding from Catholic Relief Services (CRS) and WHO, and is expected to receive additional funds to rehabilitate their building and expand their services. Because of the stigma surrounding HIV and the frequent reports of those discovered to have the disease being thrown out of their homes and shunned by their families, it is essential to establish in-patient services.[318] There is currently nowhere else in the country to refer those who are ill for care and counseling.

National AIDS Control Office, a body within the Sierra Leonean government, is trying to revive AIDS-related activities nationwide. This office is intended to facilitate coordination and planning between government, NGOs, and international organizations working on the issue, but lacks the necessary capacity.[319] Among their activities, NACC has conducted prevalence testing among pregnant women as recently as 1997 and organized efforts to inform parliament of the need for a more active government role in preventing and treating HIV/AIDS.

---

[318] World Health Organization and Associates for Global Change, *HIV/AIDS in Sierra Leone: The Future at Stake, The Strategic and Organizational Context and Recommendations for Action*, December 20, 2000.

[319] According to a presentation made by a representative of the National AIDS Control Office attended by PHR in March 2000, testing of pregnant women at clinics revealed the following growth in HIV prevalence rates: 2% in 1992, 2.7% in 1993, 3.4% in 1994, 4.5% in 1995, 5.5% in 1996, and 7% in 1997.

APPENDIX D

Referrals

The PHR/UNAMSIL team took every precaution to minimize the risk of re-traumatization for interview subjects, including careful design of the survey instrument, sensitivity training of the research team, and by the central involvement of two consultants, one a psychologist and one a social worker, who had extensive experience counseling survivors of sexual violence. In spite of the team's best efforts, it was recognized that the women and girls interviewed were taking some emotional and practical risk in sharing their stories, as well as giving up some of their time. While PHR decided against giving the participants any material compensation or token, and made it clear at the outset that the team was not offering any humanitarian services, it felt the least it could do was educate them about and connect them to existing services in the area. First, PHR established contact with those organizations providing medical and psychosocial support in the camps where the team intended to survey and explained the nature of the study. All the groups we contacted including IMC, IRC, MSF-H, ADRA, GOAL, Concern, and Merlin, were happy to provide referral services to the women and girls we interviewed. In most cases, the researchers simply told the participant about the services offered in her camp, however special arrangements were made for "high risk cases." Researchers were trained to identify particularly severe cases requiring intervention and to request permission from the individual to pass her name along to the appropriate health care provider. Great care was taken to ensure that any names taken were separated from the completed questionnaires to ensure strict confidentiality. The PHR/UNAMSIL team is grateful to those organizations and individuals who so generously cooperated with this effort.

The researchers also provided a brief explanation of both the Special Court and the Truth and Reconciliation Commission in an effort to begin to educate the population and to ensure that the participants had an adequate understanding to determine whether they wanted PHR to give their names to these bodies. Any names that were given to pass on to the TRC or Special Court were separated from the questionnaires, so that no information about the participant's history would accompany her name. These names and contact information are in the possession of the UNAMSIL Human Rights Section until they can be passed on to the appropriate bodies.

2c36

From Combat to Community: Women and Girls of Sierra Leone

By Dyan Mazurana and Khristopher Carlson

With Contributions by
Sanam Naraghi Anderlini

Series Editor
Sanam Naraghi Anderlini

January 2004

2057

WOMEN WAGING PEACE is a program of Hunt Alternatives Fund that advocates for the full participation of women in formal and informal peace processes around the world.

THE POLICY COMMISSION is conducting a series of case studies to document women's contributions to peace processes across conflict areas worldwide.

Policy Commission
Director
Sanam Naraghi Anderlini

Associate Director
Elizabeth Powley

Program Associate
Camille Pampell Conaway

Hunt Alternatives Fund
Chair
Ambassador Swanee Hunt

Executive Director
Sarah Gauger

Senior Vice President
Ambassador Hattie Babbitt

www.huntalternativesfund.org
www.womenwagingpeace.net

ISBN Number 1-932679-02-2
© Hunt Alternatives Fund, 2004. All rights reserved.

TABLE OF CONTENTS

Acknowledgements i

About the Authors i

Project Background ii

Key Findings and Recommendations 1

Executive Summary 2
- Women and the War 2
  - *Soldiers and "Wives," Cooks and Spies* 2
- Disarmament and Demobilization 1998-2000 2
  - *Qualifications for Entry* 3
  - *Women and Girls in the Margins* 3
- Rising to the Challenge: Women's Campaign for Peace 4
- Caring for Ex-Combatants: Women's Contributions to Reintegration 4
- Conclusion 4

Introduction 6
- Rationale 6
- Assumptions 7
- Methodology 7
- Definitions 7
  - *Peace Processes* 7
  - *Disarmament, Demobilization, and Reintegration DDR* 8
  - *Gender* 8

Part 1: The Transition from War to Peace 10
- Pre-Colonization to Independence 10
- Cold War to Civil War 10
- Violent Conflict and the Rise of the Civil Defense Forces 11
- Women and Girls in Fighting Forces 12
- Women and Girls as Full Members of the CDF 12
- "Wives" of RUF Commanders in Camps and Command Structure 13
- The Role of Women in the Peace Process 15
- Women Tipping the Balance Toward Peace 16

Part 2: The Role and Experiences of Women and Girls in DDR 18
- DDR Design and Implementation 18
- Obstacles to the Participation of Women and Girls in Formal DDR 19
  - *In the Disarmament and Demobilization Phases* 19
  - *In the Reintegration Phase* 22
- Expanding the Safety Net: Women's Contributions to Reintegration 22
  - *At the Community Level* 23
  - *At the National Level* 24

Conclusion: The Centrality of Gender Perspectives to DDR 26

Endnotes 28

Appendix 1: Methodology 34

Appendix 2: List of Acronyms 36

Appendix 3: Bibliography 37

ACKNOWLEDGEMENTS

Although many individuals contributed expertise and insight to this report, the analysis and findings reflect the perspective of the authors alone.

We wish to acknowledge and extend our thanks to our colleagues in Sierra Leone: Shellac Davies, Maurice Ellis, Michel Kamara, Philip Kamara, Binta Mansaray, Donald Robertshaw, and Keith Wright. We would also like to thank Dorene Martinez, who conducted follow-up research in 2003.

The following individuals allowed us to interview them, shared their insights, read, and commented on drafts of this paper, and/or provided support to the project: Ester A'Kanu, Memunatu Bangora, Amy Bangura, Roisin de Burca, Florian Fichtl, Cynthia Kallay, Fatta Kamara, Ramatu Sama Kamara, Samuel Kamara, Daniel Sahead Karoma, Kees Kingma, Stephanie Kuttner, Olayinka Laggarh, Alfred Lansana, Jean Lieby, Jane Mansbridge, Francis Murray, Amie Passay, Antonio Piccoli, Caleb Rossiter, Victoria Salinas, Foday Sawee, Ibrahim Sesay, M. Sylvester, Glenis Taylor, Richard Thoronka, Samuel Turner, Catherine Wiesner, and Ibrahim Yoffenddeh. There were many others who shared their perspectives but preferred to remain anonymous.

Finally, the following individuals at Women Waging Peace and Hunt Alternatives Fund made possible the publication of this report: Sanam Anderlini, Joelle Balfe, Mari Barrera, Camille Pampell Conaway, Cheryl Foley, Carla Koppell, Elizabeth Powley, Jessica Ratey, Jan Smith, and Roxane Wilber. And special thanks are owed to the chair of Women Waging Peace, Swanee Hunt.

About the Authors

Khristopher Carlson is a research specialist at the University of Montana in Missoula. His areas of expertise include child soldiers, particularly girls and young women, in armed conflict and in post-conflict reconstruction. Mr. Carlson has co-authored several articles on these topics, including "Girls in Fighting Forces and Groups: Their Recruitment, Participation, Demobilization, and Reintegration" Journal of Peace and Conflict. He was a contributing author to the United Nations Secretary-General's study, *Women, Peace and Security*.

Dyan Mazurana is a senior researcher with the Feinstein International Famine Center and a research scholar and faculty member at the University of Montana in Missoula. She is a lead researcher on and author of the United Nations Secretary-General's Study, *Women, Peace and Security*. Dr. Mazurana has written and developed training materials regarding gender, women's human rights, armed conflict, and post-conflict reconstruction for civilians, police, and military peacekeepers involved in UN, NATO, and regional peacekeeping missions.

PROJECT BACKGROUND

Wars and internal conflicts do not end simply with the signing of peace agreements. To avoid a resurgence of violence, it is necessary to develop and support measures for strengthening the governance, security, justice, and socioeconomic capacities of a state. This is a complex task in any society, but daunting in post-conflict situations. While the international community can provide assistance and valuable resources, the local population, which has no "exit strategy," has the greatest commitment to building sustainable peace. It is therefore essential to draw on the assets, experiences, and dedication at the local level and among all sectors of society. One sector often overlooked and underestimated is women. In most post-conflict societies women are more than 50 percent of the population and are actively engaged in peace building while addressing the basic survival needs of their families and communities. Yet they are often portrayed as passive victims, and little regard is given to their actual and potential roles in fostering security.

In October 2000, for the first time in its history, the United Nations Security Council acknowledged that women have a key role in promoting international stability by passing Resolution 1325 on women, peace, and security. It called on all parties to ensure women's participation in peace processes, from the prevention of conflict to negotiations and post-war reconstruction. The Women Waging Peace Policy Commission was established to examine peace processes with a particular focus on the contributions of women. Drawing on qualitative field-based research and quantitative survey data, "From Combat to Community: Women and Girls of Sierra Leone" assesses how consideration of gender issues can improve disarmament, demobilization, and reintegration (DDR) processes and documents the contributions of women in official and civil society-based reintegration programs.

KEY FINDINGS AND RECOMMENDATIONS

Key Findings

1. Throughout the conflict, women led civil society peace efforts. In 2002, as the country faced the breakdown of the 1999 Lomé accords, women were pivotal in galvanizing mass demonstrations that led to the end of the war.

2. Contrary to official reports, women played a military role in the pro-government Civil Defense Forces and in the rebel movement.

3. Female ex-combatants from all forces were significantly underrepresented in official disarmament, demobilization, and reintegration (DDR) programs.

4. Women are playing a significant but unacknowledged role in the reintegration of former fighters, filling many gaps in official programs.

Recommendations

1. When **planning DDR**, international actors, including the UN, multilateral organizations, donor governments, and national governments, must:

   - ensure the participation of women during all stages of negotiation;
   - assume that women are part of the fighting forces and be aware that, where children are present, 10 to 33 percent may be girls;
   - recognize the initial estimated number of fighters provided by military forces may be low, and thus be prepared to increase resources to ensure effective programs; and
   - extend the definition of *combatant* to include those who were part of a "regular armed force in any capacity, including but not limited to cooks and messengers...and girls recruited for sexual purposes..."—in accordance with existing norms followed by the UN Children's Fund (UNICEF) and outlined in the UN Secretary-General's study, *Women, Peace and Security* (2002).

2. During **disarmament and demobilization**, implementing organizations should:

   - accept females even when unaccompanied by men; and
   - develop parallel systems for the demobilization of women and girls by:

     –offering women the choice to enter care centers with their children or to remain with their male colleagues and counterparts; and

     –ensuring there are facilities to separately house girls and boys without parents.

3. In **reintegration**, donors should ensure that:

   - local organizations and communities working with former combatants are direct beneficiaries of resources from official reintegration and rehabilitation programs;
   - income-generation and job-creation programs are created to provide employment for ex-combatants and members of communities into which they are returning; and
   - DDR programs support mothers, particularly single mothers, emerging from the fighting forces—including providing basic care for them and their children (through foster care programs or centers) to facilitate their participation in education and skills training that can help them avoid petty crime or the sex trade.

2002

EXECUTIVE SUMMARY

Sierra Leone ended its national disarmament, demobilization, and reintegration (DDR) program in December 2003. Since the program began in 1998, 72,500 former combatants have been demobilized, including 4,751 women (6.5 percent) and 6,787 children (9.4 percent), of whom 506 are girls.[1] From the outset, there was some recognition that women and child soldiers made up a significant portion of the forces.[2] In theory, the DDR process was designed to include them. But while the program was effective in reaching out to male combatants, ultimately women and children were underserved. Despite this shortcoming, the plan has been hailed as a success and a model upon which other DDR processes could be based.

These DDR programs have also failed to support civilian populations faced with the reality of reintegrating former fighters. Instead, in communities across Sierra Leone, women as individuals and in groups have taken on the responsibility of assisting former combatants as they return to civilian life. But they receive little or no support from the national and international programs established to ensure successful reintegration.

Women and the War

In March 1991, the Revolutionary United Front of Sierra Leone (RUF/SL), led by former Sierra Leone Army (SLA) corporal Foday Sankoh, invaded Sierra Leone from Liberia. Violence against women and children, and general terror in rural and urban centers quickly became cornerstones of the RUF movement and were encouraged by its leadership. But as the war escalated, women and girls reported atrocities committed by forces on both sides. Preyed upon by the RUF and SLA, local civilians in many areas transformed traditional hunting societies, such as the Kamajors, into pro-government militias known as Civil Defense Forces (CDF). These militias gained prominence with the armed activities of the Kamajors in the eastern and southern provinces and the rise of the Gbethis in the north, among others. Throughout the war years, the government endorsed the CDF, providing them with resources, including weapons.

Soldiers and "Wives," Cooks and Spies

Women and girls were present in large numbers in pro-government and rebel forces and were involved in a variety of activities. In the survey of 50 female ex-combatants (ranging in age from 10 to 35) conducted for this study, almost all stated "abduction" as their means of entry; one third stated that they had fighting experience; nearly half indicated that they received weapons training; one fifth described themselves as spies; and more than half indicated that in addition to performing other duties, they were forced to be captive "wives." On average, they were 12 years old when they entered the forces.

Despite denials by government officials, girls and young women played an integral role in the CDF. They were spies, commanders, and frontline fighters; some were herbalists, meant to supply fighters with magic potions for invulnerability. Others were cooks, medics, and spiritual leaders. They witnessed brutal rituals and suffered significant sexual abuse.

Women and girls also made up a large part of rebel RUF forces. Many served as captive "wives" of commanders and were responsible for distributing weapons, food, and loot confiscated from village raids. They commanded fighting forces known as small boys units and small girls units; many were also involved in the mutilation and murder of civilians. In camps, commanders' "wives" sometimes used their control over food and loot to prevent young boys and men from abusing girls.

In sum, the experience of women and girls in the fighting forces was complex. They were captives and dependents, but they were also involved in the planning and execution of the war.

Disarmament and Demobilization 1998-2000

The Sierra Leone government and international partners, including the Economic Community of West African States Monitoring Group and the United Nations, conducted disarmament and demobilization in three phases between 1998 and 2000. Reintegration programs continued through 2003. At the start of the program, the estimated number of combatants was 45,000, of which 12 percent was presumed to be women.[3] At its completion, over 72,000 had been demobilized, indicating that the preliminary estimates of force size were inaccurate. As 84 percent of the demobilized were adult men, the program was effective in reaching out to this segment of the population. Since just 6.5 percent of the demobilized were women, however, it seems likely that thousands

more fighters, particularly women and girls, were not reached by the official process.[4]

Qualifications for Entry

Adults (18 years and older) were eligible for entry into the program by presenting a weapon at any of the official reception centers across the country. They were asked questions and required to disassemble and reassemble a gun, usually an AK-47, as a prerequisite for participation. In Phases I and II, wives and dependents were not eligible for entry.

In Phase III, a group could bring in a weapon. Late in the program, as men complained about their inability to sustain their families, "wives" were permitted to apply for microcredit. For a woman to access the loans, however, she had to be present with a man who was willing to identify her as his wife. No woman could claim benefits alone, regardless of the number of children in her care. For many abductees forced into "marriage," there was no means of escaping their captors. But some senior DDR officials did not consider this important. "Even if they were raped and abducted," said one unnamed official in a 2002 interview, "70 percent...want to be with their husbands." Officially, those under 18 were not required to present a weapon to enter DDR. However, there was widespread inconsistency among the UN, government officials, and NGO staff on whether children were required to turn in weapons. The majority of girl fighters interviewed for this study, including those who passed through the DDR process, stated that the weapons test was repeatedly administered to children.

Women and Girls in the Margins

Nearly 7,000 children participated in official demobilization programs,[5] but estimates suggest that there were as many as 48,216 children in the forces. Thus, there is significant disparity between the number of children, particularly girls, presumed to be in the forces and the numbers that entered the DDR programs (see table).

Table 1: Estimated Number for Total Forces, Child Soldiers, and Girl Soldiers[6]

Force	Total	Child Solders	Girls Soldiers
RUF	45,000	22,500	7,500
AFRC	10,000	5,000	1,667
SLA	14,000	3,500	1,167
CDF	68,865	17,216	1,722
Total	***137,865***	***48,216***	***12,056***

In the survey referenced earlier, half of the women and girls had not gone through official disarmament and demobilization. Their experiences highlight a number of gaps in the process:

1. Forty-six percent cited not having a weapon as a barrier for entry into the program. Many women in the CDF were ordered to hand in their weapons prior to demobilization, then were left behind as their male colleagues were transported to assembly centers. Others indicated that their guns were taken away by their commanders and handed to male fighters. Many who were not "primarily" fighters had used weapons from a communal source but did not possess guns themselves.

2. Twenty-one percent feared reprisals from opposing forces at the centers and so avoided the process.

3. Others reported feeling unsafe among the men and thus stayed away from the sites.

4. Many had no knowledge of the program or felt there was nothing to gain by participating.

5. Little was done to reach out to women and girls in the CDF, as it was incorrectly assumed that these were male-only units.

According to local reports since the conclusion of the disarmament and demobilization components of the official program, some female ex-combatants have turned to prostitution and petty crime for survival.

2044

With no hope of receiving assistance from the children's fathers, their own families, or the state, some are turning to violence. In 2002, social workers observed that young women, particularly those with children, were instigating riots in urban centers. Some young women fighters have reportedly crossed borders to join armed groups across the region.

Rising to the Challenge: Women's Campaign for Peace

From the early days of the war, women in rural and urban centers mobilized to protest the atrocities and call for peace. In May 2000, with the RUF flouting the 1999 Lomé accords, a group of elderly women came together, demanding a meeting with Sankoh. On arriving at the RUF compound, they were mistreated and insulted. Frustrated, the women tried a different tactic. They collectively hitched up their skirts, bent over, and bared themselves to Sankoh and his coterie. In Sierra Leone, such an action by women is the worst curse that can be brought upon anyone.

The news had a galvanizing effect on Sierra Leoneans. They had an obligation to uphold the women's honor and support the curse. But the women's actions also gave people the courage to stand up to the RUF. Coinciding with the arrival of the new UN mission and British Special Forces, the women's protest and subsequent public demonstrations, were pivotal in the struggle for peace, culminating in Sankoh's arrest.

Caring for Ex-Combatants: Women's Contributions to Reintegration

Across Sierra Leone, women as individuals and in groups have been critical to reintegrating former combatants, particularly those excluded from official programs. Some women whose children were killed have opened their homes to former child soldiers. Others have set aside their own suffering and offered help, believing that, "If left abandoned, the child ex-combatants would have nothing positive to do...and would prove a threat to a fragile peace."[6]

In the study survey, 55 percent of respondents indicated that women in the community played a significant role in helping them reintegrate. This was higher than responses for assistance given to them by traditional leaders (20 percent) or international aid workers (32 percent). They said community women provided guidance, shared meager resources, and, perhaps most important, helped facilitate their skills training and education by providing childcare, clothes, and food. Women's organizations have also provided models for many of the female ex-combatants; over 65 percent of respondents said that they would like to join such organizations, which they see as offering practical assistance.

Nationally, the Forum for African Women Educationalists and the Progressive Women's Association are the main organizations active in reintegration programs. Among local organizations, Caritas-Makeni, affiliated with the Catholic Church and operating in central Sierra Leone, has developed a foster care program for young mothers, enabling them to attend school while their children are tended. Caritas-Makeni also offers counseling and programs on health and alternative income generation for those who have entered the sex trade.

Among international actors, the UN Children's Fund (UNICEF) and the US Agency for International Development (USAID) offer strong models for working with local groups and reaching former combatants excluded from the national programs. UNICEF has an innovative program of providing resources to schools that accept former child combatants. In addition, UNICEF, with the support of USAID, runs training centers that offer mothers childcare and food. A number of their programs combine vocational training with basic literacy and numeric skills. Non-traditional trades such as welding, carpentry, and house building are among those taught to women. Forty-nine percent of survey participants said such training, as well as education, are critical in facilitating their adjustment to civilian life.

Conclusion

Sierra Leone's DDR process failed women and girls. As many were classified as "dependents" only, their real experiences were not acknowledged, and they were precluded from receiving the benefits provided to "combatants." The assumption that women and girls were victims only, with no role in either the execution of war or the building of peace, is proving detrimental to their future, with potentially negative consequences for the country's recovery and the region's security.

First, despite their horrific experiences in the war, women and girls have shown tremendous agency and initiative. Even during their captivity, those in the

forces regained some control of their own lives by developing skills to ensure their survival and strategies to protect others. Yet when the DDR program was implemented, there was virtually no recognition of the multiple roles women played or the skills they had gained. Many have ambitions for education and independence. They feel tremendous responsibility for their offspring and aspire to give them a better future. By being treated as passive victims, they are again stripped of their sense of self-worth and dignity. Second, women's exclusion from official programs will have significant social consequences, including poverty, crime, prostitution, and an increase in HIV/AIDS. Moreover, the exclusion of single mothers means the exclusion of their children—and thus another generation of unskilled, marginalized youth.

Third, in the same way that disaffected male youths and ex-fighters might lead rebellions, form militias, or join other guerilla groups, so can women and girls. As the 2002 riots and female militia activities indicate, some have already taken up violence. Without support, these young mothers have little to lose from resorting to armed activity as a means of survival.

Finally, local community efforts, informal networks, and organizations—primarily led by women—provide critical support for former combatants. Women's commitment to rehabilitating and coexisting with former fighters is a matter of basic survival for themselves and others. Unlike the international community, they have no exit strategy. If they fail, violence returns to their doorsteps. At the same time, local groups are under immense pressure. They have meager resources, their work is rarely acknowledged in official processes, and they receive only limited assistance from the international community. Supporting the work of these women is a cost-effective and essential ingredient for ensuring sustainable reintegration.

Drawing on qualitative field-based research and quantitative survey data, this study assesses how a gender perspective can improve formal disarmament, demobilization, and reintegration (DDR) programs and documents women's contributions to official and civil society-based initiatives.

Endnotes

[1] Bradley, Sean, Massimo Fusato, and Philippe Maughan. "Sierra Leone: Disarmament, Demobilization and Reintegration (DDR)." Ed. P.C. Monan. *Findings Africa Region* 81. Washington, DC: The World Bank, 2002, 1, 22 October 2003 <http://www.worldbank.org/afr/findings/infoeng/infob81.pdf>; Women's Commission for Refugee Women and Children. *Precious Resources: Adolescents in the Reconstruction of Sierra Leone*. New York: Women's Commission, 2002, 46; Sierra Leone. National Committee for Disarmament, Demobilization and Reintegration. Statistical data provided to the authors. Freetown: NCDDR, 2002.

[2] Estimates indicate that up to 50 percent of fighters in rebel forces were children and some 10-30 percent of force members were women.

[3] Malan, Mark, et al. *Sierra Leone: Building the Road to Recovery*. Pretoria, South Africa: Institute for Strategic Studies, 2003, 25.

[4] Sierra Leone, NCDDR; Women's Commission 46.

[5] Women's Commission 46.

[6] Shellac, Davies, personal interview, August 2002.

INTRODUCTION

In December 2003, Sierra Leone ended its official disarmament, demobilization, and reintegration (DDR) program. From the time of its initiation in 1998, 72,500 former combatants passed through the program, including 4,751 women (6.5 percent) and 6,787 children (9.4 percent), of whom 506 were girls[1]. From the outset there was recognition of the large presence of child soldiers (up to 50 percent of fighters in rebel forces were believed to be under 18) and women (estimates ranged between 10 and 30 percent) among the various forces, so the program was in principle, designed to include them. At completion, however, while the program was noted for its effective outreach to male combatants, women and children were underserved. Despite this significant shortcoming, the program has been hailed as a success by the UN, the World Bank, and others, and a model upon which other DDR processes could be based.[2]

The DDR program also failed to provide support to civilian populations faced with the reality of reintegrating former fighters. Instead, women as individuals and in groups took on the responsibility of assisting these fighters, particularly the children and youth among them, as they returned to civilian life. The majority of these community-based efforts, however, received little or no aid or recognition from the national and international programs established to guarantee not just successful demobilization, but ultimately effective reintegration and rehabilitation.

This report revisits the Sierra Leone conflict and peace process from the perspective of women. Drawing on field-based interviews and data, it outlines the diverse roles played by women and girls in the war and highlights the importance of women's activism for peace. This study presents key findings of the experiences of women and girls in the DDR program, focusing on obstacles to access, entry, and full participation. It documents women's individual and collective contributions to the reintegration of fighters, concluding with an analysis of the importance of a gender perspective to DDR efforts and practical recommendations to support the development of such programs.

Outlined here are the rationale for this study, assumptions of the research, an explanation of methodology, and the working definitions that frame this report.

Rationale

Limited research has been conducted to assess DDR programs' ability to respond to the experiences of women and girls within fighting forces, in Sierra Leone or elsewhere.[3] Still less is known about how programs that do or do not address gender considerations may contribute to or hinder peaceful transitions. Drawing on the Sierra Leone conflict (1991-2000) this report uses quantitative and qualitative methods and gender analysis to document and examine women and girl ex-combatants' roles and experiences within the forces and official DDR processes.[4]

In addition to a lack of information on the experiences of women and girls in official DDR programs, knowledge is scarce regarding the contributions that women make to official and community-based DDR processes. As conflicts increasingly involve civilian populations, women are more and more often called upon to "unofficially" assist in demobilizing and reintegrating ex-combatants, especially child soldiers. In Sierra Leone, children constituted half of some of the fighting forces; up to one third of these were girls.[4] This study, therefore, also documents women's previously unrecognized actions to strengthen official and community-based DDR, assist ex-combatants, and contribute to peace building within Sierra Leone and the region.

[1]Results presented in this study draw in part on data collected under a grant from the Canadian International Development Agency (CIDA) and the International Centre for Human Rights and Democratic Development, "Girls in Militaries, Paramilitaries, Militias, and Armed Opposition Forces" (Montreal: Rights and Democracy, 2003). Principle investigators for the CIDA grant were Dyan Mazurana and Susan McKay, Professor of Women's Studies, University of Wyoming, USA; the full results are presented in the forthcoming book, *Where Are the Girls? Girls in Fighting Forces in Northern Uganda, Sierra Leone, and Mozambique: Their Lives During and After War* (Montreal: Rights and Democracy).

Assumptions

This study rests on the assumption that effective DDR processes are critical for achieving sustainable peace. Further, it presupposes that it is insufficient to prioritize the disarmament and demobilization elements alone at the expense of the reintegration component. Finally, it acknowledges that the burden of reintegration and longer-term rehabilitation is largely placed on the families and communities into which former combatants return; too often official national and international DDR programs overlook this key component.

The study does not assume that women are more peaceful than men by nature. Indeed it shows that women play many roles during times of war, ranging from frontline combatants to community peacemakers. They should therefore be recognized as active agents rather than passive victims in peace processes, including DDR. To exclude their voices and experiences and to ignore their contributions ultimately undermines peace.

Methodology

Throughout August and September 2002 in Sierra Leone, over 60 in-depth interviews were conducted with community leaders, social workers, NGO staff, psychologists, traditional and religious leaders, as well as with government officials, representatives of international organizations and women and girls formerly in the fighting forces.

Secondary quantitative data on the fighting forces and their participation in DDR programs with particular emphasis on children and girls was gathered from the Sierra Leone National Center for Disarmament, Demobilization and Reintegration (NCDDR) and the Child Protection Unit of the United Nations Children's Fund (UNICEF), Sierra Leone.

Finally, a survey using quota sampling was used to gather quantitative data.[5] The Sierra Leone survey was a quota sample of girls and young women formerly associated with the fighting forces during the 1991-2002 war. Sub-categories of the study population included captive "wives" of commanders and girls involved in pro-government Civil Defense Forces (CDF). Study sites were selected with the assistance of UNICEF in Sierra Leone and international and local NGOs working with child ex-combatants or war-affected communities in Sierra Leone.[6] The sampling took place in different regions of the country and included the Western Area (the area including and surrounding the capital Freetown) and two of three provinces, the North and the East. Throughout August and September 2002, surveys were conducted in a variety of locations including remote villages, "suburbs" of urban centers, urban centers, and interim care and training centers for war-affected youth.

The survey contained 99 questions pertaining to basic demographic data, entry into the force, roles and experiences within the force, experiences of physical abuses within the respective forces and in community reintegration, experiences of time spent in the army barracks, official disarmament and demobilization, direct community entrance, reintegration, skills training, assistance needs, and current status. Fourteen open-ended questions were included in the survey itself; issues ranged from questions regarding why a girl joined an armed force if she reported joining, skills learned in fighting forces that could assist the respondent now, to difficulties and assistance during reintegration.

A full description of the research methodology can be found in Appendix 1.

Definitions

Peace Processes

Just as scholars have identified the "lifecycle" of conflict,[7] current thinking in the field identifies a lifecycle of peace. The establishment of peace is not a single event, but rather a process characterized by progress and setbacks, successes and failures. Observers of peace processes, including those who live in societies with protracted conflict, are all too familiar with premature celebration of ceasefires and peace accords that are later violated. Even if a settlement holds, the transition to a state of peace is a long-term operation. It requires extensive logistical and financial measures to create or reestablish the physical, social, and political infrastructure necessary for the country to transition towards a culture of peace.

Perhaps the most realistic approach to understanding the peace process is to acknowledge that, though negotiations are "the best-known stage in a process of peace," as Anderlini et al. write in *Journeys Through Conflict: Narratives and Lessons*,

[They] represent but one moment. Though essential, they nevertheless do not exhaust all the possibilities of actions or initiatives that such a process may require. For negotiations to take place, prenegotiations are necessary, be they formal or informal. For a political settlement to succeed, implementation of the provisions of an accord in the postnegotiation period is vital. In other words, it could be said that peace processes have three broad phases: preparation, transformation, and consolidation.[8]

It is important to note that these three phases are seldom distinct; they blend into one another in a continuum from ceasefire toward the consolidation of peace. Timelines often blur, for example, when the reintegration phase of DDR ends and the longer-term process of reconstruction begins.

Disarmament, Demobilization, and Reintegration (DDR)

International policymakers consider DDR one of the most important steps in any peace process. The World Bank has defined a successful DDR program as "the key to an effective transition from war to peace."[9] Although each of the three elements of DDR has distinctly different goals and requires independent planning, the phases do overlap and are dependent upon each other.[10]

The UN defines **disarmament** as "...the collection of small arms and light and heavy weapons within a conflict zone."[11] Former combatants are gathered in pre-determined assembly areas, where weapons are confiscated, safely stored, and eventually destroyed. Individuals then receive support in the form of food aid, shelter, clothing, medical attention, basic education, and orientation programs. In addition, censuses are often conducted, and ex-combatants are issued discharge documentation.[12]

Demobilization is both the formal disbanding of military formations and the release of combatants from a "mobilized" state.[13] Discharge of ex-combatants often occurs over a period of time, during which they are usually transported to their home districts or given small transportation grants and the process of initial reinsertion begins.[14]

Nicole Ball of the University of Maryland breaks down **reintegration** into two phases—initial reinsertion and long-term reintegration.[15] Reinsertion refers to the short-term arrival period of an ex-combatant into his/her former home or into a new community. Support during this phase may include basic household goods, land, food supplements, and housing materials. Reintegration takes a long-term approach, to assist the community and the ex-combatant in the difficult transition to civilian life. Assistance during reintegration usually includes job placement services, skills training, credit schemes, scholarships, and rehabilitation programs.

The international community at times refers to a second "R" in DDR, which represents "rehabilitation." This concept encompasses difficult issues, such as the need to address the psychological and emotional aspects of returning home and problems that arise in relation to the wider community. Nearly all DDR programs address rehabilitation in some form, but the most often-used acronym for the process is DDR.

Security sector reform—such as dismantling and restructuring the military and constructing a new civilian police force—is often included in discussions surrounding disarmament, demobilization, and reintegration. For the purposes of this paper, DDR will only include the processes defined above and will not address issues pertaining to security sector reform.

Gender

The term "gender" refers to the socially constructed—as opposed to biologically determined—identities of men and women. Gender is not the same as "sex," and gender differences are not the same as sex differences. For instance, the ability of women to bear children is a sex, or biologically determined, difference from men; that women, in many societies, are responsible for food preparation and household chores is a gender, or socially constructed, difference.

Gender roles are assigned to men and women early in socialization. They cut across public and private spheres; are specific to a given culture at a given time; are affected by other forms of differentiation such as race, ethnicity, and class; and can change in different socio-political and economic contexts within a society. World Bank literature notes that in any given society, gender shapes the definitions of acceptable responsibilities and functions for men and women in terms of "social and economic activities, access to resources, and decision making authority."[16]

This report is careful not to conflate the terms "gender" and "women." It examines how gender considerations are a necessary component of DDR planning and implementation, and how women in Sierra Leone enhanced the DDR process, primarily through their numerous ad-hoc and local reintegration and rehabilitation programs.

205

PART 1: THE TRANSITION FROM WAR TO PEACE

Pre-Colonization to Independence

Prior to colonization no ethnic tribe dominated the geographic area that is now Sierra Leone. The largest ethnic groups, the Mende and Temne, have long been divided into chiefdoms in the south and the north respectively. A country rich with natural resources—timber, ivory, palm oil, and valuable mineral deposits including gold, bauxite, and diamonds—Sierra Leone fell into British control in the early 1800s. During its movement to abolish slavery, Great Britain allowed thousands of freed slaves to find refuge in the West African territory, effectively reshaping the demographic composition of Sierra Leone. Other ethnic groups including the Kono, Limba, Kissi, and Krio migrated into the new British territory.

Democratic reforms following World War II established an assembly for the territory led primarily by Paramount Chiefs. Fearing marginalization, the Krio elite, along with other chiefs, created the Sierra Leone People's Party (SLPP), led by Sir Milton Margai, a Mende. The creation of the Temne-dominated All People's Congress (APC) followed in 1957, splitting the assembly's composition and dividing it ethnically between the Mende (SLPP) of the south and the Temne (APC) of the north. Margai was elected Prime Minister after successful constitutional talks in London in 1960. A year later, Sierra Leone became independent, women gained the right to vote, and a parliamentary system within the British Commonwealth was established. The years after independence gave way to protracted political clashes between the two parties until 1967, when the APC won in a democratic election.[17]

Cold War to Civil War

Adopting a policy of non-alignment during the Cold War, the Sierra Leone government upheld the colonial practice of emphasizing the export of raw materials over industrial production. Independent mining made up the bulk (80 percent) of economic export from Sierra Leone. Continuing a tradition of maintaining power through asset control and patron systems, by the early 1970s, the APC, with Siaka Stevens as president, controlled 52 percent of the national diamond industry. In 1978, facing increased opposition from professionals and trade unionists, Stevens consolidated his power. He destroyed many of the political institutions established in the British parliamentary system, rendering them ineffective. Tightening its grip, the APC leadership cut off access to natural resources to those outside its sphere.[18]

One result of these actions was increased frustration and unrest among youth and students unable to support themselves and their families. The political ideals expressed by jobless university students, graduates, and dropouts supplanted the unorganized political frustrations among the uneducated youth, who were sometimes used as thugs by the political leadership. Buoyed by public support, the youth promoted the idea of pan-Africanism, drawing parallels between the colonial past and the post-colonial present. The APC tried to attract distinguished "radicals" among the youth class as potential candidates for the party, but none accepted.[19]

The economy faltered throughout the 1980s, due in part to lost revenues from diamond smuggling. Yet those within the patron system, including politicians, powerful chiefs, and traders, prospered while the average citizen's standard of living continued to decline.[20] Government expenditures on health and housing dropped and state-sponsored scholarships decreased. Looking for allies to overcome the West's containment of Muamar Qaddafi's regime, Libya eagerly nurtured the political discord among young Sierra Leoneans.[21] One of those who traveled to Libya was Foday Sankoh, formerly a corporal in the Sierra Leone Army (SLA). It was in a Libyan military training camp that Sankoh met Charles Taylor of the National Patriotic Front of Liberia (NPFL). In 1987, the two agreed to support each other's efforts to overthrow their respective governments. Financiers and recruits were found in the main diamond mines of Sierra Leone, located in the Eastern and Southern Provinces, in some cases more easily accessed from Liberia than from the Sierra Leone capital of Freetown.[22]

In August 1985, the APC named Joseph Saidu Momoh as successor to Stevens after several years of economic decline, increased political opposition, and Stevens' increasingly autocratic approach. Corruption, the collapse of the economy, and heavy cuts in social programs, partly due to International Monetary Fund (IMF) structural adjustment programs, had severely weakened the country.[23] Momoh attempted to re-establish a multi-party government with elections scheduled for 1991. However, armed

rebel forces led by Foday Sankoh, calling themselves the Revolutionary United Front (RUF) and backed by Liberia, launched their first attack into Sierra Leone just prior to the elections, thwarting the president's efforts to stabilize the economy. Initially, RUF forces consisted of three groups: those trained in Libya with fighting experience in Liberia, young men from Liberia and Sierra Leone who had little or no work, and seasoned NPFL fighters from Taylor's army.[24]

Violent Conflict and the Rise of the Civil Defense Forces

In March 1991, RUF rebels invaded Sierra Leone from Liberia and occupied the eastern regions of the country, securing lucrative diamond reserves. In exchange for weapons, drugs, and supplies, Sierra Leonean diamonds were smuggled into Liberia for sale on the international market, generating millions of dollars annually. Controlling the diamond mines also allowed Sankoh to recruit, forcibly and voluntarily, young miners and locally unemployed men and boys into his fighting forces. By the mid to late 1990s, global exposure of these "blood diamonds" led to an international outcry against their export and sale and initiated numerous UN investigations and resolutions.[25]

Within the first 18 months of RUF attacks, over 400,000 people were internally displaced while hundreds of thousands became refugees. The war quickly came to involve not only Liberia, but also Guinea and Côte D'Ivoire. It destroyed hundreds of hospitals and schools and tens of thousands of homes. Because of a lack of health care, failing schools, and the widespread destruction of infrastructure support systems, the population grew increasingly vulnerable. The Sierra Leone countryside became militarized as a result of the presence of international forces, widespread proliferation of small arms, and a general suspicion towards one's neighbor, especially in areas protected by local militias.[26]

Women and girls reported atrocities committed by all fighting forces during the war.[27] Early in the conflict the RUF perpetrated widespread violence across southern and eastern Sierra Leone. Violence against women and children and general terror in rural and urban centers quickly became cornerstones of the movement and were encouraged by RUF leadership.[28]

As government revenues fell from the loss of mineral sales, so too did the salaries and the resolve of the SLA. Soldiers committed gross human rights violations, including rape, mutilations, looting, property destruction, and murder. They forced women and girls to exchange sex for "protection" and used them as prostitutes.[29] With the rebellion spreading virtually unchecked in the south and east, rebels preyed on civilians for food, supplies, and labor.[30]

Subjected to violence by both the RUF and the SLA, local militias known as Civil Defense Forces (CDF) emerged.[31] CDF gained prominence with the rise of the Kamajors, the largest traditional hunting society, in the eastern and southern provinces. Other hunting groups were the Tamaboro, Donso, Kapra and later, the Gbethis in the north. With the exception of the Gbethis, these groups existed prior to the war, relying on perceived magical powers and customary hunting weapons such as spears. Combining skill and valor, these groups at times thwarted RUF offensives.[32]

As the war progressed and the RUF gained ground, the government supplied the CDF with weapons and financial and logistical support. Although under the supervision of Samuel Hinga Norman, who was the deputy defense minister, chairman of the CDF, and a Kamajor, the CDF did not feature prominently in the president's overall war strategy. This was a result of the army's unease at what it perceived as competition from other fighting forces and possibly due to fear of the CDF gaining political leverage over the president's hold on authority.[33]

In 1995, the government hired Executive Outcomes (EO), a South African "mercenary" force composed of 2,000 former South African Defense Force combat veterans. The intervention of EO along with the CDF propped-up the failing Sierra Leonean government. EO's rapid deployment and well-trained soldiers attacked RUF forces and regained control of resource-rich areas. Its military victories allowed local traders to re-establish trade networks and, more importantly, enabled a corporate web of allied mining partners to fence off valuable mining zones, squeezing everyday miners into smaller low-paying illicit operations.[34] With the assistance of local landowners or policemen, these traders kept wages low, forced slave-like labor, and traded diamonds on the informal market.[35] Those who did not cooperate were removed from political positions and trading zones.[36]

Women and Girls in Fighting Forces

The presence of women and girls within the former rebel RUF and AFRC fighting forces was known early on in the war.[37] Much less is known about their presence or roles in the SLA or the CDF. Drawing on field-based data and secondary sources, this study concludes that the estimated number of girls and young women in fighting forces was higher than previously reported (see Table 1).[38] This increase is partly due to their presence as fully initiated members of the CDF.[39]

Table 1: Estimated Number for Total Forces, Child Soldiers, and Girl Soldiers

Force	Total	Child Soldiers	Girl Soldiers
RUF	45,000	22,500	7,500
AFRC	10,000	5,000	1,667
SLA	14,000	3,500	1,167
CDF	68,865	17,216	1,722
Total	***137,865***	***48,216***	***12,056***

Of the study population, nearly all stated "abduction" and "forced recruitment" as their means of entry into the various forces. Ten-year-old Maria B.[40] was outside her home playing with friends under the moonlight when the RUF attacked.[41] All of them tried to escape, but she was captured. She was told to carry looted items for the rebels and was given a five-gallon container of palm oil; anytime she tried to rest she was beaten.

Agnes V.[42] was nine years old and on vacation with her family when rebels attacked the village. After looting the village, the rebels rounded up around 50 people, locked them in a building, and began to set it on fire. A junior commander pleaded with the senior commander to release the young girl. She was then selected by the junior commander to be his captive "wife." The people remaining in the building were burned. Agnes was forced to be the captive "wife" of the commander for the next nine years. During the commanders' absences from the camp, she was in charge of the military compound, including organizing raids and fighting units.

Mariama M.[43] was seven years old when she was captured and spent 10 years with the AFRC/RUF as a fighter. She received basic military and weapons training with machine guns and two-grip pistols. She was trained with approximately 50 other girls and 100 boys.

Once recruited, women and girls had numerous roles, including that of frontline fighters. In fact, nearly half (44 percent) of the study population received basic military and weapons training from their commanders or captor "husbands." However, nearly all women and girls performed additional roles:

- 72 percent as cooks;
- 68 percent as porters;
- 62 percent as assistants for the sick and wounded;
- 60 percent as "wives;"
- 44 percent as food producers;
- 40 percent as messengers between rebel camps;
- 22 percent as spies;
- 18 percent as communications technicians; and
- 14 percent as workers in diamond mines for their commanders or captor husbands.

Notably, all of the study population who reported their primary role as "fighter" also reported that they were forced to be captive "wives." According to Kama F.,[44] who at age 15 was an RUF frontline fighter, it was better to be a fighter and the "wife" of a common soldier because you could protect yourself with your own weapon, you had access to food and loot, and your chances of escaping were greater, unlike captive "wives" of commanders who were closely guarded with little chance of escape.

Women and Girls as Full Members of the CDF

Official claims that the pro-government CDF were composed only of males are inaccurate.[45] Women and girls were fully initiated members of the CDF.[46] This study focuses on the two largest CDF: the Kamajors and Gbethis. Although the Kamajors were originally a male-only traditional hunting society, in response to the increased pressure from the RUF it became a

self-defense force and enlisted women and girls beginning in the early 1990s and continued this practice throughout the war. The Gbethis, never a traditional male society, were created as one of the CDF in the mid 1990s in response to increased rebel attacks. They enlisted and initiated women and girls where they acted as integrated members of the CDF and were included in all ceremonies, amulets, and scarification. They served as commanders, frontline fighters, initiators, spiritual leaders, medics, herbalists, spies, and cooks.[47]

Ramatu T.[48] was a fighter with the Kamajors and fought alongside other girls and women Kamajors in Kenema and Bo Districts. Describing her initiation she says,

> *They use native herbs, which you drink and they bathe you in. These herbs make it so you don't feel like returning to your family. The initiator placed charms around my neck so that bullets are deflected, and a special charm to protect against knives and pangas; they will just bounce off my body. After this they gave me my special dress and herbs and charms. I was instructed not to bathe for several days because it would reduce the magic. Later, they rubbed the blood of a human being on my skin, and I found that I was not afraid of anything. I had a strong and fearless heart.*

Some women and girls joined the Kamajors and Gbethis at the request of their husbands who were already initiated in the militias. Mamuna K.[49] was married to a Gbethi man who asked her to join for her own protection. Mamuna, who was pregnant, sent her remaining children into Freetown for their safety and joined the Gbethis the same year. Importantly, Mamuna was an herbalist and her role within the Gbethis was to prepare the baths and drinks for those undergoing initiation. Within the group she was regarded as crucial to maintaining the magical powers of the fighting force, as she collected and prepared herbs for the fighters' food and drink.

Others were abducted and conscripted by the Kamajors and Gbethis. At times, women and girls worked with their male counterparts to capture civilian adolescents and children whom they forcibly initiated and trained as fighters.[50] Some "joined" or became "wives" to male CDF fighters as a matter of survival. Mariatu R.[51] agreed to become a "wife" of a fighter and join the Gbethis when an RUF attack on her village left her and her elderly parents as the only survivors. Upon joining, Mariatu was able to bring her parents and herself within the ring of protection offered by the Gbethis.

Many adolescents and children "joined" the Kamajors and Gbethis with the approval of their parents. This was especially the case when the Paramount Chief of the area endorsed a particular unit of the CDF; it then became mandatory that all families contribute a member to the CDF.[52] Dissension was rare. For example, in Kenema Township, Kenema District, where the Kamajors were especially active during the war, the burned homes are not the result of rebel activities. Instead, they belong to families who did not contribute a family member to the Kamajors, and thus were suspected rebel sympathizers. According to one informant, "There is not a house in Kenema [Township] left that did not contribute someone to the Kamajors."[53]

Women and girls in the Kamajors and Gbethis observed widespread human rights violations by members of the CDF, including cannibalism, human sacrifice, and sexual abuse. For example, Ramatu T.[54] reported that a common practice among her Kamajor force was for adult Kamajor males to enter a village and capture an adult civilian. They would then cut the person's throat, turn them upside down, and "squeeze them from toe to head" to drain their blood into a bucket. All members of the fighting party, including the women and girls, would then drink the blood so they would not be afraid during the attack. Perhaps in part because of their participation in such violent acts, as well as their involvement in activities such as warfare, that went against traditionally acceptable roles for females, all young women and girls formerly with the CDF in the study population reported stigmatization, threats, and abuse upon returning to the communities they had fought to protect.

"Wives" of RUF Commanders in Camps and Command Structure

The RUF was loosely configured, and camp and command structure varied throughout the country. In general, a commander held "houses" or compounds in which his or her recruits and captives served. While there were a number of female RUF commanders, the majority were males.[55]

Captive "wives" of commanders exerted substantial power within the RUF compounds. These "wives" were predominately girls. When the commander was away, they were in charge of the compound. They kept in communication with the commander and would select and send troops, spies, and support when needed. These girls and young women decided on a daily basis who in the compound would fight, provide reconnaissance, and raid villages for food and loot. Some counseled their captor husbands on war strategies, troop movement, and upcoming attacks.[56]

Saramba M.[57] spent five years with the RUF as a commander's "wife." During that time she distributed weapons to boy and girl fighters prior to village raids and attacks on enemy forces. She also chose boys and girls for spy missions to infiltrate camps of the SLA, CDF, and Economic Community of West African States Monitoring Group (ECOMOG) and to report on force locations and size. At times, such spying led to the deaths of these children and sexual abuse by male soldiers, particularly in the case of girls who were told to become intimate with the men in these forces to gather information.[58]

In the absence of the commander, when food and loot were delivered to the camps, it was brought to his captive "wife." She would then decide how these goods were to be apportioned among those in the compound.[59] Lynette S.[60] distributed food and loot to groups of boy fighters within her RUF compound to try to persuade them not to harass or sexually abuse the young children in the camp. She expressed deep sympathy for the young children and had a number of strategies she would employ to try and influence her commander "husband" to also look out for the well being of the children.

Bodyguards accompanied the commanders' captive "wives," both to provide protection in case of attack on the compound and to prevent their escape. Between four to six children might serve as bodyguards; 25 to 50 percent were girls.[61] Ester C.,[62] a commander's "wife," was guarded by six boys and three girls; the youngest boy was six. They were armed with AK-47s and two-grip pistols. Nearly all bodyguards and the commander's captive "wife" or "wives" carried guns and other weapons.[63]

In some cases, as documented in Kono District, commanders' captive "wives" were replaced by new or more favored girls. Subsequently, the rejected "wives" were sent by their commander husbands to the front lines to fight.[64] Ramatu S. and Inna T.[65] described RUF camps in the south with strictly enforced separations between civilians and soldiers. RUF commanders believed that a separation of camps would prevent civilians from witnessing atrocities committed by soldiers or learning about force size and strength should they escape and inform government factions. Consistent with this strategy, "wives" of commanders or soldiers who were rejected were forbidden from returning to the civilian camps and were instead sent to the front lines.

Commanders' "wives" were in charge of Small Boys Units (SBU) and Small Girls Units (SGU).[66] The SBU were made up of boys aged 6-15 used primarily for scouting to prepare attacks and food raids, but were dispatched to execute some of the most violent killings and mutilations.[67] The SGU were made up of similarly aged girls and were used primarily for raiding villages and spying, although they too were sent to fight and commit atrocities.[68b] In some cases, commanders' "wives" used loot to mitigate abuse by the SBU or to reward them for not abusing the girls within the compound. In other cases, they could order punishment of the SBU or SGU for "disrupting life in the compound."[69]

Fighters, male and female, had their own "families" within the compound, which consisted of children they had captured and who were under their protection and care. Girl fighters could and did serve as heads of these "families."[70] Food and loot were distributed on the basis of these "families." Much has been said about girls trying to attach themselves to boys or men within the compounds to avoid gang raping.[71] While this appears to be accurate, this study also found that older children and adolescents who were not attached to a "family" were not given food and had to survive as scavengers. Thus, attachment of girls to boys or men was also means to secure food as well as (some) protection against sexual assault.[72]

The presence, roles, and experiences of women and girls within the fighting forces in Sierra Leone has a number of important implications for the design of those processes that seek to build human and national security and peace in the post-conflict period. It is evident that despite their trauma, women and girls showed tremendous agency. They developed a number

of skills and strategies that enabled them to survive and regain some control over their lives during their time with the fighting forces.

From the standpoint of DDR programs, however, the need for strict categorization of individuals as "combatants" or "non-combatants," and the reluctance on the part of the international community and local governments to acknowledge that women and girls are integral to the fighting often devalues the multiple roles they play in conflict. This is not only detrimental to disarmament and demobilization, it also harms the women and girls. By being treated as passive victims or "dependents," they are again stripped of control of their lives and their sense of dignity. Moreover, by not acknowledging the skills and resources that they have attained, DDR processes risk losing tremendous social capital that could be utilized for post-conflict reconstruction.

The Role of Women in the Peace Process

Throughout the war, rural and urban women from all classes and ethnic groups mobilized to form active organizations, conduct marches, and lead rallies for peace and justice. Many women's organizations participated in peace processes during and after the war, including the Mano River Women's Peace Network, Women's Movement for Peace, Forum of African Women Educationalists (FAWE), Sierra Leone Women's Forum, Network of Women Ministers and Parliamentarians, and the Sierra Leone Women's Movement for Peace. They educated civilians on electoral proceedings, recruited and trained observers, and pressured the military to respect the results of elections.[73] Their efforts were critical in shaping informal and formal peace processes, and in bringing about an eventual end to the conflict.[74]

The first attempt at a ceasefire came in January 1996, after a bloodless coup that overthrew the brief military dictatorship of Valetin Strasser. Brigadier General Maada Bio opened negotiations to cease hostilities with the RUF. Women's groups, led by Women Organized for a Morally Enlightened Nation (WOMEN), pressured Bio's military government, the National Provisional Ruling Council to hold democratic elections. WOMEN was the first non-partisan women's group in Sierra Leone that promote women's representation and concerns in the period before elections.[75] It incorporated many smaller women's groups under one umbrella organization. Yet, when elections were held, only five women were on a list of 68 candidates representing the Sierra Leone People's Party (SLPP).[76] Although given the opportunity, the RUF did not submit candidates of its own. The SLPP won the elections, led by Ahmed Tejan Kabbah.

Kabbah's first attempt at brokering a peace plan was the 1996 Abidjan Peace Accord. Drafted between the RUF and the Sierra Leone government, the accord called for a cessation of violence and the transformation of the RUF into a political party, with a power-sharing incentive to entice the RUF to lay down its arms. Although women suffered greatly from the war and were active in civil movements for peace, none were present at the Abidjan negotiations.[77]

At the signing of the Abidjan peace accord, some girl captives were released from RUF control as a goodwill gesture. However, mutual distrust in implementing the provisions of the accord, and RUF reluctance to lay down arms without the unconditional departure of EO ultimately led to its failure. Other contributing factors included the government's belief that military victory remained possible and the RUF's fear of judicial reprisals.[78]

The government's failure to consistently pay or supply its soldiers, its increasing dependency on and financial support of the CDF, and the high price tag of EO led to the splintering of the SLA. Some soldiers joined the RUF or became part of the new rebel Armed Forces Revolutionary Council (AFRC), which aligned itself with the RUF. In 1997, the AFRC overthrew President Kabbah's regime. Former Army Major Johnny P. Koroma headed the AFRC in Freetown. Shortly thereafter, the RUF was invited to join the regime. Support for the AFRC came from professionals, civil servants, politicians, and other members of the socio-economic elite who felt alienated from the Kabbah government.[79]

[5]While much is written on the SBU, this study presents some of the first data on the presence and roles of the SGU. We interviewed girls who headed the SGU, girl members of the SGU, commander's wives who were in charge of the SGU, and boys within the SBU who confirmed the presence of the SGU.

Growing concern in the region regarding a joint AFRC/RUF government in Freetown brought about the intervention of the Economic Community of the West African States (ECOWAS) to restore the Kabbah regime. ECOWAS determined to act militarily to prevent further chaos, economic ruin, and violence. In March 1997, with the approval of the UN, the Nigerian-led ECOMOG, the military wing of ECOWAS, attacked Freetown, forced the AFRC/RUF regime out and restored Kabbah to power. Key policy objectives of the Kabbah government were to de-legitimize the AFRC/RUF, uphold the rule of law, create a competent and trustworthy national army, and defeat the rebellion.[80] Kabbah's restored government continued to rely on ECOMOG for protection, as well as the support of the CDF.

ECOMOG's presence, however, contributed to violence against civilians. Violation of women and girls' human rights by ECOMOG soldiers was widespread. Girls desperate for income would prostitute themselves or become "girlfriends" of ECOMOG troops for protection. ECOMOG soldiers coerced others into spying on enemy camps. Girls were made especially vulnerable during RUF attacks on ECOMOG forces, and it was common for suspected "girlfriends" of ECOMOG soldiers to be targeted by the RUF for torture and murder. At the same time, girls from RUF and AFRC camps would be sent into ECOMOG areas to befriend soldiers, establish sexual relations with them, and collect intelligence.[81]

In January 1999, a joint AFRC/RUF attack on Freetown resulted in the deaths of over 5,000 civilians. Thousands more were mutilated and raped, and over 5,000 were abducted, mostly women and girls. Recognizing the improbability of a military victory over the AFRC/RUF, the government sought a peace plan and eventually agreed to the 1999 Lomé accord. The Young Women's Christian Association (YWCA), as a founding member of the Inter-Religious Council of Sierra Leone, played a leading role in the negotiations that led to the signing of the 1999 Lomé peace accord, officially ending the war (though fighting and unrest continued into 2002). It called for RUF inclusion in a power-sharing government and granted blanket amnesty to gross violators of human rights.[82] In addition to pardoning RUF leader Sankoh, it placed him at the head of the Commission for the Management of Strategic Resources.[83]

Two women were involved in the Lomé process, one a member of the government delegation and the other a representative of the RUF. Although they were not chief negotiators, the final document reflected at least some gender-specific issues as a result of women's participation. For example, Article 28 calls for special attention to victimized women and girls in formulating and implementing rehabilitation, reconstruction, and development programs. The formation of commissions to promote good governance was also called for in the peace accord. Yet within the key entities including the Commission for the Consolidation of Peace, the Commission for the Management of Strategic Resources, National Reconstruction and Development, and the Council of Religious Leaders, there were no women represented at the time of writing.[84]

In October 1999, the United Nations Assistance Mission to Sierra Leone (UNAMSIL) deployed troops to support the implementation of the Lomé peace accord and bolster the government in the DDR process. However, because there were vast areas still under RUF control, UNAMSIL forces were unable to fully restore peace. In particular, fighting in the diamond-rich eastern province persisted. Small RUF raids and offensives against UN troops yielded large numbers of UN weapons and armored vehicles. RUF attacks peaked on May 3, 2000, when 500 UN peacekeepers were taken hostage. Less than a week later, British Special Forces arrived in Freetown, expelled the RUF from the city, and restored a sense of security. Subsequently, British forces trained and armed Sierra Leonean troops and drove the remaining RUF soldiers from their territory, allowing UN peacekeepers to return.[85]

Women Tipping the Balance Toward Peace

The Lomé accord collapsed when the RUF broke the ceasefire following UNAMSIL's assumption of control of the diamond-rich areas of eastern Sierra Leone. Recruits from Liberia continued to enter the country, facilitating RUF control over the resource-rich region. When Sankoh's intentions of continuing the war despite Lomé surfaced, women assembled in the streets demanding "Not again! Enough is enough!"[86] Their slogan was a response to both the inadequate representation of women after the 1996 elections and Sankoh's tactics, which the women understood to be a means for him to re-arm for war. The women on

the streets called for an end to male domination and male-biased decisions within parliament. They were particularly critical of the decision to appoint Sankoh as a minister and repeatedly called attention to the fact that he was refortifying for war.[87]

Women's activism reached a high point in 2000 when they ultimately played a catalytic role in bringing an end to the conflict. A group of elderly women, representing churches and mosques, requested a meeting with Sankoh, who was living in Freetown. The women came as an interfaith group with an agenda of peace at any cost. Upon arrival they were abused by Sankoh, his guards, and advisors, who refused to listen and mistreated them. The assembled older women stood outside the house of Sankoh, hitched up their skirts, bent over, and bared themselves. In Sierra Leone, such an action by women of this age and standing constitutes the worst curse, sign of shaming, and insult that can be brought upon anyone.

When word of what had happened reached the streets, people were shocked. But they were also mobilized, both because they now had courage to stand up to Sankoh and the RUF, and because they had an obligation to enforce the curse of these respected, senior, religious women. Previously, people had lived in fear of retaliation and violence by the RUF as Sankoh sent death squads to any part of the capital where people spoke out. Yet when such a curse is given, it is the family and society's obligation to back the curse. Men in particular were mobilized to defend the power and honor of the women. May 8, 2000, was set as the date for mass peace protests and demonstrations.

The families of the women, religious organizations, labor and trade unions, and adolescents and school children committed to join the peace protests. Since it appeared that many people would not be going to work or school, the government declared it an unofficial holiday. The mass demonstrations on May 8, 2000 marked the turning point in the conflict.[88] This time the women marched to Sankoh's house with parliamentarians and civil society leaders. Sankoh's guards opened fire, killing a number of the protesters. On May 13, British troops captured and arrested Sankoh, charging him with the murder of unarmed protestors. With the incarceration of Sankoh, the RUF began to splinter, creating a vacuum in which General Issa Sessay became the new RUF leader and eventually the head of the RUFP, a newly formed political party.

The war was officially declared over in January 2002, when hostilities between the CDF and RUF soldiers in eastern Sierra Leone ceased.[89]

When the war ended there were approximately 400,000 internally displaced people and up to 500,000 refugees in Guinea, Gambia, Ghana, and Côte D'Ivoire. At least 55 percent of the refugees were women.[90] Women's organizations continue to address these ongoing issues. For example, recognizing the regional dimensions of the conflict, the Mano River Union Women's Network for Peace visits women refugees in Guinea and Liberia encouraging them to become a part of the peace process, addressing problems such as sexual assaults in camps and food shortages, and, with assistance from the United Nations High Commissioner for Refugees (UNHCR), reuniting women with family members and returning them to their homes in Sierra Leone.[91]

PART 2: THE ROLE AND EXPERIENCES OF WOMEN AND GIRLS IN DDR

DDR Design and Implementation

DDR was initiated by the government of the Sierra Leone People's Party (SLPP) in the aftermath of the 1996 Abidjan accords. A National Commission for Reconstruction, Resettlement, and Rehabilitation (NCRRR) was established with a department that had responsibility for disarming the varying factions.[92] In 1998 the department was restructured as the National Committee for Disarmament, Demobilisation, and Reintegration (NCDDR), after which the program began. Its goals were threefold:[93]

1) collect, register, and destroy all conventional weapons and munitions turned in by combatants;

2) demobilize the *initially* estimated 45,000 combatants from the SLA, RUF, AFRC, and the CDF, 12 percent of whom were thought to be women;[94] and

3) support ex-combatants through demobilization to prepare them for reintegration.

DDR was conducted in three phases, the first beginning in 1998. Phase I was conducted by the NCDDR, chaired by President Kabbah, and ECOMOG, which was mandated to assist in disarmament, weapons collection, and demobilization. In 1999 with the Lomé accords in place, Phase II was initiated, running until April 2000; DDR was conducted by NCDDR and the United Nations Observer Mission to Sierra Leone (UNOMSIL), which was mandated to assist in disarmament and monitoring of demobilization. UNOMSIL was replaced in October 1999 by a significantly larger peacekeeping mission to support the DDR effort. Phase III, which ran from May 2001 to January 2002, was conducted by NCDDR and the new United Nations Assistance Mission in Sierra Leone (UNAMSIL).[95]

Reception centers were established for disarmament and demobilization throughout the country. From September 1998 through May 2001, during Phases I and II, a series of questions and performance of disassembly and reassembly of a gun, usually an AK-47, were used to assess combatants and their DDR eligibility status (combatants 18 years or older). It was believed that the ability to assemble and disassemble a weapon was a good litmus test to determine whether an individual had participated in the conflict as an armed combatant—the requirement for participation in the DDR program. During this time, women accounted for six percent and girls for 0.6 percent of participants. In Phase III (May 18 2001 through January 2002) group disarmament was allowed, meaning a group could bring in weapons together. This helped marginally to increase women's participation to seven percent and girls to 0.7 percent.[96]

Combatants voluntarily presented themselves at the reception centers to disarm and surrender all weapons and ammunition, and to be assessed for eligibility in the program. While officially those under 18 years of age were not required to present a weapon to enter DDR, this study found widespread discrepancy among UN and NCDDR officials and staff of NGOs working within the DDR process as to whether or not children had to turn over a weapon.[97] According to nearly all interviewees who passed through DDR, despite official policy the weapons test was repeatedly administered to children to determine their admission into programs.

Qualifying adults (18 years of age and above) were sent to a demobilization center where they received pre-discharge orientation, their benefits packages, a small amount of resettlement and transportation money, and were discharged. Children (17 years of age and below) were to be sent to Interim Care Centers (ICCs) and could select to enter skills training or an educational program of their choice.[98]

Late in the program it was decided that "wives" of (male) ex-combatants could apply for micro-credit to help maintain their families, as the men complained about their inability to sustain families. However for a female applicant to access the loans, she had to be present with a "husband," who was willing to identify her as his wife. No woman could claim benefits alone, regardless of the number of children she cared for. If women had been permitted to apply alone, it could have enabled them to abdicate their "relationships." But this was not considered by senior DDR officials, one of whom said that "even if they were raped and abducted, 70 percent of the women and girls wanted to be with their 'husbands'."[99]

Obstacles to the Participation of Women and Girls in Formal DDR

The DDR program in Sierra Leone is widely seen as a success and considered to have been sensitive to the needs of female and child combatants. During a visit to Sierra Leone by UN Under-Secretary-General and Special Representative of the Secretary-General for Children and Armed Conflict, Olara Otunno, a UN statement was released noting that "since the Sierra Leonean conflict ended in January 2002…[a]n ambitious programme for the demobilization and reintegration of 7,000 child ex-combatants has [reunited] 97 percent of them with their families and communities."[100]

In March of 2002, in an interview with IRINnews, when asked about female ex-combatants, Dr. Francis Kai-Kai, Executive Secretary of the NCDDR stated "we had about eight percent of them…In the designed program we made every provision for the female ex-combatant."[101] However, this study finds this claim difficult to substantiate when compared to actual experiences of women and girl ex-combatants through interviews and NCDDR data (see Table 2).[102]

As previously illustrated in Table 1, the estimated number of all forces was 137,865 of whom 12,056 were assumed to be girls.[a] Yet as Table 3, and data drawn from UNICEF and NCDDR indicate, there is substantial disparity between the numbers of girls within the forces and those entering DDR programs, thus calling into question the design, implementation, and success of these programs.[103]

In the Disarmament and Demobilization Phases

Despite official policy, the possession of an AK-47 (even with a group) and knowledge of its assembly and disassembly was repeatedly used by disarmament administrators to determine entry into the program, even for those under 18. This proved to be a particular problem for women and girls who did not always have a weapon in their possession. There was a perception among them that a weapon was required for everyone seeking entry into the DDR program, and, indeed, among those in this study's sample, all who entered into DDR (half the study population) were asked to turn in a weapon and perform the weapons test. This

Table 2: NCDDR Gender-Disaggregated Data on Entry into DDR

Force	Girls Number	Percent	Boys Number	Percent	Women Number	Percent	Men Number	Percent
RUF	436	1.8%	3,229	13.3%	3,925	16.1%	16,735	68.8%
AFRC	41	.5%	375	4.2%	530	6.0%	7,914	89.3%
SLA	22	No Data	445	No Data	No Data	No Data	No Data	No Data
CDF	7	.0001%	1,996	5.3%	296	0.8%	34,890	93.8%
Total	506	No Data	6,181	No Data	No Data	No Data	No Data	No Data

[a] It is not possible to make these comparisons about women, as there are no reliable estimates on the number of women within the various fighting forces. Data are available on children within the fighting forces because of the work of child protection agencies. Therefore, for this aspect of the study, findings relate only to young women and girls.

perceived requirement kept some who would have qualified from attempting to enter the program. Of the study group that did not go through DDR, 46 percent cited not having a weapon as the basis for their lack of participation. There were several reasons girl ex-combatants found themselves without weapons at this critical time. Although they had been in the fighting forces, many in the CDF were ordered to hand in their weapons prior to demobilization and were then left behind as the men were transported to the assembly centers. Other girls indicated that their guns were taken away by their commanders and handed to male fighters. Additionally, many who were not "primarily" fighters had used weapons from a communal source but did not possess a gun themselves.

Table 3: Girls in Fighting Forces and Formal DDR

Force	Estimated Number of Girls in Force	Number of Girls in DDR	Percentage of Girls in DDR	Percentage of Total Force in DDR
RUF	7,500	436	6%	54%
AFRC	1,667	41	2%	89%
SLA	1,167	22	2%	No data
CDF	1,772	7	0.4%	54%
Total	12,056	506	N/A	N/A

Sources: Names withheld. Personal interviews. August 2002; Names withheld. Personal interviews. September 2002; Sesay, *Statistical Data from the National Committee on Disarmament, Demobilization and Reintegration*; *Statistical Data from the United Nation's Children's Fund.*

In further discussion, interviewees revealed six key concerns that affected their attitudes towards DDR and the reasons they chose not to join or remain in programs. First, some girls and young women indicated they did not know about DDR or felt there was nothing to gain by going to the centers. Twenty-one percent of the sample that did not go through DDR reportedly feared reprisals at the centers and thus avoided the entire process. Other respondents perceived the facilities to be dangerous with large numbers of men and inadequate protection. According to Agnes E.[104] who left a disarmament and demobilization site after only three days, "There were too many people crowded in, too many men with nothing to do. The security was bad."

Second, female ex-combatants, particularly women and girls from the CDF, reported fearing RUF former fighters housed at the centers. Christiana R.[105] left an adult center due to the sleeping accommodations. "As a woman," she said, "I could not stay there." With regard to children in particular, young women and girls explained that interviews conducted by DDR and ICC staff in the presence of other children and youth did not protect their affiliation with regard to fighting force. CDF girls reported immediate threats to their lives when RUF youth became aware of their affiliation, and they left the ICCs shortly thereafter. For example, Bintu O.[106] was interviewed in a room where other adolescents stood around looking in. As soon as it was known that she was a Kamajor, the former RUF children began to threaten her, and she left the center that evening.

Third, there was the widely perpetuated myth that women and girls were not involved in the CDF. This denial was propagated by influential figures such as then Deputy Minister of Defense and National Coordinator of the CDF Samuel Hinga Norman, who was himself a Kamajor.[107] For some women and

girls, official denial was considered a direct attempt to prevent them from entering DDR programs and collecting benefits. At the end of the war, Norman was promoted to Minister of Internal Security, which caused a number of this study's informants to insist that they remain anonymous when discussing issues of women and girls within the CDF. Recently, however, the Prosecutor for the Sierra Leone Special Court ordered the arrest of Norman and he is currently awaiting charges of crimes against humanity and war crimes, including for the use of child soldiers within the CDF.[108]

Fourth, there was a mistaken belief that children in the CDF were not separated from their families and communities. As a result, many were not classified by UNICEF and international NGOs as "separated children" and therefore could not receive other forms of aid. This is significant, as a number of UN, government, and NGO programs and benefits were designated for "separated children," including child combatants. It was not uncommon for NGOs to report that they did not work with children in the CDF "since they were never separated," and particularly with girls, since there was the assumption that the CDF did not include female members.[109] However, among the women and girls interviewed for this study, some with the Kamajors and Gbethis, had spent significant time away from their families and communities, including traveling the length of the country to fight with other CDF.[110]

Fifth, over-classification of girls and young women abducted by the RUF, AFRC, and SLA as "camp followers," "sex-slaves," and "wives" by some within the international community and the Sierra Leone government prevented the establishment of DDR programs to address their actual lived experiences. According to DDR officials, "wives," including those abducted, were to be explicitly excluded from formal entrance into DDR.[111] The focus of DDR was on the main fighting forces, and "minority" groups would not be taken into consideration.[112] However, since women and girls frequently played multiple roles, narrow classification of them as "wives" resulted in programmatic errors. Of the study population, 60 percent reported having served as a "wife," yet only eight percent reported this as their primary role.

Additionally, in the case of the CDF in particular, there was the erroneous belief that male CDF fighters could not have sexual or casual contact with a girl or woman; it was largely considered impossible for female members of the CDF to exist in the category of CDF "wife" or "sex slave." This myth gained international legitimacy in October 1998 when a boy Kamajor refused to shake the hand of UNICEF head Carol Bellamy "because he was not allowed to touch a woman."[113] This story was widely circulated and repeated in contexts that helped strengthen the belief that women and girls were not included in the CDF.[114] However, among Sierra Leoneans, it was understood that interactions with members of the opposite sex, including sexual relations, were permitted for both male and female members of the Kamajors and Gbethis. It was common, especially among those Kamajors and Gbethis who were married to each other or lived together.[115] The only caveat was that sexual contact nullified the perceived magical powers of a fighter's charms, and thus after such contact, fighters had to reapply the charms to regain these supposed powers.

Finally, it is important to note that cultural notions of childhood in Sierra Leone affected the way in which young women and girls engaged with the DDR program. In many rural and urban areas, childhood and adulthood are defined not by chronological age but by actions undertaken by the person, such as a boy harvesting and making palm wine or a girl having a baby.[116] When girls who had borne children arrived to disarm, some entered the programs as women since this is how they were now "culturally" defined. Indeed, it was reported to the researchers by those in charge of DDR programs and officials who screened participants that it was not uncommon for girls under 18 with children to enter DDR as women.[117] Thus they did not benefit from the programs that were established for child combatants, and were largely left unsupported since the DDR program did not have adequate mechanisms to address the needs of women in the forces.

For those who did enter the DDR process (i.e. half of the study sample) many noted the paucity of supplies, particularly in terms of their physical needs as women. At the ICCs where child combatants and "separated children" were taken and demobilization centers where adults were taken, 43 percent reported not receiving adequate clothing; 54 percent did not receive proper sanitation materials, including soap, shampoo, and feminine hygiene products; and 23 percent did not

have access to medical care when requested. Women respondents also reported very poor conditions at adult demobilization centers.

In terms of the length of their stay at demobilization centers, the young women and girls surveyed had experiences that contradicted official claims. For example, while UN data indicate that nearly all children remained in the centers for at least six months, among those surveyed for this study, only 20 percent had remained for that length of time.[118]

Finally, only 44 percent of the sample reported receiving the benefits they were promised in demobilization. In particular, lack of financial payment was noted as a leading cause of rising tension among child ex-combatants and resulted in rioting, strikes, and attacks against NGO staff and property in 2002.[119]

In the Reintegration Phase

As in many war-torn countries, the reintegration of ex-combatants in Sierra Leone is complex and sensitive. For the young women and girls, in particular, there is a range of issues that create concern. In response to an open-ended question, 50 percent of the study population named material deprivation, including lack of food, clothing, and housing, as the greatest challenge for their reintegration. Others noted separation from family, rejection, and abuse by family or community, fear of a return to war, and the inability to attend school as major concerns.

When asked what factors helped to mitigate these issues, responses included the end of the war, support from their community or family, and support from NGOs. However, the most critical and often identified need was for education—a core component of most DDR programs for children. Seventy-five percent of the study population indicated a desire to attend school and gain literacy skills. Forty-nine percent stated that skills training would be essential to their successful reintegration.

Sierra Leone ranks among the lowest countries in the world in female literacy and education. Purposeful destruction of schools by the fighting forces further devastated the education system. Well-meaning social workers associated with implementing DDR programs at times discouraged or prevented older ex-combatant girls and girl mothers from entering school, instead urging them to attend skills trainings.[120] They argued that since so many of these young women now had children and few had husbands to assist with income, they would need to develop skills rather than continued education to support themselves. At the same time, a number of women and girl mothers were unable to attend skills trainings because of a lack of adequate care for their children (this is related to stigmatism and rejection by families who may welcome a girl back, but not her child or children).[121] There is also a misperception that the older girls and young women considered themselves too old to attend school. Thus, while education was an option for those who went through official DDR, many of the young women and older girls were discouraged to pursue that option. Notably, this argument was not put forward to adolescent boys or men. NGO records themselves reveal unbalanced ratios of boys and girls enrolled in education programs.[122]

Expanding the Safety Net:
Women's Contributions to Reintegration

The reintegration of children and youth from fighting forces is a significant factor in any peace process. Yet few resources and limited time are given to the "R" in DDR. While significant research is being done on the need to support long-term reintegration and rehabilitation processes, in most cases, the burden of caring for ex-combatants still falls to individuals and communities. Women in Sierra Leone, though underresourced and unheralded, have filled in these programmatic gaps and done much to reintegrate former combatants, particularly women and child soldiers. Working alone, as leaders and members of NGOs, and through the Ministry of Social Welfare, Gender, and Children's Affairs, women have taken in and cared for child soldiers, provided women and child former fighters with critical services and training, and thereby worked to normalize and bring stability to their communities and their nation.

Shellac Davies, a leading peacemaker in Sierra Leone, has observed the trauma inflicted on child soldiers and the mixed responses they receive in their home communities. At the end of the war, the attachment between commanders and the child rebels disintegrated, but children often felt that they couldn't go home. "The children were in a dilemma," says Davies. "Mothers who survived the manslaughter but were witnesses to the evil acts committed by their children virtually disowned them. 'A child who committed such an atrocity could not have been born from my womb,'

many mothers were known to have said."[123] However, Davies has documented the work of some women and mothers to reintegrate the very children who committed the atrocities. It was these women who "realized that the children involved in the war were both victims and perpetrators." She goes on to describe how the children's violence was the result of their own victimization at the hands of commanders:

> *Urged by their commanders...within the rebel movement, they were known to have committed most of the atrocities experienced during the war. Those children under the influence of drugs obeyed commands to kill their parents, burn down houses, and amputate the limbs of their siblings and other members of the community.*[124]

In the Bo District (south central Sierra Leone), a group of women decided to take back those children and youth from the fighting forces between the ages of 6 and 25. "The women claimed that such a move was their own contribution to upholding the peace," says Davies adding, "It should be noted that some of those women had lost their own children and relatives as a result of the war."[125]

Women in Makeni (Bambali District, north central Sierra Leone) also organized themselves to care for children coming out of the fighting forces. Women in this region, known as the rebel stronghold, experienced the realities of the rebel war in particularly brutal ways. They were forced to become "wives" of the commanders, rape was a weapon of war used against them, and they were forced into various functions including acting as human shields for rebels during attacks. "The women there knew those children who committed atrocities in Makeni and its environs," says Davies. "Some of those young boys and youths were urged to rape women who could pass as their mothers, aunts, or elder sisters."[126]

Despite these experiences, in their pursuit of peace the women were willing to play a pivotal role in the re-integration of these child ex-combatants. Davies notes: "If the peace so far achieved is to prove meaningful and sustainable then society has to take up its responsibility of caring for its children."[127] As individuals and through collective action, women in communities are leading efforts to reintegrate women and girl ex-combatants. "The women argued that if those children were left uncared for now that peace has been achieved they would easily revert to their old ways," says Davies. "They argued that left abandoned these child ex-combatants would have nothing positive to do and or think, and will prove a threat to the fragile peace now in existence."[128]

Fifty-five percent of the study population indicated that women in the community had played a significant role in their reintegration. This is noteworthy as it was higher than their responses for being assisted by traditional healers (14 percent), traditional leaders (20 percent), international aid workers (32 percent), health workers (51 percent), and on par with religious leaders and social workers, many of whom are women.[129] Interviewees noted that women in the community provided them with helpful guidance, shared meager resources, and, perhaps most importantly, helped to facilitate skills training and education by providing childcare, clothes, or food. The basic assistance given in the form of childcare was critical in enabling many ex-combatants to enter skills training programs.

At the Community Level

As staff of NGOs working to reintegrate combatants, women contributed to building peace throughout the country at the grassroots level. For example, Esther A.,[130] a reintegration and HIV/AIDS program officer with a local NGO that works with child ex-combatants and war-affected children, was captured by the RUF along with three of her siblings. She watched as her siblings, all university graduates, were killed. She narrowly escaped.

> *After all that has happened to me, I still want to work with these children. Really the past is not easy, you cannot force people to tell their stories. I share my story with the children. I share my losses. They see this reality that they, the RUF, were the ones who took my beloved people, and yet I am here helping them. You can forgive, but you can never forget.*[131]

Esther's colleague, Ramatu S.[132] was trained as a teacher before joining an NGO as a psychosocial supervisor for child combatants. In addition to her full workdays with children and adolescents and caring for her own two children, Ramatu has taken five girl mothers with their children and two foster children, all former members of fighting forces, into her home so they have a place to live and recover.[133]

With regard to women's collective action, the Luawa Skills Training Center (LSTC) in Kailahun, the Women's Progressive Movement (WPM) in Freetown, and Caritas-Makeni have been innovative in their efforts in the Makeni area. Founded by six women, LSTC now has 120 members. It serves as a reintegration program and assists women abductees, ex-combatants, and victims in their efforts at independent living. The organization offers tailoring and garra tie-dying classes. Once women learn the skills and sell their products, they are required to give some of their earnings back to the organization.

WPM was founded in 1998. Its mission is to find abducted children, provide financial and medical assistance, and help women become independent. When the parents of abducted children cannot be found or their relatives shun them, members of WPM adopt them. Today, nearly every member has taken on at least one child and in many cases, several.

Affiliated with the Catholic Church, locally based NGO Caritas-Makeni operates in central Sierra Leone with a staff comprised mostly of nuns and female social workers. In a country with a 60 percent Muslim population this organization has been effective in reaching beyond Catholic communities. In their programs in the Districts of Port Loko, Tonkolili, and Bombali, it has instituted programs that allow for girl mothers to bring their children to skills training or to care for them while their mothers attend school. They provide a room and mat for the child to sleep on and food for the mother and child during the day. This contributes to higher retention rates in the programs and helps prevent their involvement in illicit activities such as prostitution, which is on the rise.[134] Caritas-Makeni also offers a program on alternative income generation for those who have entered the sex trade and reproductive health and safe sex education.

At the National Level

Women in international and national NGOs are also working with young women and girls to incorporate them into their skills training programs.[135] National women's organizations such as the Progressive Women's Association (PROWA) and the Forum for African Women Educationalists (FAWE) are among the groups running skills training centers, which include education for basic literacy. With branches across Africa, FAWE established its Sierra Leone chapter in 1995 during the war. It is now a national women's organization with branches throughout the country. It offers a range of training programs to girl and women ex-combatants including tailoring, carpentry, tie dying, and masonry. FAWE has rebuilt schools and community centers that were destroyed and in some areas, has constructed and opened schools for girls. Some of its programs cater to girl mothers and other vulnerable girl populations with the aim of increasing literacy and education.[136] FAWE is the only organization to accept pregnant girls into the classroom.[137]

In March 1999 FAWE began the Rape Victims Program. Their projects include radio programming, visits with school children, counseling, and referrals to team doctors. Female survivors who became pregnant were given pre- and post-natal care by the organization. FAWE has partnered with over 30 ministerial and government agencies, UN agencies, international and local NGOs to carry out their work.[138]

PROWA is operating in the Kono District, an area that has been heavily impacted by the war and where, at the time of publication, few international NGOs were active. PROWA was one of the few organizations in the area to offer skills training to female ex-combatants. Additionally, it is one of the few organizations that encourages and allows pregnant girls to participate in their programs. Since Kono was the last area to disarm and an RUF stronghold, many girls who recently came out of the bush are in Kono and in need of assistance, thus increasing the importance of the efforts of this women's group.

The UN Development Fund for Women (UNIFEM) has focused its support for women in Sierra Leone at various levels, working with other UN agencies, with national ministries, and with community-level official and non-government organizations to ensure gender-sensitive policies. In particular, UNIFEM has worked to ensure that special attention is given in the Truth and Reconciliation process to crimes against women, and that the needs and concerns of female survivors are addressed. In addition, the Ministry of Social Welfare, Gender, and Children's Affairs, due in part to the advocacy efforts and technical support of UNIFEM, recently received government approval and funding for a gender directorate. The ministry works with UN agencies and international and local NGOs to provide accelerated education and skills training for ex-combatant children.[139]

UNICEF, in partnership with the Sierra Leone government, and local and international NGOs, has developed model programs for encouraging the schooling and reintegration of former child combatants. To summarize, communities that receive ex-combatant children (who benefited from DDR and elect to attend school) into the education system are "rewarded" by receiving books, supplies, and sports equipment. Schools and communities receive materials based on the number of ex-combatants they accept. Thus, ex-combatants are not perceived as "benefiting" from violent behavior in the fighting forces; instead all children in the school benefit by having their peers return. At the same time, accelerated schooling is offered for older child ex-combatants who have missed school years due to the war.[140] In partnership with the United States Agency for International Development (USAID), UNICEF has developed targeted programs for young mothers, combining childcare and food with vocational training and basic literacy skills. There is also a focus on training women in non-traditional skills such as welding, carpentry, and the construction of houses.

These initiatives, led by individuals, communities, NGOs, and national mechanisms, and in some cases, supported by international aid, are relatively small and inexpensive compared to official DDR efforts. Yet their impact is notable: Over 65 percent of the study population said that women have reached out to help them and that they would be interested in joining a women's organization to assist others.

CONCLUSION: THE CENTRALITY OF GENDER PERSPECTIVES TO DDR

The presence, roles, and experiences of women and girls within the fighting forces in Sierra Leone are more complex than previously reported. This inaccurate assessment resulted in operational and programmatic errors on the part of the UN, multilateral organizations, international NGOs, donor governments, and the government of Sierra Leone. In short, the inadequate attention to women and girls, coupled with a lack of gender sensitivity regarding their particular circumstances and needs, had a detrimental impact on the DDR process as a whole. Bias in design and implementation of DDR programs resulted in the near exclusion of women and girls from DDR programs and benefits, with those within the SLA and the CDF particularly marginalized.

Disarmament and demobilization camps and procedures were constructed to attract large numbers of male fighters and did not give adequate attention to ensuring that the human rights of women and girls were protected and preserved. The efforts of child protection agencies operating in Sierra Leone are among the best to date. Still, due to biases within the DDR program, alternative approaches must be sought to address the needs and rights of the many excluded women and girls that potentially fall under the umbrella of war-affected children and youth.

A range of factors including inadequate funding resulted in limitations to reintegration and longer-term rehabilitation elements of the program. Yet the successful reintegration of ex-combatants is an essential component of national and human security, necessary to build sustainable peace.[141] Some international programs have recognized the need to address reintegration from the ex-combatants' and the community's perspectives. In addition, there is growing understanding that financial assistance alone is not sufficient for effective reintegration, that the needs and aspirations of ex-combatants and their families must be addressed, and that local support systems, psychosocial services, and other referral centers should be established to assist all ex-combatants in their efforts to return to a peaceful and productive lifestyle.[142]

But while these efforts are developing, it is critical to ensure that women and girls are fully integrated, and that there is greater understanding of the roles they played in the war.

By being over-classified as "dependents," the real experiences of women and girls were not acknowledged and they were precluded from receiving benefits provided to other combatants. This assumption—that women and girls were victims only, with no significant role in either the execution of war or the building of peace—is detrimental for their future and could adversely affect the country's recovery.

First, as observed during 2002, the exclusion of child and female combatants from official DDR processes can lead to increased levels of insecurity.[143] For in the same way that disaffected male youths and ex-fighters might lead rebellions and form militias, so can women and girls. In 2002, riots increased, particularly among former child and adolescent combatants, and ICCs were attacked.[144] Social workers reported that adolescent women and girls were sometimes the leaders of these protests. Without support or care from their former "partners" or "husbands," their own families, the community, or the state, many of the young women—particularly those with children born as a result of their captivity—resorted to civil unrest as a means of accessing basic goods for the survival of their children. For these young women and girls, the stakes are, in effect, greater than for some of the men and boys.[145]

Second, the exclusion of women and girls from official programs and assistance has significant social consequences including poverty, crime, and prostitution. Inevitably it also leads to an increase in HIV/AIDS. Moreover, the exclusion of single mothers means the exclusion of their children. Thus the emergence of another generation of disaffected marginalized youth is possible.

Third, despite the horrors they endured, the women and girls showed tremendous agency and initiative during their times in the forces. Within the confines of their environment they regained some control of their own lives by developing skills to ensure their survival and strategies to protect others. Yet when the DDR program was implemented, there was virtually no recognition of the multiple roles they played or skills they gained. Many have ambitions for education and independence. They feel tremendous responsibility for their offspring and aspire to give them better lives. But when they are treated as passive victims rather than as former combatants who played a sig-

nificant role in the conflict, they are again stripped of opportunities and a sense of self-dignity. International human rights laws oblige national, and particularly international, actors to ensure that women are treated equal to men.

Finally, women have held leadership roles throughout Sierra Leone's history. During the war, despite the widespread violence, women were fundamental to the reorganization of civil society, mass mobilization for peace, and the eventual cessation of the war. Women's organizations such as the YWCA played central roles in the processes that led to the signing of the Lomé peace accord.

The YWCA of Sierra Leone openly encourages women to "unite and initiate programs for self sufficiency and take up leadership roles in our communities and country as a whole."[146] National organizations such as FAWE and PROWA are rebuilding schools and educating children including ex-combatants. Local community members and informal networks and groups support some of those who did not pass through DDR programs or receive benefits. Women, individually and collectively, are playing important roles in assisting in the material, social, and cultural reintegration of former fighters.

Women's commitment to rehabilitating ex-combatants is a matter of basic survival. Unlike the international community, they have no "exit strategy." If the peace fails, violence returns to their doorsteps. But such groups are under tremendous pressure. They have meager resources. Their work is often undocumented and unacknowledged in official processes, and they receive limited support from the international community and donor governments. In a region that continues to be plagued with instability, recognizing the key role that women and women's organizations play and providing adequate resources to support them, is a cost-effective and essential ingredient for ensuring sustainable reintegration and ultimately, peace.

ENDNOTES

[1] Bradley, Sean, Philippe Maughan, and Massimo Fusato. "Sierra Leone: Disarmament, Demobilization, and Reintegration (DDR)." *Findings: Africa Region* 81 (2002). 15 December 2003 <http://www.worldbank.org/afr/findings/infobeng/infob81.pdf>.

[2] Bradley, Maughan, and Fusato; Office of the Special Representative of the Secretary-General for Children and Armed Conflict. "UN Special Envoy for Children and Conflict Applauds Progress in Protection of Sierra Leone's Children, Calls for Sustained International Support." 28 February 2003. 15 December 2003 <http://www.un.org/special-rep/children-armed-conflict/index.html>.

[3] De Watteville, Nathalie. *Addressing Gender Issues in Demobilization and Reintegration Programs.* Washington, DC: The World Bank, 2002; Luciak, Ilja A. *After the Revolution: Gender and Democracy in El Salvador, Nicaragua, and Guatemala.* Baltimore, MD: The Johns Hopkins University Press, 2001.

[4] Mazurana, Dyan et al. "Girls in Fighting Forces and Groups: Their Recruitment, Participation, Demobilization, and Reintegration." *Peace and Conflict: The Journal of Peace Psychology* 8.2 (2002): 97-123; Rädda Barnen. *Africa Report: Sierra Leone.* Stockholm: Rädda Barnen, 2002.

[5] Bernard, H. Russell. *Research Methods in Anthropology: Qualitative and Quantitative Methods.* Walnut Creek, CA: Altamira Press, 2002.

[6] The International Rescue Committee and COOPI were the international NGOs; the two local NGOs were Caritas House, Makeni and Caritas House, Kenema.

[7] Lund, Michael S. "Early Warning and Preventive Diplomacy." *Managing Global Chaos.* Eds. Chester Crocker, Fen Osler Hampson, and Pamela Aall. Washington, DC: United States Institute of Peace, 1996, 379-402.

[8] Anderlini, Sanam N., Ed. Garcia, and Kumar Rupesinghe. "Nonconventional Diplomacy." *Journeys Through Conflict: Narratives and Lessons.* Eds. Hayward R. Alker, Ted Robert Gurr, and Kumar Rupesinghe. Lanham, MD: Rowman and Littlefield Publishers, 2001, 200.

[9] Colletta, Kostner, and Wiederhofer, xv.

[10] Berdal, Mats R. "Disarmament and Demobilization After Civil Wars." *Adelphi Paper, 303.* London: The International Institute for Strategic Studies, 1996.

[11] Annan, Kofi. *Report of the Secretary-General on the Role of the United Nations Peacekeeping in Disarmament, Demobilization and Reintegration.* New York: United Nations, 2000, 2.

[12] Ball, Nicole. "Demobilization and Reintegrating Soldiers: Lessons from Africa." *Rebuilding War-Torn Societies: Critical Areas for International Assistance.* Ed. Krishna Kumar. Boulder, CO: Lynne Rienner Publishers, Inc., 1997.

[13] Berdal, 39.

[14] Ball.

[15] Ibid.

[16] "Measuring the Quality of Governance," *The World Bank* 14 July 2003. 18 August 2003 <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20119698~menuPK:34457~pagePK:34370~piPK:34424~theSitePK:4607,00.html>.

[17] Richards, Paul. *Fighting for the Rain Forest: War, Youth and Resources in Sierra Leone.* Oxford, United Kingdom: The International African Institute, 1996.

[18] Ibid.

[19] Abdullah, Ibrahim. "Bush Path to Destruction: The Origin and Character of the Revolutionary United Front/Sierra Leone." *The Journal of Modern African Studies* 36.2 (1998): 203-235.

[20] Zack-Williams, Alfred. "Sierra Leone: The Political Economy of Civil War, 1991-98." *Third World Quarterly* 20.1 (1999): 143-162.

[21] Bangura, Yusuf. "Strategic Policy Failure and Governance in Sierra Leone." *The Journal of Modern African Studies* 38.4 (2000): 551-577.

[22] Richards.

[23] Zack-Williams.

[24] Wilkinson, Robert. "The Conflict in Sierra Leone." Parliamentary Human Rights Group. Palace of Westminster, United Kingdom, 1996.

[25] Richards, Paul. "Are Forest Wars in Africa Resource Conflicts? The Case of Sierra Leone." *Violent Environments*. Eds. Nancy Peluso and Michael Watts. Ithaca, NY: Cornell University Press, 2001, 65.

[26] Amnesty International. *Guinea and Sierra Leone: No Place of Refuge*. London: Amnesty International, 2001; Human Rights Watch. *Sowing Terror – Atrocities Against Civilians in Sierra Leone*. New York: HRW, 1998; Physicians for Human Rights. *War Related Sexual Violence in Sierra Leone*. Boston: Physicians for Human Rights, 2002. 15 December 2003 <http://www.phrusa.org/research/sierra_leone/report.html>.

[27] Physicians for Human Rights.

[28] Human Rights Watch.

[29] Human Rights Watch; Names withheld. Personal interviews. August 2002; Names withheld. Personal interviews. September 2002.

[30] Zack-Williams.

[31] Ibid.

[32] Bangura.

[33] Ibid.

[34] Reno, William. "Privatizing War in Sierra Leone." *Current History* 96 (1997): 227-230.

[35] Richards, "Are Forest Wars in Africa…"

[36] Zack-Williams.

[37] Amnesty International; Coalition to Stop the Use of Child Soldiers. *The Child Soldiers Global Report*. London: Coalition, 2001; Mazurana et al.

[38] Names withheld. Personal interviews. August 2002; Names withheld. Personal interviews. September 2002; Sesay.

[39] Personal interviews. August 2002; Names withheld. Personal interviews. September 2002; Sesay; Sylvester, M.; Turner.

[40] All names of girls and young women are changed to protect their identity.

[41] Name withheld. Personal interview. September 2002.

[42] Name withheld. Personal interview. September 2002.

[43] Name withheld. Personal interview. September 2002.

[44] Name withheld. Personal interview. September 2002.

[45] Coalition; Laggarh, Olayinka. Personal interview. August 2002.

[46] Davies; Kamara, Michael; Kamara, Ramatu Sama;Kamara, Samuel; Karoma; Lansana; Mansaray; Murray; Personal interviews. August 2002; Names withheld. Personal interviews. September 2002; Sesay; Sylvester, M.; Turner.

[47] Davies; Kamara, Michael; Kamara, Ramatu Sama;Kamara, Samuel; Karoma; Lansana; Mansaray; Murray; Personal interviews. August 2002; Names withheld. Personal interviews. September 2002; Sesay; Sylvester, M.; Turner.

[48] Name withheld. Personal interview. September 2002.

[49] Name withheld. Personal interview. September 2002.

[50] Name withheld. Personal interview. September 2002.

[51] Name withheld. Personal interview. September 2002.

[52] Names withheld. Personal interviews. September 2002.

[53] Name withheld. Personal interview. September 2002; Turner.

[54] Name withheld. Personal interview. September 2002.

[55] Ellis, Maurice. Personal interview. August 2002.

[56] Laggarh; Kamara, Ramatu Sama; Names withheld. Personal interviews. August 2002; Taylor, Glenis. Personal interview. August 2002; Turner.

[57] Name withheld. Personal interview. August 2002.

[58] A'Kanu, Ester. Personal interview. August 2002; Name withheld. Personal interview. September 2002.

[59] Laggarh; Kamara, Ramatu Sama; Names withheld. Personal interviews. August 2002; Taylor; Turner.

[60] Name withheld. Personal interview. August 2002.

[61] Laggarh; Kamara, Ramatu Sama; Names withheld. Personal interviews. August 2002; Taylor; Turner.

[62] Name withheld. Personal interview. August 2002.

[63] Lansana; Names withheld. Personal interviews. August 2002; Turner.

[64] Names withheld. Personal interviews. August 2002.

[65] Name withheld. Personal interview. August 2002.

[66] Laggarh; Kamara, Ramatu Sama; Names withheld. Personal interviews. August 2002; Taylor; Turner.

[67] Amnesty International; Human Rights Watch; Kamra, Fatta. Personal interview. August 2002; Kamara, Philip. Personal interview. August 2002; Physicians for Human Rights: Thoronka, Richard. Personal interview. August 2002.

[68] Names withheld. Personal interviews. August 2002; Name withheld. Personal interview. September 2002; Passay, Amie. Personal interview. September 2002.

[69] Names withheld. Personal interviews. August 2002.

[70] Kamra, Philip; Lansana; Names withheld. Personal interviews. August 2002; Turner.

[71] Sommers, Marc. *The Children's War: Towards Peace in Sierra Leone*. New York: Women's Commission for Refugee Women and Children, 1997; Women's Commission for Refugee Women and Children. *Precious Resources: Adolescents in the Reconstruction of Sierra Leone*. New York: Women's Commission, 2002.

[72] Kamara, Philip; Name withheld. Personal interview. August 2002; Turner.

[73] Femmes Africa Solidarité. Mano River Women Front-Line Action: Making Sense of a Senseless War. Geneva: FAS, 2000.

[74] Mansaray, Binta. "Women Against Weapons: A Leading Role for Women in Disarmament." Bound to Cooperate: Conflict, Peace and People in Sierra Leone. Eds. Anatole Ayissi and Robin-Edward Pouiton. Geneva: United Nations Institute for Disarmament Research, 2000. 139-162.

[75] Lavallie, Elizabeth. *Report of the Sierra Leone National Consultation on Women and Men in Partnership for Post-Conflict Reconstruction, Freetown, Sierra Leone, 21-24 May 2001*. London: Commonwealth Secretariat, 2002.

[76] Ibid.

[77] Mansaray.

[78] Francis, David J. "Torturous Path to Peace: The Lomé Peace Agreement and Post-war Peacebuilding and Reconstruction in Sierra Leone." *Security Dialogue* 31.3 (2000): 357-373.

[79] Bangura.

[80] Ibid.

[81] A'Kanu; Amnesty International; Bangora, Memunatu. Personal interview. August 2002; Bangura, Amy. Personal interview. August 2002; Human Rights Watch; Murray; Name withheld. Personal interview. August 2002; Women's Commission for Refugee Women and Children, *Precious Resources...*

[82] Mansaray.

[83] Francis.

[84] Lavallie.

[85] Francis.

[86] Lavallie.

[87] Ibid.

[88] Davies.

[89] Malan, Mark et al. "Sierra Leone: Building the Road to Recovery." *Monograph 80*. Pretoria, South Africa: Institute for Strategic Studies, 2003.

[90] Physicians for Human Rights.

[91] Pan African News Agency. "Mano River Women Hold Talks With Refugees." *Pan African News Agency*. 21-24 May 2001.

[92] Malan et al.

[93] Ibid.

[94] Ibid, 25.

[95] Ibid.

[96] *Statistical Data from the National Committee on Disarmament, Demobilization and Reintegration*. Unpubished data. Freetown, Sierra Leone: Government of Sierra Leone, 2002; *Statistical data from the United Nations Children's Fund*. Unpublished data. Freetown, Sierra Leone: UNICEF, 2002.

[97] Kallay, Cynthia. Personal interview. August 2002; Laggarh; Robertshaw, Donald. Email to the author. 25 March 2003; Wiesner, Catherine. Personal interview. August 2002; Yoffenddeh, Ibrahim. Personal interview. August 2002.

[98] Robertshaw, Donald. Personal interview. August 2002; *Statistical Data from the National Committee on Disarmament, Demobilization and Reintegration; Statistical data from the United Nations Children's Fund.*

[99] Laggarh.

[100] Office of the Special Representative of the Secretary-General for Children and Armed Conflict; Women's Commission for Refugee Women and Children. Letter to Olara Otunnu. 21 February 2003. 15 December 2003 <http://www.peacewomen.org/news/SierraLeone/newsarchive03/WCRWC.html>.

[101] United Nations Office for the Coordination of Humanitarian Affairs. "IRIN Interview on Disarmament, Demobilisation and Reintegration." *Integrated Regional Information Networks*. 28 March 2003.

[102] *Statistical Data from the National Committee on Disarmament, Demobilization and Reintegration.*

[103] Bangura; Kamara, Philip; Lansan; Murray; Taylor.

[104] Name withheld. Personal interview. September 2002.

[105] Name withheld. Personal interview. September 2002.

[106] Name withheld. Personal interview. September 2002.

[107] Coalition; Name withheld. Personal interview. August 2002; Name withheld. Personal interview. September 2002.

[108] United Nations Office for the Coordination of Humanitarian Affairs. "Special Court Indicts Seven." *Integrated Regional Information Networks*. 12 March 2003.

[109] Ellis; Kamara, Michael; Kamara, Philip; Lansana; Sylvester, M.; Turner; Wiesner.

[110] Karoma, Danield Sahead. Personal interview. August 2002; Names withheld. Personal interviews. September 2002.

[111] Laggarh.

[112] Wright, Keith. Email to the author. 7 April 2003.

[113] Qtd. in Greene, Andrew Benson. *The Child Soldier: Our Writing – Giving Voice to Youth Affected by War*. Freetown, Sierra Leone: iEarn Sierra Leone, n.d. 15 December 2003 < http://www.childsoldiers.org/andrew.html>.

[114] Rädda Barnen.

[115] Karoma; Names withheld. Personal interviews. September 2002.

[116] Ellis; Laggarh; Sawee, Foday. Personal interview. August 2002; Turner.

[117] Ellis; Laggarh.

[118] United Nations. *Women, Peace and Security*. New York: United Nations, 2002.

[119] Koidu, 2 September 2002, as observed by the authors; United Nations Office for the Coordination of Humanitarian Affairs. "Slow Reintegration of Ex-Combatants Causes Concern." *Integrated Regional Information Networks*. 28 June 2002.

[120] The authors interviewed some social workers who reported that they and some of their colleagues discourage girls from entering education under the belief that they have to be able to support themselves and their children and therefore short-term skills training was a better option for them. Some social workers also tried to dissuade girls from reporting that they wanted access to education during interviewers between the researchers and the girls.

[121] Mazurana, Dyan, and Susan McKay. "Girls in Fighting Forces in Northern Uganda, Sierra Leone, and Mozambique: Policy and Program Recommendations." Ottawa: Canadian International Development Agency, 2003.

[122] Kamara, Fatta; *Statistical data from the United Nations Children's Fund*; Thoronka.

[123] Davies, Shellac. "The Role of Women Mobilizing for Peace." Unpublished paper. 2003.

[124] Ibid.

[125] Ibid.

[126] Ibid.

[127] Ibid.

[128] Ibid.

[129] Social worker results reflect a bias in the study design and sample (see Appendix 1).

[130] A'kanu.

[131] Ibid.

[132] Kamara, Ramatu Sama.

[133] Ibid.

[134] Bangora; Ellis; Kamara, Michael.

[135] The authors visited skills training programs in three of the four provinces of Sierra Leone within the districts of Freetown, Kenema, Kono, Makeni, and Port Loko.

[136] Forum for African Women Educationalists. "Supporting Girls and Women to Acquire Education for Development." *FAWE and FESIL Magazine* 4.1 (2002).

[137] Mazurana and McKay.

[138] Forum for African Women Educationalists.

[139] Lieby, Jean. Personal interview. August 2002; Robertshaw, Donald, Personal interview…

[140] Kamara, Fatta; Piccoli, Antonio. Personal interview. August 2002; Robertshaw, Donald, Personal interview…; Thoronka; Yoffenddeh.

[141] Ball; Berdal; Colletta; Malan et al.

[142] Ball; Clark, Kimberly Mahling. *Fostering a Farewell to Arms: Preliminary Lessons Learned in the Demobilization and Reintegration of Combatants.* Washington DC: United States Agency for International Development, 1996; De Watteville; Farr.

[143] Graduate Student Working Group. *Sustaining Peace in Sierra Leone: Assessing Indigenous Capacity to Maintain Stability and Peace in Parallel with the UNAMSIL Drawdown.* Princeton, New Jersey: Princeton University, 2002. 15 December 2003 < http://www.wws.princeton.edu/research/PWReports/wws591g_sl.pdf>; International Crisis Group. "Sierra Leone: The State of Security and Governance." Africa Report 67. Freetown/Brussels: ICG, 2003; United Nations Office for the Coordination of Humanitarian Affairs. "Slow Reintegration of Ex-Combatants Causes Concern." *Integrated Regional Information Networks.* 28 June 2002.

[144] Koidu, 2 September 2002, as observed by the authors.

[145] Ellis.

[146] Sylvia, Florence. "YWCA Sierra Leone on the Move." *Common Concern* September 2000. 15 December 2003 <http://www.worldywca.org/common_concern/sept2000/Sierra.html>.

APPENDIX 1: METHODOLOGY

Data Collection: Interviews

Mazurana and Carlson designed the study and served as the primary researchers. They conducted fieldwork in Sierra Leone in August and September 2002. A structured survey with 50 women and girls formerly in the fighting forces was used for gathering data. Mazurana and Carlson also interviewed over 60 community, traditional, and religious leaders, parents of abducted girls and boys, and social and health workers who interact with the girls. The researchers interviewed the female ex-combatants in cooperation with NGO staff, social workers, and/or psychologists. Study participants were familiar with those serving as interpreters. In advance of the interviews, researchers explained the study to their translators and discussed the kinds of questions they might ask study participants. Most other interviews, such as with NGO staff and UN officials, occurred in English.

Prior to beginning interviews, the researchers and/or translator described the study to participants, including the study sponsorship, the purpose of the study, and why the individual was asked to participate. The researchers then explained the procedure of the interview, including that interview data and their identities would remain anonymous; participants were told that they could refrain from answering any question if they were uncomfortable, and they could end the interview at any time with no fear of penalty to themselves. No inducements were offered to the respondents prior to interviews that might have influenced their willingness to participate.

Mazurana designed the survey, consulting with a biometrician about issues of sample size and the precision with which she could estimate percentages. She then obtained reviews from two practitioners before finalizing the design. A survey using quota sampling was used to gather quantitative data.

Quota sampling was chosen because it was not possible for the researchers to do random sampling under the research conditions in Sierra Leone, due to challenges including locating mobile populations, concerns regarding anonymity, poor communication and transportation conditions, as well as security risks throughout the country. While quota samples are biased, they can do a good job of reflecting the population parameters of interest. The researcher then documents the bias.

Data Management and Analysis

All surveys were recorded on the survey form with additional details offered on any of the questions recorded in field notes. Mazurana managed all field notes and surveys, identifying the main categorical components within each, including age at entry into force, force name, entry routes, roles, training with the force, experiences of human rights violations within force, exit routes, disarmament, demobilization, and reintegration. Mazurana then compared categorical data first by force and then comparatively among the forces. When possible, both force and country findings were compared to previously published data, including historical facts, to assist in checks for accuracy. For analyses of surveys, working in MicroSoft Excel©, Mazurana designed the database, Carlson entered the data, and Mazurana quality checked the data. Mazurana then used histograms and descriptive statistics for initial analysis.

Precision of Estimates

For Mazurana and Carlson's study population in Sierra Leone (N=50) the precision of estimates is + 0.14 for 10,000 females within the fighting forces (95 percent confidence interval for a single population proportion) and + 0.2 for a population of 529 girls who went through disarmament and for a population of 506 girls that went through official demobilization conducted via ICCs.[147]

Bias

Although every effort was made to ensure that the study population reflected an accurate quota sample, the broader group of women and girls from which the study population was chosen was itself biased in several ways. First, the group from which the study population was chosen consisted only of women and girls who came or were taken to NGOs for assistance. In some cases, the girls had not come forward but were identified for NGOs by community leaders as having served in the fighting forces. Although girls who had not participated in

official programs for child combatants (such as DDR or ICCs) were surveyed, the study population was in some way known to the NGOs they worked with. Thus, women and girls and that NGO staff did not know, or could not locate, were not included. For example, on some occasions, NGO workers were unable to locate girls they were responsible for; some had left the area, and/or had gone "unnoticed" for over six months.

Second, since the girls could be located, it can be assumed that they were having positive experiences in the various NGO programs. Third, the study population is positively biased towards female ex-combatants from the former rebel RUF, and negatively biased towards those within the SLA and the various CDF. This is because girls within the RUF were privileged with entry into programs. As this finding came to light, more focused attention was given to the girls and women who had been associated with the CDF.

At the time of interview, the mean and median age of the girls and young women was 18, with a range from 10 to 35 years of age. The study population came from a variety of ethnic groups, Temne (42 percent), Mende (23 percent), Kono (13 percent), Fuler (10 percent), Limba (8 percent), Kru (2 percent), and Soso (2 percent). The majority (94 percent) came from Sierra Leone, the rest came from Guinea (4 percent) and Liberia (2 percent). At the time of their entrance into the force their mean age was 13 and the median was 12 with a range of 2 to 32 years of age. Ninety-four percent reported abduction as their means of entry into a fighting force, while the remaining six percent reportedly "joined." Eighty-four percent of the study population entered a fighting force under 18 years of age, with 12 years of age both the mean and median age of entry into the force. The mean length of time in captivity was over three years and the median was three years, with some girls held for up to 10 years. The mean years of schooling was over two years and the median was zero, with a range from no schooling to nine years of school. Ninety percent had only received primary schooling, with 58 percent only completing primary one (first grade). Thirty percent of the study population was married or served as a common-law wife, 24 percent had one child, and 8 percent had two or more children. Thirty percent had become pregnant during their time in the fighting force. The largest percentage of girls (58 percent) named the northern province as their home province, followed by the east (28 percent) and south provinces (12 percent) and the western area (zero percent). Twenty-four percent of the study population was outside of their original home province at the time of interview.

APPENDIX 2: LIST OF ACRONYMS

All People's Congress	APC
Armed Forces Revolutionary Council	AFRC
Civil Defense Forces	CDF
Disarmament, demobilization, and reintegration	DDR
Economic Community of West African States	ECOWAS
Economic Community of West African States Monitoring Group	ECOMOG
Executive Outcomes	EO
Forum of African Women Educationalists	FAWE
Interim Care Centers	ICCs
International Monetary Fund	IMF
National Committee for Disarmament, Demobilization, and Reintegration	NCDDR
National Patriotic Front of Liberia	NPFL
Nongovernmental organizations	NGOs
Office of the United Nations High Commissioner for Refugees	UNHCR
Progressive Women's Association	PROWA
Revolutionary United Front	RUF
Sierra Leone People's Party	SLPP
Sierra Leone Army	SLA
Small Boys Unit	SBU
Small Girls Unit	SGU
Truth and Reconciliation Commission	TRC
United Nations Assistance Mission to Sierra Leone	UNAMSIL
United Nations Children's Fund	UNICEF
United Nations Development Fund for Women	UNIFEM
United Nations Observer Mission to Sierra Leone	UNOMSIL
Women Organized for a Morally Enlightened Nation	WOMEN
Young Women's Christian Association	YWCA

APPENDIX 3: BIBLIOGRAPHY

Abdullah, Ibrahim. "Bush Path to Destruction: The Origin and Character of the Revolutionary United Front/ Sierra Leone." *The Journal of Modern African Studies* 36.2 (1998): 203-235.

Amnesty International. *Guinea and Sierra Leone: No Place of Refuge.* London: Amnesty International, 2001.

Anderlini, Sanam N., Ed Garcia, and Kumar Rupesinghe. "Nonconventional Diplomacy." *Journeys Through Conflict: Narratives and Lessons.* Eds. Hayward R. Alker, Ted Robert Gurr, and Kumar Rupesinghe. Lanham, MD: Rowman and Littlefield Publishers, 2001. 196-239.

Annan, Kofi. *Report of the Secretary-General on the Role of the United Nations Peacekeeping in Disarmament, Demobilization and Reintegration.* New York: United Nations, 2000.

Ball, Nicole. "Demobilization and Reintegrating Soldiers: Lessons from Africa." *Rebuilding War-Torn Societies: Critical Areas for International Assistance.* Ed. Krishna Kumar. Boulder, CO: Lynne Rienner Publishers, 1997. 85-105.

Bangura, Yusuf. "Strategic Policy Failure and Governance in Sierra Leone." *The Journal of Modern African Studies* 38.4 (2000): 551-577.

Barth, Elise Fredrikke. *Peace as Disappointment – The Reintegration of Female Soldiers in Post-Conflict Societies: A Comparative Study from Africa.* Oslo: International Peace Research Institute, 2002.

Bennett, Olivia, Jo Bexley, and Kitty Warnock. *Arms to Fight, Arms to Protect: Women Speak Out About Conflict.* London: Panos Publications, 1995.

Berdal, Mats R. "Disarmament and Demobilization After Civil Wars." *Adelphi Paper,* 303. London: The International Institute for Strategic Studies, 1996.

Bernard, H. Russell. *Research Methods in Anthropology: Qualitative and Quantitative Methods.* Walnut Creek, CA: Altamira Press, 2002.

Bradley, Sean, Philippe Maughan, and Massimo Fusato. "Sierra Leone: Disarmament, Demobilization, and Reintegration (DDR)." *Findings: Africa Region* 81 (2002). 15 December 2003 <http://www.worldbank.org/afr/findings/infobeng/infob81.pdf>.

Clark, Kimberly Mahling. *Fostering a Farewell to Arms: Preliminary Lessons Learned in the Demobilization and Reintegration of Combatants.* Washington DC: United States Agency for International Development, 1996.

Coalition to Stop the Use of Child Soldiers. *The Child Soldiers Global Report.* London: Coalition, 2001.

Colletta, Nat, Marcus Kostner, and Ingo Wiederhofer. "Case Studies in War-to-Peace Transition: The Demobilization and Reintegration of Ex-combatants in Ethiopia, Namibia, and Uganda." *World Bank Discussion Paper 331.* Washington, DC: The World Bank, 1996.

Conciliation Resources. *Gender and Conflict in Sierra Leone.* London, United Kingdom: Conciliation Resources, 1997. 15 December 2003 < http://www.c-r.org/pubs/occ_papers/briefing5.shtml>.

Davies, Shellac. "The Role of Women Mobilizing for Peace." Unpublished paper, 2003.

De Watteville, Nathalie. *Addressing Gender Issues in Demobilization and Reintegration Programs.* Washington, DC: The World Bank, 2002.

Farr, Vanessa. "Gendering Demilitarization as a Peacebuilding Tool." *BICC Paper 20.* Bonn, Germany: Bonn International Center for Conversion, 2002.

Femmes Africa Solidarité. *Mano River Women Front-Line Action: Making Sense of a Senseless War.* Geneva: FAS, 2000.

Forum for African Women Educationalists. "Supporting Girls and Women to Acquire Education for Development." *FAWE and FESIL Magazine* 4.1 (2002).

Francis, David J. "Torturous Path to Peace: The Lomé Peace Agreement and Post-war Peacebuilding and Reconstruction in Sierra Leone." *Security Dialogue* 31.3 (2000): 357-373.

Graduate Student Working Group. *Sustaining Peace in Sierra Leone: Assessing Indigenous Capacity to Maintain Stability and Peace in Parallel with the UNAMSIL Drawdown.* Princeton, New Jersey: Princeton University, 2002. 15 December 2003 <http://www.wws.princeton.edu/research/PWReports/wws591g_sl.pdf>.

Greene, Andrew Benson. *The Child Soldier: Our Writing – Giving Voice to Youth Affected by War.* Freetown, Sierra Leone: iEarn Sierra Leone, n.d. 15 December 2003 <http://www.childsoldiers.org/andrew.html>.

Human Rights Watch. *Sowing Terror – Atrocities Against Civilians in Sierra Leone.* New York: HRW, 1998.

International Center for Research on Women. "After the Peace: Women in Post-Conflict Reconstruction." *Information Bulletin.* Washington, DC: ICRW, 1998. June 14, 2002 <http://www.icrw.org/docs/postconflictinfobulletin.pdf>.

International Crisis Group. "Sierra Leone: The State of Security and Governance." *Africa Report* 67. Freetown/Brussels: ICG, 2003.

Jensen, Steffen, and Finn Stepputat. "Demobilizing Armed Civilians." *CDR Policy Paper.* Copenhagen: Centre for Development Research, 2001. June 14, 2002 <http://www.cdr.dk/policypapers/demobiliz.pdf>.

Lavallie, Elizabeth. *Report of the Sierra Leone National Consultation on Women and Men in Partnership for Post-Conflict Reconstruction, Freetown, Sierra Leone, 21-24 May 2001.* London: Commonwealth Secretariat, 2002.

Luciak, Ilja A. *After the Revolution: Gender and Democracy in El Salvador, Nicaragua, and Guatemala.* Baltimore, MD: The Johns Hopkins University Press, 2001.

Lund, Michael S. "Early Warning and Preventive Diplomacy," *Managing Global Chaos.* Eds. Chester Crocker, Fen Osler Hampson, and Pamela Aall. Washington, DC: United States Institute of Peace, 1996. 379-402.

Malan, Mark et al. "Sierra Leone: Building the Road to Recovery." *Monograph 80.* Pretoria, South Africa: Institute for Strategic Studies, 2003.

Mansaray, Binta. "Women Against Weapons: A Leading Role for Women in Disarmament." *Bound to Cooperate: Conflict, Peace and People in Sierra Leone.* Eds. Anatole Ayissi and Robin-Edward Poulton. Geneva: United Nations Institute for Disarmament Research, 2000. 139-162.

Mazurana, Dyan et al. "Girls in Fighting Forces and Groups: Their Recruitment, Participation, Demobilization, and Reintegration." *Peace and Conflict: The Journal of Peace Psychology* 8.2 (2002): 97-123.

Mazurana, Dyan, and Susan McKay. "Girls in Fighting Forces in Northern Uganda, Sierra Leone, and Mozambique: Policy and Program Recommendations." Ottawa: Canadian International Development Agency, 2003.

Office of the Special Representative of the Secretary-General for Children and Armed Conflict. "UN Special Envoy for Children and Conflict Applauds Progress in Protection of Sierra Leone's Children, Calls for Sustained International Support." 28 February 2003. 15 December 2003 <http://www.un.org/special-rep/children-armed-conflict/index.html>.

Pan African News Agency. "Mano River Women Hold Talks With Refugees." *Pan African News Agency*. 21-24 May 2001.

Pauwels, Natalie, ed. *War Force to Work Force: Global Perspectives on Demobilization and Reintegration*. Baden-Baden, Germany: Nomo Verlagsgesellschaft, 2000.

Physicians for Human Rights. *War Related Sexual Violence in Sierra Leone*. Boston: Physicians for Human Rights, 2002. 15 December 2003 <http://www.phrusa.org/research/sierra_leone/report.html>.

Rädda Barnen. *Africa Report: Sierra Leone*. Stockholm: Rädda Barnen, 2002.

Rehn, Elisabeth, and Ellen Johnson Sirleaf. *Women, War, and Peace: The Independent Experts' Assessment*. New York: United Nations Development Fund for Women, 2002.

Reno, William. "Privatizing War in Sierra Leone." *Current History* 96 (1997): 227-230.

Richards, Paul. "Are Forest Wars in Africa Resource Conflicts? The Case of Sierra Leone." *Violent Environments*. Eds. Nancy Peluso and Michael Watts. Ithaca, NY: Cornell University Press, 2001.

Richards, Paul. *Fighting for the Rain Forest: War, Youth and Resources in Sierra Leone*. Oxford, United Kingdom: The International African Institute, 1996.

Sommers, Marc. *The Children's War: Towards Peace in Sierra Leone*. New York: Women's Commission for Refugee Women and Children, 1997.

Statistical Data from the National Committee on Disarmament, Demobilization and Reintegration. Unpubished data. Freetown, Sierra Leone: Government of Sierra Leone, 2002.

Statistical data from the United Nations Children's Fund. Unpublished data. Freetown, Sierra Leone: UNICEF, 2002.

Sylvia, Florence. "YWCA Sierra Leone on the Move." *Common Concern* September 2000. 15 December 2003 <http://www.worldywca.org/common_concern/sept2000/Sierra.html>.

United Nations. *Disarmament Issues*. New York: United Nations Department for Disarmament Affairs, 2003.

United Nations Office for the Coordination of Humanitarian Affairs. "IRIN Interview on Disarmament, Demobilisation and Reintegration." *Integrated Regional Information Networks*. 28 March 2003.

United Nations Office for the Coordination of Humanitarian Affairs. "Slow Reintegration of Ex-Combatants Causes Concern." *Integrated Regional Information Networks*. 28 June 2002.

United Nations Office for the Coordination of Humanitarian Affairs. "Special Court Indicts Seven." *Integrated Regional Information Networks*. 12 March 2003.

United Nations. *Women, Peace and Security*. New York: United Nations, 2002.

Wilkinson, Robert. "The Conflict in Sierra Leone." Parliamentary Human Rights Group. Palace of Westminster, United Kingdom, 1996.

Women's Commission for Refugee Women and Children. Letter to Olara Otunnu. 21 February 2003. 15 December 2003 <http://www.peacewomen.org/news/SierraLeone/newsarchive03/WCRWC.html>.

Women's Commission for Refugee Women and Children. *Precious Resources: Adolescents in the Reconstruction of Sierra Leone*. New York: Women's Commission, 2002.

Zack-Williams, Alfred. "Sierra Leone: The Political Economy of Civil War, 1991-98." *Third World Quarterly* 20.1 (1999): 143-162

About Women Waging Peace

Women Waging Peace, a program of Hunt Alternatives Fund, advocates for the full participation of women in formal and informal peace processes around the world. Over 250 members of the "Waging" network, all demonstrated leaders with varied backgrounds, perspectives, and skills, bring a vast array of expertise to the peace-making process. They have met with over 1000 senior policy shapers to collaborate on fresh, workable solutions to long-standing conflicts.

About The Policy Commission

The Policy Commission is conducting a series of case studies to document women's contributions to peace processes across conflict areas worldwide. The studies focus on women's activities in conflict prevention, pre-negotiation and negotiation, and post-conflict reconstruction—including governance; disarmament, demobilization, and reintegration; and transitional justice and reconciliation. This body of work is pragmatic and operational, offering suggestions, guidelines, and models to encourage policymakers to include women and gender perspectives in their program designs.

Advisory Group to the Policy Commission

Hizkias Assefa
Professor of Conflict Studies
Conflict Transformation Graduate Program
Eastern Mennonite University;
Founder and Coordinator
African Peacebuilding and Reconciliation Network

Leon Fuerth
J.B. and Maurice C. Shapiro Professor
Elliott School of International Affairs
George Washington University

Ellen Johnson-Sirleaf
former Minister of Finance, Liberia;
Coauthor, UNIFEM's
Women, War, Peace: The Independent Experts' Assessment

Jane Holl Lute
Assistant-Secretary-General
Department of Peacekeeping Operations
United Nations

Rita Manchanda
Program Executive
South Asian Forum for Human Rights

Jane Mansbridge
Faculty Chair
Women and Public Policy Program
John F. Kennedy School of Government
Harvard University

Luz Méndez
President
Advisory Council
National Union of Guatemalan Women

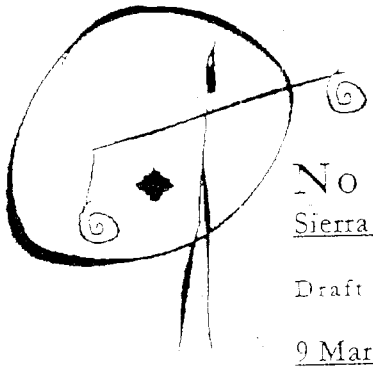
Thandi Modise
Chairperson, Portfolio Committee on Defense
Parliament of South Africa

Olara Otunnu
Under-Secretary-General and
Special Representative for
Children and Armed Conflict
United Nations

John Ruggie
Evron and Jeane Kirkpatrick
Professor of International Affairs
John F. Kennedy School of Government
Harvard University

Nancy Soderberg
Vice President
International Crisis Group

2082.



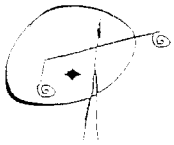
No Peace Without Justice

Sierra Leone Conflict Mapping Program

Draft Copy for Review

9 March 2004

2083



No Peace Without Justice

Conflict Mapping Program

No Peace Without Justice wishes to acknowledge the financial assistance of the **European Community** and the **Open Society Initiative - West Africa** to its programmes. The views expressed herein are those of No Peace Without Justice and therefore in no way reflect the official positions of the European Commission or OSI-WA.

Copyright © March 2004/No Peace Without Justice
Permission to reproduce and distribute this document is hereby granted provided that this notice is retained on all copies, that copies are not altered and that No Peace Without Justice is credited. This publication is also available at http://www.specialcourt.org/ and http://www.npwj.org/.

Printed in Sierra Leone by *NABsTech*, 18 Siaka Stevens Street, Freetown.
Cover Photo: Youth on peninsular road near Freetown. Pascal Turlan, 2002.
Cover Design & Publication Layout: Thomas Longley.
Maps: Basemap from Sierra Leone Information Systems (SLIS), Development Assistance Coordination Office, Freetown, Sierra Leone

Photo Overleaf: Youths in Segbwema, Kailahun District. Catherine Gambette, 2003.

Draft Conflict Mapping Report
9 March 2004
DRAFT FOR REVIEW ONLY: NOT FOR DISTRIBUTION



NO PEACE WITHOUT JUSTICE

FORWARD

The purpose of this report is to examine information gathered in Sierra Leone by No Peace Without Justice's Conflict Mapping Program and analyse it through the lens of international humanitarian law, particularly those crimes within the subject matter jurisdiction of the Special Court.

Accountability exists in many forms and at many levels; this report focuses on accountability for the violation of the laws of war in the belief that it is only by holding responsible those who violate those laws can there be deterrence for future would-be perpetrators. Too often, there are those who argue for the preservation of general amnesties and other guarantees of immunity in the name of "stability" or "moving on"; yet too often, history shows that the only way to achieve real stability and to move forward is to account for what has happened in the past.

Accountability for violations of international humanitarian law for conflicts such as that experienced by Sierra Leone requires more than one avenue; even the formal institutions established for this purpose – the Truth and Reconciliation Commission and the Special Court – can only do so much. This report hopes to contribute to the accountability process, to the strengthening of the rule of law and to sustainable peace by adding to the historical record of what happened during the long years of the conflict.

The Conflict Mapping Program deliberately took a wide approach: chronologically, it covers the whole period of the conflict and substantively, it covers all violations of humanitarian law, irrespective of whether they are subject to the jurisdiction of Sierra Leone courts or of the Special Court. Thus, it hopes to demonstrate two main things. First, that what happened to the people of Sierra Leone were crimes, whether they are prosecuted or not. Second, to demonstrate that all such crimes are worthy of an account, from the harassment of one person in a remote village, obliged to give all he owns to an invading force, to the systematic killing of hundreds or thousands of people.

The world characterised the conflict in Sierra Leone in two words: diamonds and amputations. For certain, those two factors construct a persuasive framework by painting acts of great horror and ruthlessness against a background of solid greed. However, the conflict was about much more than that, as the facts gathered and analysed for this report show. There is another story of a decade of cruelty and petty humiliations, systematic brutality, murder, theft and exploitation: a million or more tales of human suffering, sadness and loss. The conflict in Sierra Leone was characterised by extreme levels of violence against a civilian population from all sides, even from those supposed to be their protectors. The violence focused on the domination of a country and her resources, particularly her people: the most valuable resource of all.

If the rule of law is to be upheld, the perpetrators of these acts, which are astonishing not only in their brutality but also in their repeating pattern across more than a decade, must be held to account. Such perpetrators rely upon people not watching closely and not speaking out, in keeping quiet and living with fear in their hearts and minds; they rely on the language of "forgive *and* forget" It is hoped that this report goes some small way towards removing the shield of impunity for the planners and perpetrators of such predatory enterprises and that in its reading, the plight not only of the hundreds or thousands killed but also the one person who lost everything will remain in our memory.



NO PEACE WITHOUT JUSTICE

Through the years we have worked in Sierra Leone, we have made many close and valuable friends. This report is dedicated to two friends who are no longer with us, to **Idrissa Kendor**, *one of NPWJ's Conflict Mapping Recorders, and to* **Mr S.A. Sankoh**, *former Treasurer of the Special Court Working Group, whose enthusiasm and dogged determination are sorely missed.*

20865

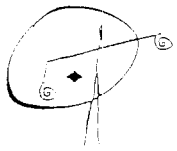
NO PEACE WITHOUT JUSTICE

Preface: An overview of NPWJ activities in Sierra Leone 1
1. No Peace Without Justice 1
2. No Peace Without Justice in Sierra Leone 2
2.(a). Judicial Assistance Program 3
2.(b) Outreach Program: 4
2.(c) Legal Profession Program 6
2.(d) Conflict Mapping Program 8
Chapter One: Methodology 10
1. Selecting and training Conflict Mapping Recorders 12
1.(a) Selection of CMRs 12
1.(b) Training of CMRs 13
2. Key persons 15
3. Database 16
4. The analysis 17
4.(a) District level analysis 17
4.(b) The first draft factual analysis 18
4.(c) The second draft factual analysis 18
4.(d) The legal analysis 19
5. Notes on the report 19
6. Partners 20
Chapter Two: A General Overview of the conflict in Sierra Leone from 1991 to 2002 22
Chapter Three: Overview of Armed Forces Involved in the Sierra Leone Conflict 44
1. Fighting factions 44
a. The Republic of Sierra Leone Military Forces (RSLMF) 44
b. The Revolutionary United Front (RUF) 46
c. National Patriotic Front for Liberia (NPFL) 49
d. United Liberation Movement of Liberia for Democracy (ULIMO) 50
e. Armed Forces Revolutionary Council (AFRC) 52
f. The West Side Boys 54
g. Civil Defence Force (CDF) 54
2. Private military companies 57
a. Gurkha Security Guards Limited 57
b. Executive Outcomes 58
c. Sandline International 58
3. Peacekeeping forces 59
a. Economic Community of West African State (ECOWAS) Cease-fire Observer Group (ECOMOG) 59
b. United Nations Mission to Sierra Leone (UNAMSIL) 62
Chapter Four: Legal Analysis 64
1. Introduction 64
2. Applicable law 65
2.a Introduction to international humanitarian law (IHL) 65
2.b The International Criminal Court (ICC), including the Elements of Crimes 68
2.c Note on procedural law 69
3. Special Court for Sierra Leone: Background and establishment 70
4. Crimes within the jurisdiction of the Special Court 71
4.a The existence and nature of an armed conflict: the law 72
4.b The existence and nature of an armed conflict: the facts 73
4.b.i Existence of an armed conflict 74
4.b.ii Nature of the armed conflict 75
4.b.iii Conclusion 76
4.c Crimes Against Humanity (Article 2): The law 76

4.c.i Contextual elements of crimes against humanity 77
4.c.ii Elements of enumerated acts constituting crimes against humanity 80
4.d Crimes Against Humanity (Article 2): The facts 92
4.d.i Crimes Against Humanity Committed by members of the RUF, the RUF/NPFL and the RUF/AFRC 93
4.d.ii Crimes Against Humanity Committed by members of the West Side Boys 98
4.d.iii Crimes Against Humanity Committed by members of the SLA 99
4.d.iv Crimes Against Humanity Committed by members of the CDF 100
4.e Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II (Article 3): The law 101
4.e.i Contextual elements of violations of common article 3 and Additional Protocol II 103
4.e.ii Elements of enumerated acts constituting violations of common article 3 and Additional Protocol II 107
4.f Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II (Article 3): The facts 110
4.f.i Violations of common article 3 and Additional Protocol II by members of the RUF, the RUF/NPFL and the RUF/AFRC 111
4.f.ii Violations of common article 3 and Additional Protocol II by members of the West Side Boys .. 112
4.f.iii Violations of common article 3 and Additional Protocol II by members of the SLA 113
4.f.iv Violations of common article 3 and Additional Protocol II by members of the CDF 114
4.f.v Violations of common article 3 and Additional Protocol II by members of ECOMOG 114
4.g Other serious violations of international humanitarian law (Article 4): The law 115
4.h Other serious violations of international humanitarian law (Article 4): The facts 118
4.h.i Other serious violations of international humanitarian law committed by members of the RUF/NPFL, RUF and RUF/AFRC 118
4.h.ii Other serious violations of international humanitarian law committed by members of the West Side Boys 119
4.h.iii Other serious violations of international humanitarian law committed by members of the SLA .. 119
4.h.iv Other serious violations of international humanitarian law committed by members of the CDF .. 119
4.h.v Other serious violations of international humanitarian law committed by members of ECOMOG 120
4.i Crimes under Sierra Leonean law (Article 5): the law 120
4.j Crimes under Sierra Leonean law (Article 5): the facts 122
4.j.i Crimes under Sierra Leone law committed by members of the RUF/NPFL, RUF and RUF/AFRC. 123
4.j.ii Crimes under Sierra Leone law committed by members of the West Side Boys 123
5. Temporal jurisdiction of the Special Court (Article 1(1)) 123
6. Personal jurisdiction of the Special Court (Article 1(1)) 125
7. Individual criminal responsibility (Article 6) 126
7.a Direct criminal responsibility 126
7.b Command responsibility 127
Chapter Five: Factual Analysis 129
C. Northern Province 130
a. Bombali District 130
1. Introduction 130
2. Factual Analysis 134
b. Kambia District 153
1. Introduction 153
2. Factual Analysis 156
3. Conclusion 168
c. Koinadugu District 169
1. Introduction 169
2. Factual Analysis 169



d. Port Loko District 192
1. Introduction 192
2. Factual analysis 195
3. Conclusion 226
e. Tonkolili District 226
1. Introduction 226
2. Factual analysis 227
3. Conclusion 258
D. Eastern Province 259
a. Kailahun District 259
1. Introduction 259
2. Factual analysis 261
3. Conclusion 296
b. Kenema District 298
1. Introduction 298
2. Factual analysis 300
3. Conclusion 338
c. Kono District 340
1. Introduction 340
2. Factual analysis 343
3. Conclusion 391
E. Southern Province 393
a. Bo District 393
1. Introduction 393
2. Factual Analysis 395
3. Conclusion 424
b. Bonthe District 425
1. Introduction 425
2. Factual analysis 428
3. Conclusion 462
c. Moyamba District 464
1. Introduction 464
2. Factual analysis 466
3. Conclusion 495
d. Pujehun District 496
1. Introduction 496
2. Factual Analysis 499
3. Conclusion 527
F. Western Area 529
1. Introduction 529
2. Factual Analysis 532
3. Conclusion 564
Annex I: List of Acronyms 565
Annex II: Acknowledgments 567



NO PEACE WITHOUT JUSTICE

CONFLICT MAPPING PROGRAM

Preface: An overview of NPWJ activities in Sierra Leone

1 No Peace Without Justice

No Peace Without Justice (NPWJ) is an international non-profit organisation working for the establishment of an effective international criminal justice system and in support of accountability mechanisms for war crimes, crimes against humanity and genocide, with a view to strengthening democracy and the rule of law worldwide.

Since its creation in 1994, NPWJ has been engaged in activities to promote public awareness on the International Criminal Court (ICC) as well as to pressure Parliaments, Governments and other decision-making bodies with the aim of accelerating the entry into force of the first permanent international jurisdiction over war crimes, crimes against humanity and genocide.

NPWJ's international activities have involved a series of inter-governmental regional conferences in Europe, Africa, Asia, North America and Latin America to foster the prompt creation of the ICC. At an academic level, NPWJ has organised a series of seminars and workshops to create a "Task Force" to enable the participation of developing and less developed countries in the process towards the establishment of the Court. On the eve of the 1998 Rome Diplomatic Conference, NPWJ launched a project of concrete technical cooperation called the "Judicial Assistance Program" (JAP) to assist small delegations to participate in ICC-related negotiations. To date, some 15 countries have benefited from this program, profiting from the competence and expertise of more than 40 jurists, lawyers, law professors and researchers.

In August 1998, NPWJ launched an ad hoc campaign to support the activities of the International Criminal Tribunal for the former Yugoslavia (ICTY) concerning the crimes perpetrated in Kosovo. This was followed in 1999 by an extensive Humanitarian Law Documentation Project, conducted under the auspices of the International Crisis Group, which gathered statements from witnesses of serious violations of international humanitarian law committed during the Kosovo conflict, primarily for use by the Office of the Prosecutor at the ICTY. In addition, the "analysis" part of the project produced a report generalising the findings and helping to reconstruct chains of command.[1] A third purpose was to build local capacity to continue this work and promote human rights after the project ended in December 1999.

In June 2000, NPWJ also launched a Judicial Assistance Program related to internationalised courts, including the Serious Crimes Panel established by the United Nations in East Timor after the obtainment of independence and the then-proposed Special Court for Sierra Leone. Following the entry into force of the Rome Statute on 1 July 2002, NPWJ has continued its international activities to universalise the jurisdiction of the ICC aimed at enlarging the membership of the Assembly of States Parties to the Rome Statute and continues to assist developing countries to participate in

[1] See "Reality Demands" on the ICG website for the report from this project: www.crisisweb.org.



ICC-related meetings. NPWJ has also expanded its scope of action to other issues such as the fight against Female Genital Mutilation and the direct promotion of the enforcement of democracy.

NPWJ projects are carried out in collaboration with a variety of international and regional entities, such as the United Nations and the European Union, as well as groups of Non-Governmental Organisations, such as the International Coalition of NGOs for the ICC and others. NPWJ publishes a quarterly newsletter and operates a website at www.npwj.org.

2. No Peace Without Justice in Sierra Leone

NPWJ's involvement in Sierra Leone began with the secondment of experts in international criminal law to the Government of Sierra Leone in June 1998 on the occasion of the Rome Diplomatic Conference that adopted the Statute of the International Criminal Court. Since 2000, NPWJ-seconded experts have been working in Freetown and New York, within the Mission of Sierra Leone to the United Nations and the Office of the Attorney-General and Ministry of Justice, to assist the Government of Sierra Leone in relation to the Special Court for Sierra Leone.

Since 2001, NPWJ has also been engaged in a wide-ranging field-based Outreach and public information campaign on the Special Court, in cooperation with Sierra Leonean grassroots organisations and civil society groups. In 2002, after the Special Court came into existence, NPWJ's Sierra Leone project considerably expanded both its scope of activity (and its expenditure) to include a Conflict Mapping program and a Legal Profession program designed specifically for the Sierra Leonean Legal Profession.

NPWJ's most recent Sierra Leone program, which ran from July 2002 to October 2003, included four principal components:

1. The Judicial Assistance Program ("JAP" Program), namely the secondment of expert personnel to the Government of Sierra Leone in Freetown and New York to assist with dealing with requests of assistance and other requests by the Special Court and to build the capacity of the relevant Government Departments to deal with these requests, as well as to provide advice on issues relating to international law in general;
2. The Outreach Program, namely cooperation with local grassroots organisations to carry out public information and education on the Special Court and on accountability mechanisms in general, in order to facilitate a sense of ownership of these mechanisms and increase reliance on the rule of law and the mechanisms of democracy; this included the organisation of "Training the Trainers" workshops throughout the country, seminars, the production of outreach materials in different media, community events including street theatre and creating a robust network of non-governmental organisations centred on issues of accountability;
3. The Legal Profession Program, namely the promotion of the role of the Special Court within the legal profession in Sierra Leone and the role of the Sierra Leonean legal profession within the Special Court, in order to enhance the relevance of the Special Court in the lives of legal professionals and the potential of the Special Court for leaving a legacy of respect for the law and knowledge of international human rights standards; this included training seminars, public lectures and the production of reports and informational materials;

4. The Conflict Mapping Program, namely the reconstruction of the chain of events during the ten-year war through the scrupulous selection and debriefing of key individuals throughout the country whose profession, role in their community or in the forces involved in the conflict, placed them in a position to follow events as they unfolded.

Each program, while distinct in their specific aims, was conducted so as to reinforce the other programs and thereby increase the contribution of each program to the project's overall aim of strengthening the ability of Sierra Leone society to address violations of human rights and humanitarian law. The most striking example of this was the close cooperation between the Outreach and Conflict Mapping programs. While the Outreach Program trained villages and towns on the Special Court, through "Training the Trainers" sessions and community events, these same communities continued to participate in accountability efforts by providing the Conflict Mapping program with their own views on and experiences of the conflict, by being consulted on the events and by directly taking part in the gathering of information. In addition, the project as a whole operated so as to maximise the participation of Sierra Leoneans in decision-making processes, both in relation to project policy as well as the design, implementation and follow-up for activities. This was premised on the belief that for Sierra Leone's accountability mechanisms to make a meaningful impact and achieve their goals, there must be "ownership" of the processes by Sierra Leoneans. It is also underpinned by the notion that, as a matter of policy, Sierra Leoneans are best placed to know what activities and approaches would be the most effective to reach the people of Sierra Leone.

2.(a). Judicial Assistance Program

Since 2000, NPWJ-seconded experts have been working in Freetown and New York, within the Ministry of Foreign Affairs and the Office of the Attorney-General and Ministry of Justice, to assist the Government of Sierra Leone in its negotiations for the establishment of the Special Court for Sierra Leone. This component of the project addresses the consequences of the conflict in Sierra Leone by increasing governmental awareness of and commitment to accountability mechanisms, which is vital for the successful operations of these mechanisms. Increasing the awareness of the Government and Parliamentarians of the benefits of international human rights and humanitarian law increases the likelihood of legislation passing through Parliament, which in turn strengthens the rule of law by providing legal mechanisms by which to seek redress for its violation.

In July 2000, responding to the request of Sierra Leone to provide specialised assistance, NPWJ seconded a legal expert to the Sierra Leone Mission to the UN in New York to continue assisting the Sierra Leone Ambassador to the UN, which had begun during the negotiations for the establishment of the ICC in 1998. In August 2000, a further two legal experts were seconded to the Office of the Attorney-General and Minister of Justice in Freetown, Sierra Leone. This ensured that the Government, with the advice of NPWJ-seconded personnel, was able to form a co-ordinated response, both in Freetown and in New York, and to convey that response in the best possible way at the best possible time. By maintaining this close contact, NPWJ-seconded legal experts have kept the often delicate negotiations balanced and have ensured that the concerns of Sierra Leone were not lost in the debate.

The work of NPWJ-seconded legal experts has centred around advising the Sierra Leone Government on critical issues arising in relation to the Special Court and issues of international criminal justice in general, including representing the Government during meetings and negotiations. This, together with detailed legal and policy analyses and recommendations on a range of issues raised directly and indirectly by the ongoing negotiations, has enabled Sierra Leone to formulate policies and address all the relevant issues in a timely manner.

In addition, NPWJ-seconded legal experts have been assisting the Attorney-General and the Sierra Leone Mission with various other tasks relating to international human rights and humanitarian law. For example, in New York, NPWJ-seconded legal experts have been participating in the VI (Legal) Committee of the General Assembly, while in Freetown, the Government has often taken advantage of the presence of NPWJ-seconded international law experts to provide information and analyses on matters within their areas of expertise, such as the requirements of implementing legislation for the International Criminal Court.

2.(b) Outreach Program

During the team's stay in Freetown in 2000, NPWJ identified a need for public sensitisation and education, given that what was being reported concerning the Special Court in the local media was often wildly inaccurate. The NPWJ Sierra Leone Mission was therefore expanded in 2001 to include an Outreach Program, designed to facilitate public information and sensitisation on the Special Court. The Outreach Program increased awareness of the mandate and operations of the Special Court, including promoting knowledge about human rights and humanitarian law issues to the public at large. The Outreach Program worked through the medium of local organisations, in particular the Special Court Working Group, by building the capacity of such local organisations to formulate and disseminate information coherently and in simple terms. Part of this process includes working with local organisations to formulate the issues in language and ways easily understandable by the general public. This fosters the role of civil society in promoting accountability within Sierra Leonean society and creates a stronger civil society by supplementing them with potent means to raise the issues publicly, both in general and in terms of prompting the Government to ensure international standards are promoted.

The Outreach Program commenced with "The Freetown Conference on Accountability Mechanisms for Violations of International Humanitarian Law in Sierra Leone", held in the Lagoonda Complex on 20 to 22 February 2001 and attended by over 100 mainly Sierra Leonean participants. The conference provided a vehicle for the exploration of mechanisms designed to provide accountability for atrocities committed in Sierra Leone during the course of the conflict. It focussed on the two mechanisms then envisaged for Sierra Leone (the Special Court and the Truth and Reconciliation Commission) and the interaction between those institutions as well as exploring how traditional or customary justice could be incorporated into or operate alongside those mechanisms. Two key recommendations were adopted at the plenary session of the Conference, both based on participants' perceived need for ownership of accountability mechanisms by the people of Sierra Leone: holding training workshops on the Special Court and establishing a coalition of interested Sierra Leonean NGOs to conduct the bulk of public sensitisation and information

sharing about the Special Court. This concrete set of recommendations formed the basis for much of NPWJ's subsequent outreach work.

The "Training the Trainers" seminars presented a detailed overview of the provisions of the (then) draft Statute and Agreement for the Special Court. To place the Special Court in context, the seminars began with a brief introduction to the purposes and principles of international humanitarian and criminal law and discussed practical issues surrounding the Special Court. A number of identical workshops were held over a period of days, limiting the number of participants within each session to ensure the maximum opportunity for discussion. This model was employed over a number of months to facilitate holding seminars both in Freetown, the capital city, and in the provinces. The series of seminars thus held in 2001 attracted a total of over 600 participants from a diverse range of human rights, civil society and other organisations, including the RUF and the CDF. Training sessions were also held at the Disarmament, Demobilisation and Reintegration (DDR) camp in Lunsar and "extra-ordinary" sessions were held for specialised groups, such as the legal profession and human rights monitors.

An additional motive for the training seminars conducted in March 2001 was to identify those members of Sierra Leone civil society who were interested in establishing a "Special Court Working Group", a coalition of Sierra Leone civil society organisations who were interested in the issues and who could play a crucial role in outreach and sensitisation, including ensuring that information being disseminated about the Special Court by various groups within Sierra Leone would be uniform and consistent. NPWJ organised a number of meetings of the Special Court Working Group (SCWG); over the course of 2001, the number of participants in working group meetings grew to a total of 39 members representing as many organisations. The SCWG, which met every two weeks in plenary and more often in smaller specialised groups, discussed the types of messages concerning the Special Court that would need to be directed to specific groups within Sierra Leone, together with the modalities through which the sensitisation program would be implemented. The SCWG adopted its constitution on 30 June 2001 and held elections for the national executive in July 2001, from which time the Special Court Working Group Sierra Leone (SCWG-SL) was established as an independent entity.[2]

During 2002-2003, the NPWJ Outreach Program gathered momentum and expanded in terms of the range of activities undertaken, its geographical reach and its implementing partners, which at the end of 2003 included the Special Court for Sierra Leone itself. NPWJ continued to work with the SCWG, including facilitating the establishment of 12 District Working Groups and the holding of elections for the national executive in August 2003, as required by the constitution. NPWJ also cooperated with the SCWG to hold "top-up training" for existing and new SCWG members, to ensure people were kept well informed about ongoing developments in relation to the Special Court. Among the targeted training held in 2002-3, NPWJ held a seminar for performing artists, which saw the creation of "The Right Players", a group of Sierra Leonean dramatists who write and perform skits, short plays and songs on themes related to the Special Court. Building on this and the targeted

[2] The Special Court Working Group subsequently changed its name to the Coalition for Justice and Accountability. Given that during the time period covered by this preface they were still known as the SCWG, that is the name this preface will use.

training held for market women, NPWJ organised a series of Market Tours for the Right Players, in which the Right Players staged short plays about the Special Court in 16 markets across the Freetown area, with NPWJ staff on hand to answer questions from the audience.

Together with the Peace and Conflict Studies Department of Fourah Bay College at the University of Sierra Leone, NPWJ organised a series of public lectures, which commenced with the first public engagement of the newly-elected President of the Special Court, Judge Geoffrey Robertson. These lectures were video-taped and broadcast on SLBS, Sierra Leone's national television station. In addition to television, NPWJ continued to facilitate the SCWG's "Special Court Hour", held every Saturday on Radio UNAMSIL since 2001, and helped to establish and support similar radio shows in five locations across the country. Again in conjunction with the SCWG, NPWJ held a series of training sessions for the newly-established District Working Groups in 13 locations in the provinces. These sessions were attended by over 520 participants, ranging from NGO and civil society activists to the Sierra Leone Police and Sierra Leone Army, traditional leaders and the local Law Officers' Departments. These were followed by two major conferences in the provinces for the District Working Groups, based on the model adopted for the Freetown Conference in 2001, which resulted in concrete plans of action for the District Working Groups for the coming months. During August 2003, NPWJ and the Special Court for Sierra Leone built on these seminars and conferences by conducting a major series of training seminars across the country targeting specific groups such as the military, children, women and others.

The Outreach Program continued to develop and distribute materials on the Special Court, including production of the "Special Court Times", a newspaper-sized broadsheet on issues related to the Special Court, and its accompanying "Pocket Edition", which contained "Frequently Asked Questions" about the Special Court. In addition, NPWJ produced a number of small informational pamphlets, reproduced the constitutive and supporting legal documents of the Court[3] and assisted the Special Court to put together a booklet covering all aspects of the Special Court, illustrated by local artists. NPWJ also produced a series of informational materials on the International Criminal Court, to accompany two seminars hosted by NPWJ, one for civil society in conjunction with the Coalition for an International Criminal Court and other foreign and local NGOs, including the National Forum for Human Rights, and one at the request of Sierra Leone Parliamentarians.

2.(c) Legal Profession Program

In 2002, after the Special Court came into existence, NPWJ's Sierra Leone project expanded to include a Legal Profession Program, aimed specifically at the Sierra Leonean Legal Profession and working primarily in partnership with the Sierra Leone Bar Association. The Legal Profession Program promoted knowledge of human rights and humanitarian law norms within the legal profession in Sierra Leone. A robust legal profession with knowledge about human rights will lead to a profession capable of defending human rights through various means, including legal means. This in turn strengthens the rule of law by enabling the Sierra Leone legal profession to ensure they have the knowledge required to work effectively with and within Sierra Leone's accountability mechanisms.

[3] Namely the Agreement establishing the Special Court, the Statute, the Rules of Procedure and Evidence, the Rules of Detention and the indictments.



The activities undertaken within the Legal Profession Program included training seminars, roundtable discussions and the drafting of explanatory and critical documents. The program also encouraged the Special Court to involve itself in the legal community so that the Court may make a sustainable contribution to the rule of law in Sierra Leone. To that end, NPWJ together with the Sierra Leone Bar Association and the Special Court held a half-day seminar on the Rules of Procedure and Evidence of the Special Court in December 2002. During this seminar, selected members of the Bar Association made submissions to the newly sworn in Judges on different aspects of the Rules, in particular with reference to the laws of Sierra Leone. In addition, NPWJ brought an international law expert to Sierra Leone to consult with the Special Court and others on potential models for defence before the Special Court. Both activities resulted in reports that were made available to, among others, the Judges of the Special Court during their first plenary meeting to consult on the Rules in early 2003.

The Legal Profession Program also worked closely with the Outreach Program on the public lecture series, including selecting an international law expert to provide specialised training for the members of the Sierra Leone Bar Association on the Rules of Procedure and Evidence of the Special Court.[4] In July 2003, NPWJ in partnership with the Bar Human Rights Committee of England and Wales held a week-long "IHL Training Seminar" for members of the Sierra Leone Bar Association and other interested legal practitioners. This training resulted in a set of lecture notes, which was widely distributed in Sierra Leone and abroad. In addition, many of the trainers participated in another NPWJ activity, the Lawyers' Guide to the Special Court, which is a guide to the substantive and procedural law relating to the Special Court.[5]

A major component of the Legal Profession Program was providing access to relevant library resources through the establishment of the NPWJ International Human Rights and Humanitarian Law Library in Freetown. This library was a continuation of the "Book Donation" program launched in 2000, whereby foreign universities, individuals and others donated legal books and materials to NPWJ's international law reading room and resource centre in Sierra Leone. NPWJ was fortunate to receive a large donation from the Colombia University Human Rights Law Program, which was shipped to Sierra Leone in 2002 and formed the backbone of the library, which also included donations from Penguin Publishers, the Canadian Law Book Company, Geoffrey Robertson QC (as he then was), Caroline Morgan and others. The library was officially opened at the beginning of 2003 by Desmond de Silva, QC, the Deputy Prosecutor of the Special Court. NPWJ hired a qualified librarian to manage the collection, which included a digital library compiled by NPWJ, and to oversee the library itself, which also contained internet stations and photocopying facilities. The majority of users consisted of human rights activists and university and school students, who used the library for research on human rights, humanitarian law and related matters. Following the conclusion of the NPWJ Sierra Leone project in 2003, NPWJ embarked on a partnership with the Campaign for Good Governance, who are now housing the library at their Freetown headquarter office and ensuring continued public access to the collection.

---

[4] Staff of the Special Court also attended these training seminars.

[5] The Lawyers' Guide is available from www.specialcourt.org.

2.(d) Conflict Mapping Program

In 2002, NPWJ launched the Conflict Mapping Program, which reconstructs the chain of events during a conflict through gathering information in the field and analysing the decision-making processes to ascertain the role of those who bear the greatest responsibility for policies of systematic and massive violations of the laws of war. This analysis is based on testimonial and other data overlaid with order of battle and command structures of the various forces as they evolved over time and space. This chronological and geographical mapping of the conflict, including reconstructing the order of battle and chain of command, serves to prevent denial of those events. An analysis of events according to international law establishes prima facie accountability for violations of international humanitarian law. In so doing, it both serves to strengthen the rule of law and to promote and defend human rights by publicising the price for violating them. In addition, establishing the chain of command within the armed forces operating in Sierra Leone and assembling these disparate pieces of information to create the bigger picture of the decade-long conflict in Sierra Leone enables the crucial first phase of establishing who bears direct and command responsibility for crimes committed during the conflict. This will enable the people of Sierra Leone to establish who should be held accountable for those crimes, thereby avoiding the trap of blaming a group or segment of society and promoting peaceful conciliation.

Beginning in 2002, the Outreach Program increased its geographic spread. This opened up new channels, networks and possibilities for collaboration and consequently increased the diversity and size of NPWJ's network of partner organisations and individuals. In addition, the Outreach Program deepened NPWJ's pre-existing relationships with many key sectors of society. These factors made it possible to conceive of a field based nation-wide Conflict Mapping Program in two main ways. NPWJ's extensive and trusted network of partners would be essential in devising and implementing any system of collecting information. Following this, NPWJ's network of partners embedded in communities throughout the country would also be essential in maximising the possible impact of the program: in encouraging people to participate in the program; in promoting the underlying rationales of accountability; and then in disseminating the results.

Meaningful long-term conciliation and reintegration can only take place if the accountability process belongs to each and every community – and if each community is able to participate in it. Rehabilitation and reintegration is not simply a matter of locating next of kin and assisting in individual reintegration; it is about enabling society and each community to move forward and to accept individuals back into their fold. The outreach and information gathering processes have contributed towards establishing confidence in the accountability mechanisms, by providing victims and witnesses with the opportunity to recount their stories and the stories of others in such a way as to help them understand their personal and their communities' experiences in the context of the conflict.

In the implementation of the Conflict Mapping Program, NPWJ worked closely with local partner organisations, with whom an excellent relationship had been built over the previous two years. The Conflict Mapping Program has therefore involved as much of the country as possible in conducting sensitisation and documentation in this manner so as to encourage a sense of ownership of the processes by the people of Sierra Leone.



The results of this work, which are found in this report, together with the work of organisations in Sierra Leone undertaking human rights reporting, are hoped to support the work of the Truth and Reconciliation Commission and the Special Court. It must however be emphasised that the process in itself is as important as the final document, because the direct involvement of Sierra Leoneans (both as interviewer and interviewee) in this program has allowed them to be at the heart of the accountability work being carried out in the country.

Chapter One: Methodology

The purpose of the Conflict Mapping Program, as outlined in the preface, is two-fold: to gather reliable information so as to put together an accurate picture of what happened in Sierra Leone and to make the process meaningful for Sierra Leoneans. Initially, on the basis of NPWJ's experience in other situations, it was determined that there were four main ways in which a report such as this one could be produced, namely:

1. Individuals recounting their own experiences;
2. Individuals giving an overview of what happened in their area, through their own experience and what they have learnt from others;
3. Groups recounting their experiences in a shared environment; and
4. Open source materials

The question facing the program during the conceptual phase was which method to select in order to maximise both the quality of the information gathered and the impact of information-gathering on Sierra Leoneans, given the resources and constraints. The main constraints were limited financial resources; a limited amount of time; the size of the country and lack of ease of movement, including the condition of the roads; and the fact that Sierra Leone experiences torrential rains for six months of the year, making many roads completely impassable.

In addition, each method listed above has its own pros and cons. For example, while the first method involves Sierra Leoneans to the greatest degree, every single person in the country would have to be given an opportunity to tell their story in order to gather enough information to be able to put together an accurate picture of what happened across the country. This would be difficult if not impossible to achieve at the national level for a ten-year conflict with limited resources and limited time. On the other hand, while the last method can also give a very comprehensive picture of what happened across the country, it would have limited to no impact on or involvement of the people of Sierra Leone.

Given these factors, it was considered that the most appropriate method for NPWJ to conduct a Conflict Mapping Program that focused on the whole of the country rather than a limited geographical area was to use information gathered from people in Sierra Leone with a good general overview of the conflict in their area ("key persons"),[6] supplemented with open source materials. In order to maximise community participation, enhance the quality of the information and overcome potential cultural and linguistic barriers, it was considered that the best people to take records from people with an overview were Sierra Leoneans from the same geographical area as the key persons ("Conflict Mapping Recorders" or "CMRs"). In addition, it was considered that in order to enhance community "ownership" of the accountability mechanisms, the Conflict Mapping and Outreach Programs should as much as possible be conducted together. Marrying the sensitisation and the documentation processes ensures that the perception of the communities reached is not that of

[6] Key persons provided information to NPWJ on the basis of confidentiality, subject to certain exceptions for which the consent of the key person was obtained prior to taking the record, including use of the information in the compilation of this report.



being "told" about the accountability process as something that happens elsewhere and is relevant to others, but rather of truly taking part in it.

While this method was the most appropriate in the circumstances, it comes with its own potential drawbacks, which had to be addressed during the conceptual phase so as to minimise their possible impact during implementation. There are seven major areas of concern of such importance that failure to recognise and address them would have compromised the value of both the process and outcomes of the program, described here as "critical areas". These are addressed comprehensively in the following sections, but are worth discussing briefly here.

The first critical area is the quality of the CMRs and their ability to draw out relevant information from the key person so as to compile a record that could be used during the analysis phase. This was addressed through a rigorous two-fold selection process. In the first instance, NPWJ outlined the program to partner NGOs in the regions, often members of the SCWG, who would nominate persons they considered suitable to be CMRs. Following that initial nomination, NPWJ held a training session for the potential CMRs, including a practical exercise in record-taking, and selected CMRs on the basis of the results of that training. In addition, CMRs were trained in recognising their own potential biases and how to overcome them and, at the very least, to identify those biases for the analysts.

The second critical area concerns the quality and usability of the records, which is distinct from the quality of the person taking the record, although the two often correlate. This was overcome by rigorous training in how to take a record and what information might be relevant, which included practical exercises in taking a record before interviewing the first key person. In addition, once the first record had been taken, NPWJ personnel reviewed the record with the CMR, to point out potential problems and provide advice on how to take a more comprehensive record.[7]

The third critical area is the type of the key persons interviewed by the CMRs in terms of the kind of information they might provide. In order to overcome this concern, CMRs were provided with rigorous guidelines and criteria for ideal candidates for key persons. Once CMRs had made their initial selection of the key persons they wished to interview, NPWJ personnel went through the list with them and discussed their choices, suggesting alternatives where the initial choices were inappropriate.

The fourth critical area is the accuracy of the information provided by the key persons. This was addressed by providing CMRs with guidelines and training in interviewing and how to take a record, including the importance of accuracy and not "making up" information to fill in gaps, as well as recognising potential bias in key persons.

The fifth critical area concerns the accuracy of the information itself. Given that the conflict ranged over the course of a decade and many key persons were either relatively young when events happened or were relatively elderly at the time they gave their record, not to mention the potential

[7] In most cases, CMRs were required to go back to the first key person to fill in information that was lacking in the record, which would generally improve the comprehensiveness of the remaining records that were taken.

effects of post traumatic stress disorder, even with the best intentions on the part of both the CMRs and the key persons there is always the possibility that people are mistaken. This was addressed by reviewing the first factual analysis with well respected local human rights activists who were not involved in the Conflict Mapping Program and who themselves had a good general overview of what happened in a particular District. In addition, it was addressed by providing the factual analysis to other local and foreign experts and by cross-checking the information with open source materials.

The sixth critical area was geographical coverage. In its original conception, the Conflict Mapping Program was to have one CMR per chiefdom, in order to have saturation coverage across the whole country. However, time, financial and logistical restraints meant that this was not possible, as there are 149 chiefdoms across the country, plus the rural Western Area, not all of which are accessible at all times of the year. In order to avoid making arbitrary decisions about which chiefdoms to cut and with a view to minimising the damage to the report as a whole, NPWJ therefore discussed this issue with the Campaign for Good Governance (CGG), the leading human rights NGO in Sierra Leone with human rights monitors in every District, and the SCWG. NPWJ sought their advice on which chiefdoms could be covered by a CMR from a neighbouring chiefdom (termed "linked") and which chiefdoms were not the scene of a great deal of activity during the conflict and could be cut altogether. In addition, NPWJ discussed with CGG the chiefdoms about which they would be able to provide information, on the basis of their regular human rights reporting work as well as a special human rights violations reporting project they undertook during 2001.

The final critical area related to processing the raw information generated by the project – in short, information management. Failure to secure, store and accurately break down the records into a practical format for analysis would undermine efforts to build an accurate reconstruction of the events described in them. In November 2002, NPWJ together with Sensible Data srl, an Italian IT company specialising in emergency situations, began developing a customised database that would allow the narratives in the records to be broken down into incidents, storing simple information about the incident alongside data about the exact location and date of its occurrence. As soon the first completed records began to be collected in mid May, they entered a process of digitisation. In late June, once all the records were collected, records were broken down into incidents by a team of specially trained database analysts. A thorough system of cross-checking was implemented throughout to maintain the accuracy of information from record through to database.

1. Selecting and training Conflict Mapping Recorders

The gathering of information in the field in Sierra Leone was conducted by national human rights workers or "Conflict Mapping Recorders", trained and supervised by NPWJ personnel, in communities and villages throughout the country.

1.(a) Selection of CMRs

While the selection of the CMRs in the communities was one of the most important parts of the program, it also presented one of the greatest challenges from a quality control perspective. In this process, NPWJ was very heavily reliant on the judgment and expertise of its collaborating organisations and their representatives, with whom a relationship of trust had been built over the previous two years.



As a system of quality control, NPWJ tried to ensure the collaborating organisations selected their best people to nominate as CMRs, by discussing with the organisations the purpose of the program and providing the following checklist for indicators that people could make good CMRs:

- They should have a good level of knowledge about the conflict in their chiefdoms.
- They should have a good level of written and spoken English.
- They should be able to overcome their bias as much as possible.
- They should show willingness and have time for the program, since much of its success lies in the quality of their records.

Following the initial selection stage by local partners, NPWJ held a training workshop at which the final selection was made (see below), based on how the CMR responded to the training and their performance in the practical exercise of taking a record. By the end of April 2003, the selection stage was complete and NPWJ had hired a total of 136 CMRs to cover 146 chiefdoms.[8] Twenty-two CMRs were hired to cover the Western Area, which is a densely populated area to which many IDPs fled during the war. In each District, NPWJ appointed a focal point, who was the main contact person for that District and who assisted with logistical and other arrangements, including bringing the final records to Freetown for review purposes. These CMRs and the focal points represented a broad cross section of civil society and included human rights activists, teachers and others.

1.(b) Training of CMRs

NPWJ conducted training workshops in various locations in the Western Area and in the 12 headquarter towns throughout the country. In order to provide greater participation and information sharing, as well as due to time and logistical constraints, CMRs travelled from their chiefdoms to the headquarter town rather than NPWJ personnel travelling to each chiefdom. In addition, this allowed the focal point to meet every CMR selected and identify possible logistical obstacles. The training was divided into three distinct components: the introductory workshop, the training workshop and the review process.

The first visit, called an "introductory workshop", was dedicated to meeting with community leaders and collaborative organisations to introduce the program. This session was the final part of the "Training the Trainers" seminar held by the NPWJ Outreach Program and the Special Court Working Group. This placed the Conflict Mapping Program in the context of the Special Court, accountability mechanisms and the difficulties faced in reconstructing accurately the events of the conflict in Sierra Leone. The introductory workshops laid the groundwork for the quality of the CMRs selected, following the considerations outlined above, as well as the relevance of the key persons identified. One of the main aims of this session was to engage the participants, so that over the following days they could identify potential CMRs for the training workshop and compile a list

[8] CMRs were paid a small stipend to cover transport and incidental costs incurred during their time spent taking records. It should be noted, however, that CMRs were not paid according to the number of records they took but were paid a sum that had been set in advance. It was felt that paying according to the number of records taken could harm the quality of the records, as there was the possibility, however remote, that some people may take more records, which could be of reduced quality, in order to increase their remuneration.

of potential key persons for reviewing at the end of that training workshop. This stage was completed for the whole country by mid April 2003.

The second visit was the "training workshop", a one-day session composed of sensitisation on the Special Court to ensure that CMRs would be well versed in crimes under international law, in particular those within the jurisdiction of the Court, to enable them to take all the relevant details from their key persons. This sensitisation was followed by a workshop on the Conflict Mapping Program itself, concluding with the selection of Conflict Mapping Recorders to take records from key persons. The training focused on explaining the Conflict Mapping Program, how conflict mapping differs from human rights reporting, how to take a record, what type of information to focus on and discussed the fact that these interviews would be taxing and draining on both the CMRs and the key persons. The session culminated in practical exercises in record taking. In addition, this stage included training in the crucial first step of selecting appropriate key persons who have a good general overview of the conflict in their area. On the basis of performance during this training session, including perceived understanding of the process and principles and the quality of the practice record, NPWJ selected a limited number of individuals to work as CMRs. This stage was completed for the whole country in the first week of May 2003.

The third stage consisted of reviewing the first records collected by the CMRs for content and organisation before the final two records were taken from key persons selected by the conflict mapping recorders in consultation with NPWJ. This stage was essential to provide top up training (if necessary), to address problems the CMRs may have encountered, to ensure the quality of the records taken and to ensure that CMRs never felt abandoned. The fact that this process took place after the collection of each CMR's first record and before the collection of subsequent records enabled NPWJ to undertake a thorough system of quality control on an ongoing basis. This stage was completed for the whole country in June 2003.Thus each location was visited at least three times by NPWJ according to a schedule worked out in advance with local partners, especially the SCWG, and the NPWJ Outreach Program.

The structure of the training was developed by NPWJ in consultation with local partners during October and November 2002 and was reviewed on an ongoing basis to incorporate lessons learnt during the training process. The first round of training commenced in December 2002 in Freetown, followed by further meetings and the training of conflict mapping recorders in the rural Western Area, near Freetown. Although this ran the risk of appearing there was a "Freetown bias",[9] NPWJ selected the Western Area as the first point of entry to enable NPWJ to perfect the conflict mapping training before taking it into the provinces, as logistically it is more difficult to perfect such processes in the provinces. Lessons learned from the training in the Western Area were incorporated into the planning process for the provincial training and in late March 2003, following preparatory work undertaken in consultation with the SCWG and the Outreach program, conflict mapping training began in the provinces.

[9] A common criticism by Sierra Leoneans of foreign NGOs and others in Sierra Leone is that they focus too much on the capital, Freetown, and do not focus enough on the provincial and rural areas in Sierra Leone.



Partly in consideration of the time frame and the impending rainy season, which starts in May and during which many roads become impassable, NPWJ hired a Sierra Leonean team comprised of the best CMRs from the Western Area to undertake the training workshops and the collection of the first records in some parts of the country. This enabled there to be two conflict mapping training teams working simultaneously in different locations around the country, allowing full coverage of the whole country by the conclusion of the time frame for the gathering of records.

2. Key persons

The Conflict Mapping Program was primarily based on the scrupulous selection and debriefing of selected individuals ("key persons") whose profession, role in their community or in the forces involved in the conflict placed them in a position to follow events as they unfolded.

To facilitate proper identification and selection of key persons, CMRs were provided with the following guidelines for characteristics of people who would likely be best suited to being a key person:

1. The widest possible overview of the conflict in their area.
2. They were present in their chiefdom for much of the conflict.
3. Reliability.
4. Trustworthiness.
5. They have a good reputation in their community.
6. They would usually be regarded in their community as a person that others can confide in.
7. Honesty.
8. They are able to pass on their knowledge to the Conflict Mapping Recorders accurately and fully.
9. They are as free from bias as possible or at least are able to recognise their own bias.
10. They will usually be recognised as local community leaders in some respect.

In addition, CMRs were provided with the following list of people who may make good key persons:

1. Teachers.
2. Doctors.
3. Lawyers.
4. Counsellors/Social workers
5. Youth Leaders.
6. Women's Movement Leaders.
7. Senior Police from the local area.
8. Local Magistrates.
9. Chiefs.
10. Section Leaders.
11. Local Commanders from the different fighting factions.
12. Any person in the local community who has been able to gain an overview of the conflict through a number of other persons talking to them or through holding some respected and trusted position in their community.

To facilitate and monitor the quality of the records and the key persons selected for interviews, the CMRs were asked to provide a report prior to conducting an interview, in order to maintain the focus of the process and the standard of the key persons selected. These reports covered the following matters:

1. Why that key person was selected from their list of potential key persons.
2. How the selected key person meets the criteria, for example how and why that key person has an overview of the conflict in that area.
3. The nature of the information provided by that key person.
4. The key person's knowledge of the conflict.

Each CMR was to select three key persons in their chiefdom from whom to take a record, based on the time necessary to take a record and the time frame within which the record-taking phase had to be completed. Nevertheless, the main emphasis was on quality and not quantity when identifying key persons to be interviewed. It was therefore the case that fewer key persons were selected for interviewing in some chiefdoms where the scale of the conflict was minimal or where there was a smaller population.

Following these criteria, the Conflict Mapping Program gathered records from 401 key persons across the country, who ranged in age between 19 and 82. Of these, 6.7% were former members of one of the fighting factions; 6.7% were women; and 10.7% had been captured by one or more of the fighting factions and used either as forced labour or were recruited into a fighting faction.[10] The most common occupation of key persons was a farmer, most of whom had occupied some position of authority during the conflict (such as Town or Section Chief) and many of whom were members of a fighting faction, most commonly the Civil Defence Forces. Other occupations included Paramount Chiefs, Town Chiefs and other chiefdom authorities, teachers, fishermen, housewives, retired military personnel and civil servants.

3. Database

The information gathered by CMRs from key perons comprised over 400 records, each containing an average of 30 pages, with a total of approximately 5,500 separate incidents, that is, instances of an alleged violation of international humanitarian law or key strategic or other information contained in a record. Given the amount and breadth of information, it had to be collated and stored in such a way as to enable easy search and retrieval in order for it to be used by analysts.

NPWJ therefore entered this information into a database designed specifically for the purposes of analysis according to order of battle and chain of command information. Prior to the completion of the design and programming of the database,[11] typists entered the records in their entirety into digital format. The resulting files underwent rigorous proofreading to ensure they were exactly the same as

[10] These people are not included in the 6.7% who were former members of a fighting faction, which refers only to those people who joined willingly, according to the information they provided to the CMR.

[11] The database was designed and developed by Sensible Data s.r.l. Sensible Data is an IT company that specialises in information technology, data processing and secure communications for emergency and humanitarian operations: www.sensible.it.

the record provided by each CMR. These documents then formed the basis of the data entry process and were used extensively during the analysis phase.

For data entry purposes, each record was broken into incidents, which consist of discrete parts of information, usually chronological, containing examples of serious violations of international humanitarian law or other relevant information. Each incident was classified according to what crimes were allegedly committed, who allegedly committed them, what weapons they allegedly used and other pertinent information. To ensure accuracy and consistency in the classification of incidents, NPWJ personnel provided training to data entry operators in the basics of international humanitarian law as well as a manual outlining how different factual scenarios should be classified. To ensure accuracy of the database as a whole and to enhance its effectiveness for analysis purposes, each entry went through a thorough process of checking and cross-checking, to ensure that it was consistent, complete and correct.[12]

4. The analysis

4.(a) District level analysis

At the conclusion of the data entry stage, NPWJ's analysts began piecing together what happened during the 10 years of war in Sierra Leone, using three tools: the database; detailed maps, mostly at District level; and the typed records. The result of this stage, which involved collating and cross-checking vast amounts of information, was a rough outline of what happened in each District during the conflict, highlighting troop movements, chains of command and events, including acts likely to constitute violations of international humanitarian law.

Following this stage, the rough drafts for each District were reviewed in Freetown with field monitors from the Campaign for Good Governance (CGG) responsible for that District. CGG's field monitors are very experienced human rights activists with an in-depth knowledge about what happened during the conflict in the District for which they are responsible. NPWJ specifically did not hire any CGG field monitors as Conflict Mapping Recorders, so that their experience could be better utilised once the first analyses were done, to ensure that there were no major errors or inconsistencies in the District-level analyses, thus providing a crucial first level of cross-checking.

In addition, over a six month period, NPWJ debriefed a former high-level member of the Revolutionary United Front (RUF), who provided a great deal of information on the inner workings of the RUF and an overview of the conflict since it began in 1991. The hours spent working with this key person yielded a statement of over 100 pages, plus various documents and maps describing the structure, procedures and geographical locations of the RUF, which were of immense benefit during the analysis phases. A senior Kamajor was also debriefed for the same purposes, although not as extensively.

[12] In compiling the database and the data entry process, NPWJ hired personnel who had worked on the ICG Humanitarian Law Documentation Project so as to enable this phase to benefit from lessons learnt during that project.

The process as a whole enabled analysts to piece together the conflict as it happened across time and space and, in particular, to draw out patterns of conduct that may constitute crimes against humanity, namely those crimes committed in a widespread or systematic manner.

4.(b) The first draft factual analysis

Once these stages were complete, experienced analysts began the long process of putting all the information together, which consisted of three stages. First, a "first review" was conducted of the rough drafts, checking for internal sense and consistency. Second, each rough draft went through a more thorough review, addressing potential problems in the analysis, often going back to the original records and maps to clarify issues. Finally, the rough drafts for each District were put together and cross-referenced, which enabled the compilation of the general overview of the conflict. This first stage was based purely on the information gathered in the field and, as such, did not incorporate any information from open sources or other materials

4.(c) The second draft factual analysis

The first draft factual analysis formed the backbone of the work that followed, namely the incorporation of information from open sources and other materials, going back to the records when necessary to iron out inconsistencies and to fill in details. Further, at this time, cross-checking, filling in details and checking dates and other information was undertaken when there was conflicting, contradictory or inadequate data. To facilitate this process, NPWJ incorporated a range of diverse information into a fully searchable open source database, with 8,500 entries comprised of news reports,[13] UNAMSIL press briefings,[14] situation reports from NGOs and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), United Nations press briefings and documents, press releases from other relevant bodies, such as mining companies, and other relevant information. Other open source materials were also used, including reports from major human rights organisations, particularly Human Rights Watch and Amnesty International.

The primary purpose for open source and other material was to provide background material, cross-check the information gathered from key persons and to fill in gaps where any existed. Nevertheless, it must be emphasised that the main source of information for the facts as analysed in this report was Sierra Leoneans themselves, through the records of key persons gathered by Conflict Mapping Recorders throughout the country. Wherever open sources provided information used in the report, that is noted in a footnote to the relevant portion of the text.

The result of this was the second draft factual analysis, which incorporated all verified information from the first draft, with the addition of open sources and other material that had not been gathered directly by NPWJ in the field, but which was useful for confirming or correcting the data. This second draft factual analysis was then sent to a selected number of "resource persons", namely Sierra Leoneans and foreigners with expertise in the conflict in Sierra Leone who had agreed to

[13] The main sources used were BBC and AFP wire reports and reports from the Xinhua News Agency.

[14] Often, the records did not contain as detailed information about events that occurred from late 2000, partly because the decade-long conflict was beginning to come to an end. As such, UNAMSIL press briefings – which were regular and very detailed about UNAMSIL deployment in particular – were used to bring structure to the recollections of key persons, where necessary.

review the information contained in the draft report and help clear up any lingering inconsistencies or unclear information.

4.(d) The legal analysis

While the factual analysis was being perfected with the assistance of resource persons, NPWJ put together a legal analysis of the events that happened during the conflict. This involved researching, presenting and discussing the relevant principles of international humanitarian and criminal law, which were then applied to the information contained in the factual analysis, so as to ascertain what crimes under international law and Sierra Leonean law were committed during the conflict.

The draft of the legal analysis was sent to NPWJ's network of international law experts, many of whom have had experience working on similar projects, such as the Humanitarian Law Documentation Project in Kosovo, or practicing before international courts or tribunals. These people are to the legal sections what the CGG field monitors and the factual resource persons are to the factual sections.

5. Notes on the report

One difficulty in a country with limited resources is the availability of detailed, comprehensive and up-to-date maps. In Sierra Leone, the United Nations Office for the Coordination of Humanitarian Affairs has begun producing detailed maps, which were vital for the analysis of the information gathered during the Conflict Mapping Program. Difficulties were nevertheless encountered because a number of villages mentioned in the records – which span back to 1991 – were completely destroyed during the conflict and, as such, no longer exist. Wherever possible, this report tries to identify the location of such villages based on the information contained in the reports.

Due to the fact that OCHA maps were used in the analysis phase and specially-constructed maps were provided by OCHA as visual aids for the report itself, this report adopts the spelling of place names used on the OCHA maps. If that was not available, this report uses the spelling used in the records. Throughout, the report tries to be as specific as possible about the location of a particular place, adopting the formula of naming first the town or village, then the chiefdom and District, where it is different from the District under analysis. For example, if Peyema is being discussed as part of the factual analysis for Bo District, it will read: "Peyema (Lower Bambara Chiefdom)"; however, it is is being discussed as part of the factual analysis for Pejuhun District, it will read "Peyema (Lower Bambara Chiefdom, Bo District)". In addition to avoid any possible confusion, the word "Town" was used to distinguish a town from a District, for example, "Pujehun Town", although "Town" is not an official part of the place name.

Finally, while it may appear counter-intuitive in a report on a conflict in which many victims and perpetrators were named in the media, this reports does not "name names" of either victims or perpetrators. While the case for not naming victims is clear, it was decided also not to name perpetrators, even where they might be considered to be "notorious". This decision was taken because the allegations made are often extremely serious and would require further investigation before public disclosure could be considered. It must be borne in mind that the information analysed in this report has not been tested to the level required for sustaining a conviction, for

example through cross-examination in court, nor have the alleged perpetrators had the opportunity to tell their side of the story or answer the allegations made in this report. Therefore, although some names are well known and the decision not to include them may seem artificial, it was decided that the best approach would be to omit entirely any references to names.

6. Partners

NPWJ would have been unable to complete the Conflict Mapping Program without the support and assistance of a number of partners. First and foremost, the Special Court Working Group, both in Freetown and across the country, was invaluable at every stage of the process from the initial design of the training seminars, to planning the up country trips, to providing us with CMR candidates. They also assisted us in undertaking training on the Special Court, together with the Outreach Program, during the first phases of training of the CMRs.

Another crucial partner was the Campaign for Good Governance (CGG), who provided assistance both as a member of the SCWG and independently. In particular, the CGG field monitors provided vital assistance by going through the preliminary District-level analyses for their District to verify the accuracy of the information and fill in any gaps. CGG field monitors are particularly well placed to undertake this task, as they are based in the District and have been gathering information on human rights abuses for CGG, one of Sierra Leone's leading and most reputable organisations.

A proper understanding of the movement of forces and how events interplayed would not have been possible without the use of maps provided by OCHA. The illustrative maps contained in the report were produced with the generous assistance of OCHA personnel, who put together District-level maps that contain as many of the places mentioned in the report whose location could be identified.

Special recognition should go to the European Commission, who financed the bulk of our 2002 and 2003 activities in Sierra Leone, including the Conflict Mapping Program.

Finally, the Special Court for Sierra Leone provided much needed co-financing during the analysis stage of the Conflict Mapping Program. It must be emphasised, however, that this assistance was limited to financial assistance only and in no way implies endorsement by the Special Court of any of the material or conclusions, factual or legal, contained in this report.

Indeed, the content and conclusions drawn in this report are the sole responsibility of No Peace Without Justice and cannot be attributed to any of our partners.

***

The present report does not and cannot mention or even truly reflect the varied range of tasks carried out by all NPWJ personnel in the Conflict Mapping Program or or other programs in the project. Nor can it acknowledge fully or exhaustively the wide range of assistance and support given to us by our partners, friends and people we met throughout the country. Rather, the purpose of this report is to provide as comprehensive as possible a picture of what happened during the



decade-long conflict in Sierra Leone, analysed over time and space according to chains of command and order of battle information. With this picture, we hope to demonstrate that what happened to the people of Sierra Leone over the course of more than 10 years was a crime – the result of deliberate policies to commit systematic and massive violations of the laws of war – and by so doing to give a voice to the countless victims of these crimes, to play our part in ensuring they will not be forgotten.



Chapter Two: A General Overview of the conflict in Sierra Leone from 1991 to 2002

Sierra Leone is located on the south-west coast of Africa, bordered on the north and north-east by Guinea, on the east and south-east by Liberia and on the west coast by the Atlantic Ocean. Sierra Leone's compact shape and coastal situation mean that her international borders are only 555 miles in total, sharing 397 miles with Guinea and 158 miles with Liberia. Sierra Leone's territory covers 27,699 square miles (71,740 km^2), housing a pre-conflict population estimated at 4.3 million. The 18 ethnic groups in Sierra Leone had strong administrative structures in the provinces prior to British colonisation in the late 18th or early 19th century, which were utilised by the British when they expanded control from Freetown across the rest of the country. This is echoed in today's legal and administrative systems, which are comprised of both traditional structures and traditional or customary law as well as a Westminster style Parliament and the application of British common law.

Sierra Leone is endowed with mineral resources, namely diamond, gold, bauxite, rutile and iron ore. Although only 6.7% of the land is arable, it also produces cash crops, in particular, coffee, cocoa, ginger and rice. Of the 800 km of waterways running through the country, 600 km is navigable the year round. Very few of the major highways running through the country are paved and there are no common carrier railroads, rendering travel through the country difficult during the rainy season, which runs from May to October. Indeed, rainfall along the coast can reach 495 cm (195 inches) per year, making Sierra Leone one of the wettest countries in West Africa. Prior to the rainy season, from December to February, the dry haramattan winds carry sand from the Sahara, depositing large amounts of sand throughout the country and bringing corresponding dust storms.

The early years of independence, which Sierra Leone attained in 1961, are marked by a number of military coups until 1968, after which the one-party State was established in the late 1970s. Once prosperous Sierra Leone would experience a steady decline throughout the 1980s, widely regarded to be the result of rampant corruption, which would set the stage for the conflict that erupted in the 1990s.

On 23 March 1991, combined forces of the Revolutionary United Front (RUF) and National Patriotic Front for Liberia (NPFL) entered Kailahun District from Liberia through the town of Bomaru in Upper Bambara Chiefdom. On 27 March 1991, another group of RUF/NPFL entered Kailahun District from Liberia through the town of Koindu in the north of the District. By mid April, these two fronts would join in the centre of the District, having by then occupied the majority of it. On 28 March 1991, a third RUF/NPFL group crossed the Mano River forming the border between Liberia and Sierra Leone, in the south-east part of the country. They immediately occupied Zimmi, the southern-most town on the road network in Pujehun District.

As at 23 March 1991, units of the Sierra Leone Army (SLA) were stationed in the towns of Koribondo (Bo District), Daru (Kailahun District), Gandorhun (Kono District) and Kenema Town (Kenema District). RUF/NPFL forces would move towards these locations to confront directly the SLA in an aggressive inland-moving campaign that was accompanied by systematic attacks against the civilian population.

In April 1991, the RUF unit that had entered Bomaru was engaged with the SLA at Daru Barracks in the south of the District. This was an important SLA position on the northern bank of the Moa River, as it controlled further inland access by road. Occupying Daru Barracks would be a continuing objective of RUF/NPFL forces throughout 1991 and 1992. Again in April, the RUF/NPFL unit that entered through Koindu town immediately attacked SLA forces stationed some 20 km south in the town of Buedu, forcing them to retreat to Kailahun Town.

When the RUF/NPFL forces entered a town or village, civilian residents were gathered together in the centre of town, at the Court Barrie, where the RUF/NPFL forces introduced themselves as "freedom fighters" seeking to redeem the people of Sierra Leone from the corrupt All People's Congress (APC) Government. NPFL members were immediately identified as Liberian through their foreign accent and use of Liberian dialects. Enlisting, conscripting and training of both adults and children started immediately, particularly in Kailahun, where numerous training camps were established; the ranks of the RUF swelled quickly.

Reacting to such events, the Government of Sierra Leone requested and received support from the Governments of Nigeria and Guinea, who sent forces to provide security for strategic locations in and around Freetown. The Government of the United States would also provide indirect logistical and training assistance to the Government of Sierra Leone throughout 1991.

The RUF/NPFL unit entering Pujehun District from Liberia spread out across the District in a 45 mile arc from the town of Zimmi. They attacked through Pujehun Town, northwards into the southern chiefdoms of Bo District and north-east toward Koribondo Town, where the SLA was garrisoned. RUF/NPFL forces would attack the SLA in villages on the route to Koribondo until August 1991. The advance of RUF/NPFL forces in April allowed them access to land running south-west into Bonthe District, where RUF/NPFL occupied a number of small towns in the extreme south and east of the District, eventually trying but failing to occupy the District headquarter town of Bonthe, on Sherbro Island. Around this time, SLA forces were deployed in Bonthe Town and by the end of the year had opened new bases in the south-east of the District. RUF/NPFL forces moved into the southern chiefdoms of Kenema District using the main road linking Zimmi to the south of the District. Combined Guinean and SLA forces checked their advance through Kenema District into Kenema Town, where the main SLA brigade was located.

As they advanced, RUF/NPFL forces uniformly abducted civilians, simply killing them, or forcing them to carry looted property and perform domestic tasks. Almost without exception, sexual violence against women accompanied the arrival of RUF/NPFL forces in a locality. The burning of civilian residences and targeting of government and traditional authorities, in addition to the violence against civilians, caused massive panic and an exodus of civilians northwards inland. Rudimentary administrative structures – pass systems, checkpoints and appointment of their own personnel as town and chiefdom authorities – were put in place by the RUF/NPFL as they advanced. This would continue throughout the following years.

In June 1991, RUF/NPFL forces moved further north into Kono District along the main road to the District headquarter town of Koidu, staging a number of attacks on SLA positions in the south

of Kono District. Throughout August and September, SLA forces from Koribondo would react offensively, forcing RUF/NPFL forces to retreat back through Pujehun District along the routes by which they had entered. In recapturing Pujehun and pushing the RUF/NPFL southwards, the SLA collaborated with forces of the United Liberian Movement for Democracy in Liberia (ULIMO), a Liberian movement engaged in warfare with the NPFL in Liberian territory.

To consolidate their own advance and successes against RUF/NPFL forces, SLA forces in Kono District began supporting the establishment of civilian vigilante groups, armed with bladed weapons and short-barrel shotguns. Throughout Pujehun District, SLA forces executed civilians suspected of collaborating with RUF/NPFL forces in even the most menial of ways.

By December 1991, RUF/NPFL forces had consolidated positions in Kailahun District and were compressed into small pockets of activity away from main towns in Pujehun District.

In April 1992, junior officers from the SLA Tiger Unit led by 25 year-old Captain Strasser moved from the war front to Freetown to complain about poor conditions. They successfully staged a coup, ousted the APC Government and established a military government known as the National Provisional Ruling Council (NPRC). Following the coup, SLA forces looted many civilian shops and residences in the Western Area, which was accompanied by the infliction of violence upon civilians.

In early 1992, the SLA, now under the command of the NPRC, continued to unseat RUF/NPFL forces throughout Pujehun District. Moving southwards from Koribondo (Bo District), SLA and ULIMO forces retook the network of roads crossing the Sewa River and moved towards Pujehun Town. With the assistance of the SLA, a civil militia group comprised of local hunters called the "Donsos" gained in strength in Kono District, participating as auxiliary forces to the SLA and ULIMO. The Donsos, together with other local hunting societies across the country – the largest of which were the Kamajors – would later join forces under the umbrella of the Civil Defence Forces.

RUF/NPFL forces attempted again to enter Kenema District, having failed in 1991. Entering Kenema from points in the east of the District, RUF/NPFL were resisted by ULIMO and freshly deployed SLA forces. SLA secured these positions until late 1993.

RUF/NPFL forces continued to attack Kono District, uniformly attacking the civilian population as they advanced until their expulsion from the District in early 1993. In mid 1992, in response to this increasing northwards movement of RUF/NPFL forces, the NPRC Government initiated, supported and strengthened the process of mobilising a civil militia group in Koinadugu District, in the extreme north-east of Sierra Leone. Comprised of local hunters, the "Tamaboros" – as they became known – were deployed to Kono District to engage RUF/NPFL forces. In late October 1992, RUF/NPFL forces occupied Koidu Town and were able to attack further inland in the northern chiefdoms of Kono District. Combined SLA, ULIMO and civil militia forces pushed them out of Koidu Town and Kono District in early 1993.

By May 1992 in Pujehun District, combined SLA and ULIMO forces had pushed RUF/NPFL forces back across the Moa River, leading by the end of the year to their retreat back into Liberia

across the Mano River. Pockets of RUF/NPFL activity continued to pressure the SLA in the southern chiefdoms of Pujehun District and in the extreme south-east of Bonthe District.

The SLA intensified attacks on "collaborators" from October 1992 to February 1993. To the SLA, there appeared to be little distinction between civilians who cooperated enthusiastically with the RUF/NPFL and those who found themselves with little choice or simply failed to escape when the RUF/NPFL entered an area. The criteria used to determine who was and was not a "collaborator" were largely arbitrary. The SLA forced civilians to mine diamonds, provide food and carry out other forms of manual labour. In Pujehun Town, the SLA started providing basic military training, weapons and ammunition to civilians.

In Kailahun District, RUF/NPFL forces continued to attack Daru and other SLA positions in the west of the District. At the end of 1992, the RUF/NPFL grip on the northern chiefdoms of Kailahun District was unchallenged. Within these areas, a special unit of NPFL forces known only as "TAP 20" executed terror operations against the civilian population, including the widespread killing and cannibalism of civilians. Later, in 1993, "TAP 40" and "TAP Final" would continue this operation.

In the early months of 1993, SLA forces established positions in advance of Daru and started to engage RUF/NPFL forces stationed in the northern chiefdoms of Kailahun District, where RUF/NPFL forces had first entered Sierra Leone. The SLA built on this eastward progression by successfully preventing the RUF/NPFL from moving northwards into Kono District. By mid-1993, the SLA had rolled back and confined RUF/NPFL forces to the far eastern part of Kailahun District.

RUF/NPFL activity in Pujehun District resumed in December 1992 to January 1993 when the RUF/NPFL moved a large force into the District, crossing the Moa River, entering Pujehun Town and Potoru, a strategic town giving access to Kenema District. Their push into Pujehun District, while brief, was accompanied by a brutal attack against the civilian population; the RUF/NPFL forces routinely killed, raped and abducted people and burnt down large numbers of civilian residences. However, their control of these two towns and the surrounding areas was quickly overturned by SLA and ULIMO forces. RUF/NPFL forces were then confined to the bordering chiefdoms with Liberia and in the swampland south of Pujehun District. RUF/NPFL forces also made intermittent attacks on locations in the south-east of Bonthe District, following the course of the Wanjei River.

In December 1993, the then Head of State announced a unilateral ceasefire, RUF/NPFL forces having been repelled almost entirely back to Liberia. Taking advantage of this ceasefire, in the last days of December 1993, RUF forces moved across the border from Liberia into Kenema District, occupying its seven southern chiefdoms by March 1994 and inflicting violence on the civilian population. By this point, NPFL had withdrawn from Sierra Leone to fight ULIMO forces in Liberia. "Camp Zogoda", established in March 1994 to the north of the Moa River in the south-west of Kenema District, became the RUF's main base until 1996. From Camp Zogoda, RUF forces were able to stage ambushes on the main Bo-Kenema highway, a major arterial route.



In early 1994, the number of forces under arms in the SLA swelled to around 12,000 owing to a recruitment drive by the NPRC Government. RUF forces in Pujehun District fully repelled the SLA eastwards towards Koribondo, allowing their forces to push northwards into Bo District. SLA forces stationed in Bonthe Town on Sherbro Island used boats to patrol the coastal waters off Sherbro Island, engaging on the water RUF forces entering the mouth of the Sewa River. The RUF had control over the boundary between Bonthe and Pujehun Districts, setting up a number of town and village level administrations and continuing to inflict similar violence on the civilian population as had begun earlier in Kenema District.

Although in April 1994, RUF forces made incursions into Kono District, they were from the beginning of 1994 unable to undermine significantly the hold over the District exercised by the Donsos and SLA forces in the northern chiefdoms and the Civil Defence Units, mainly composed of local hunters known as the Kamajors, in the south. This prevented RUF forces moving directly through to Koinadugu District, to the immediate north of Kono District. However, an alternative route was found.

Thus the RUF expanded their operations in a westerly direction from the three Districts bordering Liberia, continuing to inflict serious violence against the civilian population as part of an attack that had begun in Kenema District in 1993 and would last until the end of 1994. Thousands of civilians in Pujehun District were asked by SLA forces to go to an Internally Displaced Persons (IDP) camp in Gondama (Bo District), placed under the protection of foreign forces. RUF forces established a base in the north of Kenema District in February 1994, thus preceding their advance through Kenema District from the south and guaranteeing control over the entire District, bar Kenema Town, by April 1994. From this northern base, RUF forces staged ambushes on the main Koidu-Makeni highway in Tonkolili District, making it impassable for civilian and military traffic alike. In April, RUF forces attacked the towns of Masingbi and Makali, both along the Koidu-Makeni highway, very close to the northern tip of Kenema District. SLA forces sent from Makeni were repelled from Makali by the RUF. RUF forces would move progressively further along this road, attacking Matotoka in July. Getting ever closer to Magburaka Town, by October the RUF were able to loop round through Tonkolili District into the southern chiefdoms of Koinadugu District. A string of attacks on the Magburaka-Alikalia highway by an RUF expeditionary force culminated in a heavy attack on Kabala Town on 7 November 1994. This force would leave Kabala the next day and return to Tonkolili District in the following week, leaving in its path a trail of destruction and hundreds of civilian deaths.

The RUF grip on Pujehun and Kenema Districts presented opportunities for the RUF to further infiltrate Bo and Bonthe Districts. In early 1994, RUF forces executed countless "hit and run" attacks on villages in the eastern chiefdoms of Bo District along the entire boundary with Kenema District. Initially, these were "food-finding missions", mostly staged from Camp Zogoda. Between June and December, however, these missions became more substantial, with RUF forces attacking but not occupying towns just across the District boundary. In November, RUF forces attacked an IDP camp in Gerihun, but were repelled by SLA forces. On 24 December, RUF forces attacked the IDP camp at Gondama, killing hundreds of civilians displaced from the fighting in the preceding

years. On 25 December, Kenema Town was attacked but left unoccupied. Towns in the centre of Bo District, including the District headquarter town of Bo on 27 December, were attacked by the RUF; none of these towns were occupied. RUF forces re-entered Bonthe District, occupying the eastern chiefdoms, using the natural features of the District to expand their control in areas in the three chiefdoms on the east and south.

Responding to RUF advances into Bo and Tonkolili Districts, groups of civilians were formed into civil militia, variously labelled "Civil Defence Units" or "Territorial Defence Forces". In Jaiama Bongor Chiefdom (Bo District), these units were gathered, trained and armed under the auspices of the Resident Government Minister for Bo District. In Jaiama Bongor Chiefdom alone, 2,800 civil militia were under arms by June 1994.

Initially, these units were deployed alongside SLA forces, used to operate checkpoints, identify RUF "collaborators" and carry out patrols within chiefdoms. Despite this cooperation, tensions between the SLA and civil militia groups had been simmering since 1993 throughout the country. This was due to widespread civilian mistrust of the SLA, owing to their involvement in the same enterprises of killing civilians, raping women, looting private property and exploiting mineral resources. For example, in the Tongo Field area of Lower Bambara Chiefdom, the SLA engaged in diamond mining in Tongo Town itself and forced civilians to work at the mining sites. In nearby Peyema, also in Lower Bambara, the RUF did the same. These practices were aggravated further by numerous attacks on civilian settlements and ambushes on civilian traffic carried out by unknown assailants suspected to be members of the SLA. Two such attacks occurred in Moyamba District in 1994. Civilians branded such SLA members "So-bels", or "Soldier-Rebels".

By late December 1994, RUF forces had entered the western chiefdoms of Tonkolili District, having had access to the eastern chiefdoms since April. Earlier in 1994, it is highly likely that RUF forces began establishing a foothold in the Kangari Hills in the south of the District, which they would use as a launching point for attacks on the surrounding villages. Since June, SLA forces had been stationed in Mile 91, which is located on a key junction; to the west lies Masiaka, the gateway to Freetown. Leading north-east from Mile 91, the highway goes to Magburaka. Leading south-east, the highway runs through to Bo, Kenema and Kailahun. On 22 December, the SLA were forced out of Mile 91 by the RUF, although they regrouped outside of the town and regained control the following day. Many locations in the chiefdoms around Mile 91 were attacked as the RUF forces established a new Brigade base in the Kaitkant Hills, spanning the borders of Tonkolili with Port Loko and Bombali Districts. The location of the Kaitkant Hills between the two main highways leading into the Western Area allowed the RUF to begin a new phase of their campaign, opening up for the first time since 1991 the possibility of attacking Freetown. By the end of 1994, rumours of imminent RUF attacks on Moyamba District, so far unaffected by the RUF, were widespread. Since 1992, SLA forces had been deployed in the District, although they had also been harassing civilians, including stealing property, which intensified from December 1994 to early 1995.

As the RUF expanded the territory over which it had control throughout 1994, violence against the civilian population continued unabated. The proliferation of "hit and run" missions into Bo District, across Kenema District and in Tonkolili District resulted in the widespread burning and looting of

civilian residences, accompanied by a high number of civilian deaths. Sexual violence against women was perpetrated by RUF forces during raids. Beating, molestation and abduction of both men and women for use as porters to carry stolen property or for conscription into the fighting force continued. The RUF assaults on Bo, Kenema and Kabala resulted in the denigration and destruction of public infrastructure such as government offices, hospitals, schools and Police barracks.

As 1995 began, RUF forces controlled the southern Districts of Kailahun, Pujehun and Kenema. Deployments of SLA within the occupied Districts occasionally offered short-term effective resistance to RUF attacks, but had little long-term strategic influence. Camp Zogoda continued to be the RUF's main base in the south and it was common practice for abducted civilians and looted property from the whole occupied area to be sent to the camp. The RUF expanded their operations in Bo District, opening a new base, "Camp Bokurr", in the north-east. The Bo-Freetown highway, at least until Mile 91, and the entire Bo-Kenema highway were under RUF control. The IDP camp in Gerihun was attacked again, this time successfully. RUF forces killed over 100 civilians. Even before 1995 ended, the RUF controlled all of Bo District and would attack the civilian population there until April 1996, systematically killing civilians, burning houses and committing similar acts of violence against civilians.

The strong grip on Pujehun and Bo Districts and on the south-east part of Bonthe District allowed a rapid and large-scale expansion of RUF forces into the whole of Moyamba and Bonthe Districts. Entering the eastern part of Moyamba District in January 1995 from Bo District, RUF forces proceeded southwards and took control of the bauxite mining area of Mokanji before moving south-west to upper Bonthe District, the location of the economically important Sierra Leone Rutile Mining Company. By February 1995, RUF forces controlled all the northern chiefdoms of the District, using the developed road network in this area. These attacks on the south of Moyamba District and the north of Bonthe District paralysed an economic area vital to the Government of Sierra Leone. From the north of Bonthe District, RUF forces rapidly spilled over into the southern chiefdoms of the District. Despite this, they failed to gain control of Sherbro Island and Bonthe Town. This movement in Bonthe District was carried out during the same period of a concerted action accompanied by attacks against civilians in Moyamba District.

Throughout January and February 1995, RUF forces attacked villages and towns in the chiefdoms of Tonkolili District in which the Kaitkant Hills are located. In early January, the RUF extended military operations into Port Loko District, attacking two key towns on the Freetown-Makeni highway. On 1 January 1995, RUF forces advanced north-west from their Kaitkant Hills base and from positions near Mataboi in Bombali District, towards the town of Foredugu in Port Loko District. The RUF force, which numbered 500, overcame the SLA forces stationed in the town, forcing their retreat. RUF forces attacked other villages in the Foredugu area. From Foredugu, RUF forces attacked Lunsar, but were beaten back by SLA forces stationed in the town. Lunsar would fall to the RUF later in the year.

At the end of January 1995, RUF forces moved north from Port Loko District and attacked Kambia, the headquarter town of Kambia District. RUF forces did not attempt to occupy Kambia



Town and the attack was staged primarily to demonstrate their ability to strike in areas previously thought to be secure.

In early March 1995, RUF forces moved north into Kono District from Kailahun District and the Tongo Field area in Kenema District, taking advantage of SLA groups abandoning a comprehensive defensive position in favour of illicit mining operations. Throughout March, April and May, RUF forces occupied many towns in the western, diamond-rich area of Kono District, including Koidu Town, which was accompanied by violent acts against the civilian population.

The pattern of RUF activity in Moyamba District in March-April 1995, part of an overall attack from December 1994 to April 1995 across several Districts, clearly shows that their immediate objective was to attack Freetown. The RUF did not initially intend to settle in Moyamba District, rather use it as a transit into the Western Area and the capital. RUF forces attacked Moyamba Junction, in the north of the District, to paralyse any SLA response to a simultaneous attack on Moyamba Town. The group that attacked Moyamba Town would then follow the Moyamba-Freetown road, attacking the major roads and settlements on its way, before being slowed down by SLA forces in the north-west of the District. In March, RUF forces settled in Moyamba District, progressively reaching all the chiefdoms and establishing a strong base in the north, known as "Camp Fol Fol". As the RUF consolidated their hold over Districts in the south and encamped in Moyamba District, SLA forces increased security activities throughout the Western Area, adopting defensive deployments at locations along the road running around the Freetown Peninsula and on the main inland highway.

Also in early March 1995, RUF forces deployed from their Kaitkant Hills base and attacked Mile 91, partly in response to reports of an advance by SLA forces towards RUF positions. In late March, SLA forces coordinated by members of a private military company called the Gurkha Security Group attacked RUF forces at Kaitkant Hills using intensive bombardment from a helicopter gunship and a Guinean Airforce fighter jet. Evacuating the base, RUF forces consolidated at the recently established Camp Fol Fol (Moyamba District). From this location, RUF forces raided the surrounding chiefdoms in Moyamba District between March to May 1995.

In early April, RUF forces moved into the Western Area in a bid to attack Freetown. RUF forces attacked settlements in Koya Rural District in a triangular area delimited by Songo to the east, Waterloo to the west and Fogbo Jetty to the south. RUF forces met resistance from SLA forces. Many civilians were killed and many civilian houses were burnt down by RUF forces. By late April, the RUF had pushed its front lines into Waterloo, where they attacked SLA and Guinean positions in the town. Replacing the Gurkha Security Group, the Government of Sierra Leone contracted another private military company called Executive Outcomes at the beginning of May 1995.

Executive Outcomes started training activities at the Benguema Training Centre near Freetown and formed a "Special Task Force" using a large number of demobilised Liberian militia from ULIMO. The Special Task Force attacked the RUF, pursuing them out of the Western Area. Following this, civilians and SLA forces in the Western Area attacked and killed persons suspected to be "rebel collaborators".

In mid-May, the RUF established a camp at Ro-Source in the west of Bombali District and commenced attacking nearby towns. RUF activity in northern Port Loko District, near Camp Ro-Source, recommenced, following a lull during the RUF push into the Western Area.

Moving to the north-east, Executive Outcomes, together with the SLA and civil militia, attacked RUF positions in Kono District from land and air. They successfully recaptured Koidu Town from the RUF by June. By the end of 1995, Executive Outcomes had control over the western chiefdoms of Kono District, where the mining areas are to be found. This did not, however, prevent RUF forces from launching "food-finding missions" into the eastern chiefdoms of Kono District and the southern chiefdoms of Koinadugu District.

In June 1995, the RUF commenced a second wave of attacks in Port Loko District, advancing beyond the Foredugu area towards Port Loko Town, attacking on two fronts. The first advance came from the south, possibly again from Kaitkant Hills or from Camp Fol Fol. The second advance was from the north, through Gbinti Town from Camp Ro-Source in Bombali District. Both advances converged upon Port Loko Town on 8 June 1995. RUF forces attacked and entered Port Loko, but did not capture the town from the SLA forces stationed there. Following this attack, RUF forces took up temporary positions in the chiefdoms to the north and east of Port Loko Town. By mid June, a contingent of Guinean soldiers deployed into Port Loko, commencing heavy artillery bombardments on the RUF's positions. This forced an RUF retreat towards Camp Fol Fol (Moyamba District) and Camp Ro-Source (Bombali District). Following their stalled advance on Freetown and the failure to take Port Loko Town, RUF activity concentrated on the strategic town of Masiaka and other towns in the surrounding area across June 1995.

In October 1995, the Special Task Force, comprised of Executive Outcomes, SLA and ULIMO members, deployed to Bonthe District and started dislodging the RUF forces from their positions, notably in the primary mainland town of Mattru Jong. Joined later by Kamajors, the Special Task Force progressively dislodged the RUF from their positions throughout Bonthe District. In late 1995, RUF forces, defeated in certain areas of the District, gathered thousands of civilians at Bauya Junction, killing hundreds of them. A few years later, over 1,000 human skulls would be discovered in that area. RUF activity in Port Loko District continued unabated, with the attack and brief occupation of Lunsar in December.

In 1996, Executive Outcomes controlled the diamond mining areas of Kono District, also taking control of other strategic sites. In collaboration with the Kamajor Society, Executive Outcomes took control of the Sierra Rutile mining operation in mainland Bonthe District and were contracted by the Sierra Ore and Metal Company (Sieromco) in Moyamba District. Alongside the SLA, Executive Outcomes were hired by the owners of the hydroelectric plant at Bumbuna (Tonkolili District) to provide security.

In January 1996, the NPRC Deputy Chairman overthrew the NPRC Chairman, thereby seizing power. In the weeks preceding the Presidential and Parliamentary elections planned for 26 February 1996, RUF forces in a number of locations across Sierra Leone threatened civilians, posing the



question about whether they wanted peace before elections, or vice versa, the implication being that "elections before peace" would lead to reprisals against the civilian population. A national consultative conference held in Freetown in February gauged the national mood and decided that elections should go ahead. This decision was not without dissenters other than the RUF, including sections of the SLA and a number of Paramount Chiefs.

In late January and across February, RUF forces attacked Madina, Kukuna and Rokupr in Kambia District and Kamakwie in Bombali District, resulting in huge damage to civilian residences and some particularly brutal killings of civilians. RUF forces staged attacks on villages in Moyamba District, killing, raping and mutilating civilians. Just before Election Day, the NPRC commenced peace talks with the RUF in Abidjan, Côte d'Ivoire. On Election Day itself, RUF forces attacked the towns of Kenema and Magburaka, the elections nevertheless proceeding in the wake of killing, rape and looting.

Following the February elections which resulted in the formation of a government by the candidate of the Sierra Leone People's Party (SLPP), Guinean armed forces were deployed at two locations in the north-west of Sierra Leone. Nigerian forces set up checkpoints in the Western Area and the Nigerian 28th Battalion arrived in Port Loko District. An entire SLA battalion deployed from Freetown to the far east of Kono District. Guinean forces were also deployed in small numbers in southern Koinadugu District and established a base in Kambia District.

Around this period, the various civil militia groups that had formed throughout Sierra Leone were united under a central coordination system known as the Civil Defence Force (CDF) and the Kamajor leader was appointed to the position of Deputy Defence Minister by the newly elected President. The Kamajor Society was the largest component of the CDF, which also included the Gbethis, the Kapras the Donsos and others.

The process of initiating Kamajors already underway in Bonthe District since 1995 spread in 1996 to Bo District. The Kamajor High Priest and Chief Initiator was moved from Bonthe District to Bo District to initiate young men into the Kamajor Society. By late 1995, Kamajor Societies were formed in some of the southern chiefdoms of Bo District. By mid-1996, the initiation process had spread throughout Kenema, Bo and Pujehun Districts and into parts of Moyamba, Kailahun and Tonkolili Districts.

In the early stage of this process, recruitment for the Kamajor Society was carried out exclusively through the traditional authorities, who nominated men from their chiefdoms for initiation. However, as the war escalated and the territory over which the Kamajors gained control increased, new initiates did not require this nomination by traditional authorities.

The most striking feature of 1996 is the exponential increase in strength of the Kamajor Society throughout the Southern and Eastern Provinces. By early 1996, a Kamajor Society had formed in every chiefdom of Bo District. Initiates in Bo District were first sent to locations in Bo Town and Jiama Bongor Chiefdom where they were initiated and given basic military training. In the first half of 1996, initiates from Kenema were sent either to Kenema Town or a location in Bo District for

training. In the southern Kenema chiefdoms, Kamajors were initially gathered into two battle groups, one of which was known as the Upper Wanjei Defence Committee. Alongside Nigerian, Guinean and SLA forces and other Kamajor groups from chiefdoms in Bo and Pujehun Districts, the Upper Wanjei Defence Committee successfully destroyed the RUF stronghold of Camp Zogoda. In the north of Kenema District, Kamajor units successfully confronted and eliminated RUF camps, including "Camp Joe Bush", undermining completely the hold over Kenema District that was enjoyed by the RUF throughout 1995. In late 1996, Kamajors attacked another main RUF base known as "Camp Booloko", just north of Bo District. Also in late 1996, Kamajor units in Moyamba District attacked the RUF at Camp Fol Fol, removing one of the RUF's main staging points for attacking Port Loko and Tonkolili Districts. On other occasions, Kamajors from different chiefdoms regrouped in order to engage the RUF more efficiently. Kamajors from Bonthe District were also active in Moyamba District, assisting those chiefdom authorities that did not have a Kamajor Society.

In Tonkolili District, other components of the CDF were formed. Civil militia movements known as the Gbethis and the Kapras were formed in the south and north of the District respectively. The Gbethis were active in the area surrounding the Kaitkant Hills, a former RUF stronghold. In June 1996, Gbethis worked alongside SLA forces stationed in Mile 91, before being driven out of town by SLA forces after a skirmish concerning the division of contributions offered by civilians under their control. The Gbethi leadership demanded that the civilian population provide support for their positions, punishing with physical violence those "RUF collaborators" who did not cooperate willingly. The Gbethis set up checkpoints and patrolled villages at night, looking for "strangers" and fining civilians who failed to give notice of their arrival. Similar practices were carried out by members of the CDF throughout the territory they occupied.

On 30 November 1996, the Government of Sierra Leone negotiated a peace agreement with the RUF leadership in Côte d'Ivoire. One of the key provisions of the Abidjan Peace Accord, as it became known, was the removal of all foreign forces and Executive Outcomes from the country; Executive Outcomes would leave the country by early 1997.

At the beginning of 1997, SLA and CDF forces continued to confront the RUF. "Camp Libya" in Pujehun District, one of the RUF's longest held positions, fell to a combined SLA and CDF attack in the first months of 1997. Until May, Kamajors also engaged the RUF, sacking the RUF's main defence headquarters in the Kangari Hills. RUF activity in Bombali District continued from Camp Ro-Source with a number of food-finding raids into Port Loko. In mid May, RUF forces captured the northern town of Kamakwie, meeting no resistance and capturing an ammunition dump from the SLA forces stationed there.

The tensions between the CDF and SLA that were ignited in 1996 burned on into 1997, with numerous armed confrontations between the two forces throughout the country. For example, in Tonkolili District, SLA forces ambushed a Kamajor night patrol and attacked Gbethis defending Yonibana. Kamajors in Pujehun District forcibly dismantled SLA checkpoints. These tensions led the SLA to abandon some chiefdoms. Already in the middle of 1996, civilians from Moyamba District had asked the governmental authorities in Freetown to withdraw the SLA forces from the



District. SLA forces moved out shortly after and left the security of the District to the Kamajors who, by the end of the year, had control of the south of the District, while RUF forces were still active in the north of the District. The CDF, however, was partially weakened in Kono District with the disbanding of the Donsos in February 1997 as a sign of good faith in the wake of the Abidjan Peace Accord.

Civilian populations fared badly throughout areas controlled by both CDF and SLA forces. Throughout Moyamba and Bonthe Districts, civilians suspected of being "RUF collaborators" or who were considered to be insufficiently supportive or respectful of the CDF, were subjected to gruesome punishments. In the areas they controlled, Kamajors put in place rudimentary administrative structures, preventing regular local authorities from exercising any power and took actions affecting various aspects of civilian life. These practices continued throughout the following years. The SLA also continued their illicit mining and looting activities, often using civilians to carry the loads.

On 25 May 1997, junior elements of the SLA overthrew the elected government of President Kabbah. This coup d'état resulted in the formation of the Armed Forces Revolutionary Council (AFRC), led by an SLA officer awaiting trial in Pademba Road Prison in Freetown, charged with treason for a planned coup attempt. Immediately following the advent of the AFRC, its leadership called for the RUF to join them and share power, an offer the RUF leadership promptly accepted. Immediately following the coup, AFRC forces looted extensively throughout Freetown and the Peninsula area. A large RUF force moved into the Western Area, initially concentrating around Waterloo and Hastings, stealing from and harassing civilians.

Following the coup, former-SLA deployments gave the AFRC a strong foothold throughout the country, particularly in the major towns of Freetown, Bo, Kenema, Koidu, Pujehun and Bonthe. The AFRC did not inherit territory the SLA did not control, such as CDF strongholds. Nevertheless, AFRC positions were reinforced and strengthened when RUF forces allied with them, moving from the bush towards towns where the AFRC was deployed. The RUF also established new positions throughout the north. RUF forces moved into Port Loko District, living amongst the civilian population. In Bombali District, they occupied a number of strategic locations. They also established a large base in Kambia District. At this time, the RUF/AFRC staged a sharp and brutal attack against the civilian population, including massive killings, abductions, rapes and other acts of severe violence; staged simultaneously across the whole country, every District would be affected to different degrees.

The RUF/AFRC immediately found itself in a tense standoff with Nigerian forces stationed in Freetown. Nigerian forces were reinforced by sea and air in the days following the coup. At the beginning of June, Nigerian forces attempted to unseat the RUF/AFRC but the operation was called off the day it had begun, when RUF/AFRC forces overpowered and briefly held hostage around 300 Nigerian soldiers. Nigerian forces took control of Freetown International Airport in the following days, although civilians were killed during exchanges of mortar fire between Nigerian and RUF/AFRC forces throughout the year.

Throughout 1997, the RUF/AFRC appeared to have two closely related priorities. The first was to destroy the base of support for the CDF movement. The second was to consolidate their hold over the country and find ways of supporting their regime. Accordingly, the RUF/AFRC began suppressing political dissent, civil society and student activism in Freetown. RUF/AFRC forces in Freetown arrested many journalists, activists and demonstrators. Some were tortured and killed, others detained in freight containers and other places.

In June, the CDF rejected a call by the leadership of RUF/AFRC to demobilise and surrender their arms and register at Police Stations. Instead, the CDF retreated to strongholds where there was no previous SLA – now RUF/AFRC – deployment and commenced attacking combined AFRC and RUF positions. CDF forces in Bonthe District did not, however, go underground, as RUF/AFRC forces were concentrated in Bonthe Town on Sherbro Island and not on the mainland.

On the boundary between Kenema and Kailahun Districts, RUF/AFRC forces established a base known as "SS Camp" and used this to attack surrounding villages and towns in the hunt for "CDF collaborators". Throughout the areas in which they were deployed, RUF/AFRC forces attacked civilian settlements and hunted through the bush for civilians, stealing any property they found. In general, screening systems were put in place, especially at checkpoints, where RUF/AFRC forces were searching civilians thoroughly for any evidence that they were supporters of the CDF. Such brutal tactics swelled the numbers of civilians willing to give active support and be initiated into the Kamajor Society.

In some places, more sophisticated methods of extracting support from civilians were put into place by the RUF/AFRC, including local tax administrations and systems allowing the regime to communicate demands to civilians less violently. Nevertheless, the number of "food-finding missions" ballooned, including such plainly-titled looting sprees as "Operation From your Hand to My Hand, from Your Pocket to my Pocket". In Tonkolili District, RUF/AFRC forces concentrated their actions in the chiefdoms around Mile 91 and in the area around Magburaka, where they were strongly engaged by the CDF from the south and west of the District.

In Moyamba District, a CDF stronghold, the RUF/AFRC commenced an aggressive campaign, culminating in the attack on and week-long occupation of Moyamba Town in July 1997. RUF/AFRC forces perpetrated large scale violence against civilians in retaliation for the earlier rejection by civilians of SLA protection. Until CDF forces repelled the RUF/AFRC from Moyamba Junction, the Mile 91-Bo highway fell under RUF/AFRC control, evidenced by intense attacks on towns and their civilian inhabitants along the route. The mainland of Bonthe District remained under CDF control, but they were forced to move from Bonthe Town after the RUF/AFRC deployment in the town. Throughout 1997, RUF/AFRC forces occupied the diamond-rich areas of Kono District, continuing the established practice of forcing civilians to work in the mines.

In August 1997, ECOWAS imposed a trade and arms embargo on Sierra Leone and extended the mandate of their Ceasefire Monitoring Group (ECOMOG) to cover sanctions enforcement in Sierra Leone. ECOMOG artillery and Alfa Jets began shelling vessels approaching Freetown's Kissy Terminal; stray ECOMOG shells resulted in the deaths of civilians in Freetown's densely populated

east end. Eventually, ECOMOG and the RUF/AFRC negotiated a ceasefire in late October. This, however, did not hold firm and there were many breaches of the letter and spirit of the ceasefire agreement.

Starting in September 1997, having regrouped in villages and strongholds, CDF forces successfully launched attacks on RUF/AFRC positions. These actions would yield greater results in early 1998 with the inland advance of ECOMOG forces. In late December 1997, CDF forces intensified pressure on provincial RUF/AFRC positions by preventing civilian and military traffic from moving towards Freetown and vice versa. The consequences of "Operation Black December" – namely the deprivation of food and other supplies - were sharply felt in the towns of Bo, Kenema and Pujehun. From then until March 1998, the CDF would engage in a systematic attack against the civilian population, including massive killing of "RUF collaborators", the widespread use of small cages in which they imprisoned people and similar acts of brutality.

Between 6 and 12 February 1998, following renewed RUF/AFRC attacks on ECOMOG positions, ECOMOG forces invaded Freetown and gained control of the Western Area, forcing RUF/AFRC forces to retreat inland. From the Western Area, RUF/AFRC forces retreated along the main highway to Masiaka, where they split into three groups. The first headed directly towards Magburaka through Mile 91. The second group moved to Makeni (Bombali District) through Lunsar. These two groups would meet after 14 February and move to Kono District, occupying main towns along the route. The third group regrouped at a pre-existing RUF/AFRC base in Port Loko District and moved northwards into Kambia District. RUF/AFRC forces counter-attacked ECOMOG and CDF positions on the roads to Port Loko Town. All these groups left in their wake a trail of destruction, including the loss of civilian life and property.

The RUF/AFRC forces reaching Makeni and Magburaka moved into Kono District along two routes. One group moved along the main highway though southern Tonkolili District, enduring ambushes from CDF forces positioned along the route. The second group moved into Koinadugu District, both by the main highway through Foredugu and along a secondary road though Bumbuna, before moving south into Kono District.

By 21 February 1998, RUF/AFRC forces had reasserted control over Koidu Town and its immediate environs. A large RUF/AFRC base known as "Superman Camp" was established in the east of Kono District and served as a training base through 1998 and 1999. Shortly after, RUF/AFRC forces scattered throughout the District and parts of the southern chiefdoms of Koinadugu District.

At the beginning of March, ECOMOG forces deployed from Port Loko and moved into towns throughout the Northern Province, following the retreating RUF/AFRC forces and reaching Lunsar, Magburaka, Masingbi and Makeni. By mid March, they had entered Kabala, Foredugu and Alikalia (Koinadugu District). In addition, by mid March, ECOMOG had also occupied the towns of Kamakwie (Bombali District), Falaba and Mongo Bendugu (Koinadugu District), which are the key access routes to the Guinean border for the entire Northern Province. ECOMOG forces also

deployed from Guinea to Kambia Town. Throughout their deployment, ECOMOG forces were assisted by CDF members in patrolling these areas.

From the southern entry point, ECOMOG moved directly north and in early February entered Kenema Town, which had been deserted by RUF/AFRC forces a few days earlier. Since December 1997, CDF forces had undermined RUF/AFRC control over Kenema District. Shortly after entering Kenema Town, ECOMOG and CDF forces overran SS Camp. By March 1998, the RUF/AFRC had retreated from Kenema District entirely, although in April they made a few minor incursions from Kailahun District.

As ECOMOG forces coming from Kenema Town retook Bo Town from the RUF/AFRC in early March, CDF forces dislodged the RUF/AFRC from Pujehun District. RUF/AFRC forces withdrew from Sherbro Island in the days following the ECOMOG intervention, leaving the District entirely under the control of the CDF (Kamajors). From Bo Town, ECOMOG deployed in Mile 91, where they engaged in patrolling the area, assisted by the CDF. By March 1998, the entire Southern Province was free of the presence of RUF/AFRC forces and would remain so throughout the year, although RUF/AFRC forces retreating from Freetown who went through the Northern Province towards Makeni and ultimately Koidu Town made a few rapid incursions into the north of Moyamba District. Nevertheless, the level of violence inflicted upon civilians and those alleged to have collaborated with the RUF/AFRC heightened in 1998 since CDF forces, primarily Kamajors, were unchallenged throughout this Province and in most of Kenema District. The CDF progressively exercised greater control over civilian life, replacing both State and traditional structures with their own invasive and largely arbitrary system of administration.

By April, ECOMOG units attacked and occupied Koidu Town and other major towns on the main highway, forcing the RUF/AFRC further into Kono District. ECOMOG forces based in Kenema Town, together with SLA and CDF forces, reinforced the Moa Barracks at Daru and other positions in the south of Kailahun District. Between March and May, RUF/AFRC forces attacked these positions as ECOMOG Jets attacked the RUF/AFRC headquarters in Buedu, in the far east of Kailahun District.

Following their election from Freetown and the commencement of ECOMOG provincial operations, RUF/AFRC forces launched "Operation Pay Yourself". In all the areas passed through or occupied while retreating from the Western Area, RUF/AFRC forces stole civilian property. Between mid February and mid March, towns and villages throughout the entire Northern Province and, to a limited extent, the north of Moyamba District were attacked. RUF/AFRC forces took anything that could be of use, from livestock and other food items, domestic items such as mattresses and cooking pots and motor vehicles, trucks and motorcycles. Although looting had been standard practice throughout the previous RUF campaigns and "food-finding missions" had been commonplace since 1992, the scale and intensity of "Operation Pay Yourself" was unprecedented in Sierra Leone.

A heightened level of violence against civilians accompanied "Operation Pay Yourself". Shortly after the reinstatement of the exiled Sierra Leonean President on 10 March 1998, RUF/AFRC forces



launched "Operation No Living Thing". During a period running from February to June, in locations across Sierra Leone, but primarily in Kono District, hundreds of civilians were killed, or had limbs amputated and hundreds of women were raped. This operation marked a specific period of military activity during which the scale and intensity of violence against civilians in Sierra Leone was elevated to new and unprecedented levels. Thousands of civilians in Kono District were abducted and brought into the mining areas in the western part of the District to work, many of them dying as a result of the squalid living conditions.

From April to early December 1998, RUF/AFRC forces in Kambia, Koinadugu and Bombali Districts expanded the territory over which they had control and consolidated their positions in some areas in Tonkolili District. A striking feature of this period in 1998 was how ineffective CDF forces and other civil militia groups in Bombali and Koinadugu Districts were compared to their high concentration and success in the Southern and Eastern Provinces and, to a lesser extent, in the south and west of Moyamba District. In those areas where ECOMOG cooperated with what groups did exist and CDF forces deployed alongside them, their forces often had success in holding rural outposts, gaining good intelligence and extending their influence throughout smaller settlements in the surrounding bush. There are episodes, however, indicating that ECOMOG was reluctant to leave main fortified positions, or support others in so doing, thereby handing RUF/AFRC forces immeasurable advantages.

In Koinadugu District, RUF/AFRC forces gradually expanded their activity around the two main roads arcing in towards Kabala from the south of the District, while at the same time moving fluidly through bush areas bypassing ECOMOG positions and continuing their operations without needing recourse to main roads and tracks. A strong ECOMOG and SLA presence in Kabala guaranteed that the RUF/AFRC never captured Kabala for more than five days in late July 1998, despite many attacks during the course of 1998. Nevertheless, RUF/AFRC placed all other major towns in the District under constant pressure, offering RUF/AFRC forces easy access to the area surrounding Kabala Town and influence over the arterial roads leading to it. ECOMOG forces were prevented from moving south, pre-empting any attempt to reinforce or counter-attack from Kabala.

In Bombali District, the RUF/AFRC adopted a similar strategy. They expanded their territorial hold and continued the occupation of towns to east of Makeni Town, thereby controlling the major east-west axis roads through the District. Throughout November, RUF/AFRC advanced closer to Makeni Town. Additionally, they secured control over a main latitudinal road, which gave the RUF/AFRC free access to the eastern boundary of Port Loko District.

In Port Loko District, RUF/AFRC forces intensified activity to the north of Port Loko Town between May and November 1998, with the formation of large looting squads and the gradual encroachment on Port Loko Town. ECOMOG forces based in the town were reinforced by CDF from numerous locations. CDF forces proved effective in Port Loko District, creating with ECOMOG a defensive arc around the north of Port Loko Town that prevented RUF/AFRC forces infiltrating southwards from Kambia District. During this period, RUF/AFRC forces attacked many villages in the south of the District. As for Tonkolili District, CDF continued engaging the RUF/AFRC forces concentrated in the north-west of the District. A massive IDP camp hosting

thousands of civilians fleeing fighting in Kono District was opened in Masingbi in the west of the District.

In mid April, the United Nations Security Council authorised the deployment of a 10-strong team of military and security observers to Sierra Leone, who arrived in May 1998. The UN Observer Mission in Sierra Leone (UNOMSIL), comprising around 70 military observers and accompanying logistic support, was established on 13 July 1998.

In October 1998, a splinter group of the RUF/AFRC comprised primarily of ex-SLA members commenced operations in the Okra Hills area in the south of Port Loko District. The "West Side Boys", as they later became known, staged "hit and run" attacks on a large number of villages in the area that would continue until April 1999, with a lull in January and February when the West Side Boys were in Freetown. During this period, the West Side Boys systematically killed civilians, stole property and burnt houses. In addition, they ambushed civilian and military traffic on the main highway to Masiaka, often making the road impassable.

RUF/AFRC forces attacked ECOMOG forces in Masiaka (Port Loko District), and Kamalo, in the north of Bombali District in November 1998. These preparations would put the logs beneath the stones of a large-scale RUF/AFRC action in December. Kono Town was overrun by RUF/AFRC forces on 20 December 1998, beginning a chain of attacks across the Northern Province that culminated in the invasion of Freetown on 6 January 1999. These would be accompanied by massive violence systematically inflicted on the civilian population in all areas in which the RUF/AFRC had a presence. While retreating south from Koidu, ECOMOG left with thousands of civilians, hundreds of whom were abducted by the RUF/AFRC during ambushes on convoys.

On 21 December, RUF/AFRC forces from Port Loko District attacked Songo and Mile 38 and moved into Waterloo – the gateway to Freetown – by 22 December. This foothold was reinforced over the following days, as RUF/AFRC forces began moving from Kono District on 21 December. RUF/AFRC forces advanced from Koidu towards Magburaka and Makeni, taking control of both towns by 24 December. The attack from Magburaka was coordinated with attacks on Makeni from RUF/AFRC positions immediately north-east of the town. ECOMOG was forced to retreat north to Kamakwie, which by 28 December would also be in RUF/AFRC hands.

RUF/AFRC forces continued the westwards movement from Makeni directly to Port Loko Town, where they were supplemented by RUF/AFRC forces already in Port Loko District and prepared for the assault. From 28 December 1998 until 3 January 1999, they launched a sustained attack from three directions on ECOMOG forces stationed in Port Loko Town. Meanwhile, on 30 December 1998, RUF/AFRC forces in Kailahun District moved from their headquarters in Buedu and successfully forced SLA and ECOMOG units out of the town of Segbwema. This move was undertaken to pre-empt any possible counter-attack on Freetown from SLA and ECOMOG forces based at the Moa Barracks in Daru. In mid January, RUF/AFRC forces attacked Mile 91, blocking the highway leading to Freetown and pre-empting any ECOMOG counter-attack.



After staging a number of preliminary attacks on towns west of Waterloo in the Western Area, RUF/AFRC forces advanced on Freetown. On 6 January, RUF/AFRC entered the eastern end of Freetown and advanced into the centre. On the first day, RUF/AFRC forces released 700 inmates from Pademba Road Prison. During their advance in the capital, hundreds of civilians were killed, mutilated or raped in the eastern end of Freetown. At night, in the Freetown suburbs held by the RUF/AFRC, civilians were forced to gather in the streets and sing songs about peace in support of the RUF/AFRC. Others were burned alive in their homes. Behind ECOMOG lines, civilians were gathered in the National Stadium and screened; a number were lined up against the walls and shot dead by ECOMOG forces. The westward movement of RUF/AFRC forces into Freetown was halted by ECOMOG at the Congo Cross Road Bridge on Freetown's Main Motor Road, held by ECOMOG, SLA and CDF forces. By 9 January, unable to advance further into the Freetown urban area and under constant attack from ECOMOG Alpha Jets, the RUF/AFRC were forced to retreat gradually from Freetown back towards Waterloo.

In the following days, ECOMOG forces pushed the RUF/AFRC out of the Greater Freetown Area. During the retreat, RUF/AFRC destroyed much of the State infrastructure in the centre of town, killed and mutilated civilians and burnt down many houses. RUF/AFRC forces held firm in Waterloo until late February and remained in control of Masiaka and Mile 91. The towns of Lunsar and Magburaka, however, remained under firm RUF/AFRC control for much longer.

Following the assault on Freetown, the RUF/AFRC clearly concentrated their actions on mining activities, strengthening their positions in the Northern Province and planning actions to take place on Guinean territory. At this time, the RUF/AFRC commenced a large defensive operation, at the heart of which was their continuing occupation of Makeni and Kono District. The RUF/AFRC defensive headquarters was also moved to Makeni at that time. Between February and July 1999, RUF/AFRC forces consolidated their positions as of December 1998 and expanded their control over Kambia District. The RUF/AFRC's strength throughout the Northern Province guaranteed a strong hand during the peace negotiations that started in the aftermath of the Freetown invasion.

Across the Northern Province and Kono District, RUF/AFRC forces devised methods of rationalising the use of civilians by making them participate in their own administration. Throughout Koinadugu, Bombali and Kambia Districts, RUF/AFRC commanders selected individuals to form committees of "G-5" civil-military intermediaries, communicating RUF/AFRC demands for food and human resources to local communities. The G-5 committees administered the collection of house and trade taxes, food and other financial contributions from the civilian population to the RUF/AFRC. In western Tonkolili District, civilians were required to register with the RUF/AFRC military police. Unregistered civilians were deemed "CDF collaborators" and were flogged, fined or killed. However, G-5 committees proved to be inadequate in providing enough subsistence resources for the combined RUF/AFRC forces, and "food-finding missions" again proliferated through the Northern Province. In a cynical irony, the same commanders that supported the G-5 system by ordering their subordinates to cease looting and theft also ordered the commission of food-finding missions, again increasing the levels of violence inflicted on civilians. Facing shortages, RUF/AFRC forces raided trade fairs in Guinean towns just over the border from Kambia District, prompting the Guinean armed forces to bombard suspected RUF/AFRC positions in the District.

In late January 1999, SLA forces deployed in Bumbuna, a town in the north of Tonkolili District. This brought a limited amount of relief to the civilian population who quickly converged on the town. The area surrounding Bumbuna remained under RUF/AFRC control, although Kamajors from the south of the District continually attacked this concentration of RUF/AFRC forces. This fighting led to the substantial destruction of much of the central chiefdoms of Tonkolili District.

CDF forces strengthened their deployment in Port Loko District, where they established a recruitment and training centre, and the south of Tonkolili District. CDF forces directed excesses of violence at civilians as a means of encouraging the creation of more Gbethi Societies in the District, as people frequently joined in order to avoid harassment by the CDF. Nevertheless, RUF/AFRC forces attacked Port Loko Town in May 1999. In April 1999, CDF, SLA and ECOMOG forces retook control of Mile 91, which rapidly saw the influx of thousands of civilians from the areas around Makeni and Magburaka.

In the north of Kenema District, the RUF/AFRC retook control of Tongo Field, the most important diamond mining area in the District. CDF forces continually attacked RUF positions in Tongo Field, but did not disrupt mining operations. South-east of Tongo Field, RUF/AFRC forces maintained a hold over Segbwema (Kailahun District), denying the CDF, ECOMOG and the SLA the opportunity of moving north into Kono District from Moa Barracks. The RUF/AFRC diamond mining office was established in Koakuima, to the immediate south of Koidu. All diamonds mined by RUF/AFRC operations were trafficked through Koakuima onto their final destinations. Throughout 1999, hundreds of civilians from Kono District who had not fled into neighbouring Guinea were abducted to work in the mining areas of the District. RUF/AFRC forces continued to inflict physical violence on civilians, although on a lower scale than in 1998. Throughout RUF/AFRC-occupied areas of Sierra Leone, civilians were forcibly transported into Kono District to work in the mines.

In Koinadugu District, RUF/AFRC intensified gold mining operations in Diang Chiefdom, at the same time putting pressure on the SLA Brigade stationed at the strategic hydroelectric plant in nearby Bumbuna (Tonkolili District). RUF/AFRC forces had unimpeded access along all main roads in Koinadugu District, surrounding Kabala Town completely. RUF/AFRC brigade headquarters were established in Kavima, in Kono District and in Gberifeh (Koinadugu District) splitting between them responsibility for administering the expansive Neini Chiefdom.

The RUF/AFRC divided Bombali District into two, establishing headquarters in Makeni for the south and Kamakwie for the north. The intermediate territory remained under complete RUF/AFRC control. The RUF/AFRC began conscripting large numbers of able-bodied men in Bombali and Tonkolili Districts, in part due to CDF attacks on Magburaka Town. The RUF/AFRC increased their control over the northern chiefdoms of Bombali District, crossing the Little Scarcies River and establishing stronger supply lines by land through to Kambia Town, which was occupied completely in February 1999. The RUF/AFRC's increasing hold over Kambia District was sealed with the establishment of additional RUF/AFRC bases and a brigade headquarter in the District. The RUF/AFRC also occupied many of the wharf towns on the Great Scarcies River, thereby



controlling a valuable economic and strategic asset. ECOMOG forces created checkpoints on main roads leading to Kambia Town, but this did little to prevent the RUF/AFRC moving freely throughout the District.

Throughout 1999, the West Side Boys raided villages located on each side of the Rokel Creek in Koya and Maforki Chiefdoms (Port Loko District). Initially operating from a base in the densely forested Okra Hills inside Koya Chiefdom, the West Side Boys opened a new base on the other bank of the Rokel Creek in Maforki Chiefdom.

Except for brief "food-finding missions" carried out by RUF/AFRC units into parts of northern Moyamba District, the CDF held over Moyamba, Bonthe, Pujehun, Bo and most of Kenema Districts, bar the mining area in the north, remained unchallenged.

Preliminary discussions between representatives of the RUF/AFRC and the Government of Sierra Leone yielded a ceasefire, which entered into force on 24 May. Full talks commenced on 25 May, leading to the signing of the Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone on 7 July 1999 (Lomé Peace Agreement). Shortly after the Lomé Peace Agreement was signed, the main RUF/AFRC training centre at Camp Superman (Kono District) was supplanted by a new one in Gbendembu Town, north of Makeni. This was primarily to train conscripts for missions into Guinea.

After a few months, however, hostilities resumed in Bombali District, with the RUF/AFRC attacking civilians. Internal divisions within the RUF/AFRC created following the retreat from Freetown heightened, resulting in violent confrontations between the senior commanders of the combined movement as the disarmament process grew nearer. To a certain extent, the RUF and the remnants of the AFRC started controlling different parts of the country. In Kailahun District, disagreements over disarmament between the RUF leader and the most senior RUF officer resulted in the flight of the latter to Liberia.

On 22 October, the United Nations Security Council authorised the deployment of a 6,000-strong peacekeeping mission to Sierra Leone, to assist with the implementation of the Lomé Peace Agreement. The United Nations Mission in Sierra Leone (UNAMSIL) commenced deployment in late November 1999 and by 10 January, 4,500 UNAMSIL troops were present in Sierra Leone. The UNAMSIL force was initially deployed alongside ECOMOG forces and was gradually reinforced as the United Nations Security Council expanded the size of the mission.

Despite the official launching of the Disarmament, Demobilisation and Reintegration (DDR) program by the Sierra Leonean President in Freetown on 4 November 1999 and a nationwide sensitisation tour conducted by the leaders of the RUF, the AFRC and the CDF, hostilities rapidly resumed. The CDF in Kono District engaged the RUF/AFRC forces in the north and east of the country but failed to impact upon the strongly embedded RUF/AFRC forces, who retained their positions in the north of Tonkolili District and in the areas bordering Bombali and Port Loko Districts.



In early May 2000 and following the withdrawal of the last Nigerian ECOMOG contingent, RUF forces launched a number of attacks against UNAMSIL peacekeepers in Kambia, Port Loko, Tonkolili, Bombali and Kailahun Districts, leading to the taking of around 500 UN peacekeepers as hostages. Following the capture of the UNAMSIL peacekeepers, RUF forces first advanced south-west along the main highway towards Masiaka and Songo, unsuccessfully attempting to occupy the towns. As these events unfolded, the bodyguards of the RUF leader fired on a crowd of thousands of civilians gathered around his home in Freetown, killing around 20 people. The RUF leader was later captured in Freetown and detained by the Government of Sierra Leone. RUF/AFRC forces then attacked Port Loko Town, but were repelled by UNAMSIL and SLA forces. UK armed forces arrived in Freetown to provide security for the Freetown area and, in the following months, to re-train the SLA. By the middle of July, the RUF/AFRC had released all the UNAMSIL peacekeepers it had previously captured. The SLA also staged a number of counter-attacks, attempting to retake Lunsar and using a helicopter gunship to bombard RUF/AFRC positions in and around the major towns of Makeni, Magburaka and Rokupr and other locations in the Northern Province, resulting in civilian casualties.

On 30 August, 11 UK Royal Marines were taken hostage by the West Side Boys in the Okra Hills area. Following a breakdown in negotiations, UK paratroops rescued the hostages in September 2000, practically destroying this volatile splinter group in the process.

Starting in July, the hostilities had become sporadic and in August 2000, RUF/AFRC forces surrendered to UN peacekeepers in Kabala. The disarmament process continued, although the RUF/AFRC were still engaged in mining activities, mainly in the centre of Koidu Town.

In May 2000, RUF forces in Kono District started engaging Guinean forces in the Guinean area known as "The Parrot's Beak", using the hundreds of civilians they had abducted and trained during the previous months. In early September 2000, RUF/AFRC forces attacked the Guinean towns of Pamelap and Madina Oula and carried out similar actions in the Parrot's Beak area from Kailahun District. Throughout September and October, Guinean forces also adopted a "hot pursuit" policy, in which RUF bases inside Sierra Leone along the Guinean–Sierra Leonean border were directly attacked in addition to the pursuit of RUF/AFRC forces from inside Guinea. This was manifested through intensified artillery and helicopter gunship bombardment of towns just south of the border in Sierra Leone, resulting in many civilian casualties and in the large-scale displacement of the population, mainly Sierra Leoneans who had found refuge in Guinea. Guinean armed forces also moved their security checks three miles inside the territory of Sierra Leone in Bombali District and erected some checkpoints in Kailahun District. RUF/AFRC forces nevertheless continued to attack Pamelap and Guinean infantry and airborne operations against RUF/AFRC positions in Kambia District continued into 2001.

Representatives of the RUF and the Government of Sierra Leone met in Abuja, Nigeria, to negotiate the reactivation of the ceasefire and peace agreement signed in Lomé in July 1999. The Abuja Ceasefire Agreement was signed on 10 November 2000. In December 2000, RUF forces went to Guinea to bring back Sierra Leonean refugees as a proof of their commitment to the peace process. By January 2001, thousands of Sierra Leoneans were thus brought back to the east of Kono District,

where they were relocated by the RUF to different towns across RUF territory. Harassment, however, continued and many civilians were sent to Koidu to work in the mines.

In the first three months of 2001, RUF/AFRC forces entered into negotiations with UNAMSIL. This resulted in the opening of a number of key stretches of road leading into Kambia and Bombali Districts and the eventual deployment of UNAMSIL peacekeepers throughout those areas.

In March and April 2001, Donsos and Kamajors who had sought refuge in Guinea were armed by Guinean authorities and launched successful attacks on RUF forces in the east of Kono District, thereby opening three flanks in Kono and Kailahun Districts. They were, however, prevented from entering Koidu Town when the RUF requested the intervention of UMASIL to remind the CDF of the terms of the successive ceasefire agreements.

The November 2000 ceasefire was renewed in Abuja on 4 May 2001 and it was agreed that an accelerated disarmament should be carried out on a District-based level. To this end, disarmament was to take place successively and simultaneously in two Districts. The DDR program started in Kambia and Port Loko Districts, where in May 2001, reception centres were opened. In Port Loko District, the DDR process was accompanied by sporadic looting of civilian settlements by demobilised members of all factions. The stealing of corrugated zinc roofing material from houses was commonplace. Nevertheless, disarmament continued across the country throughout 2001; the last two Districts to be disarmed were Kailahun and Kenema. Mining activities would continue in Kono District until the last days of the disarmament.

Following disarmament and demobilisation of members of all the different fighting factions, the Sierra Leonean President declared that the war was over and held a symbolic "Arms Burning Ceremony" at Lungi (Kaffu Bullom Chiefdom, Port Loko District) on 18 January 2002.

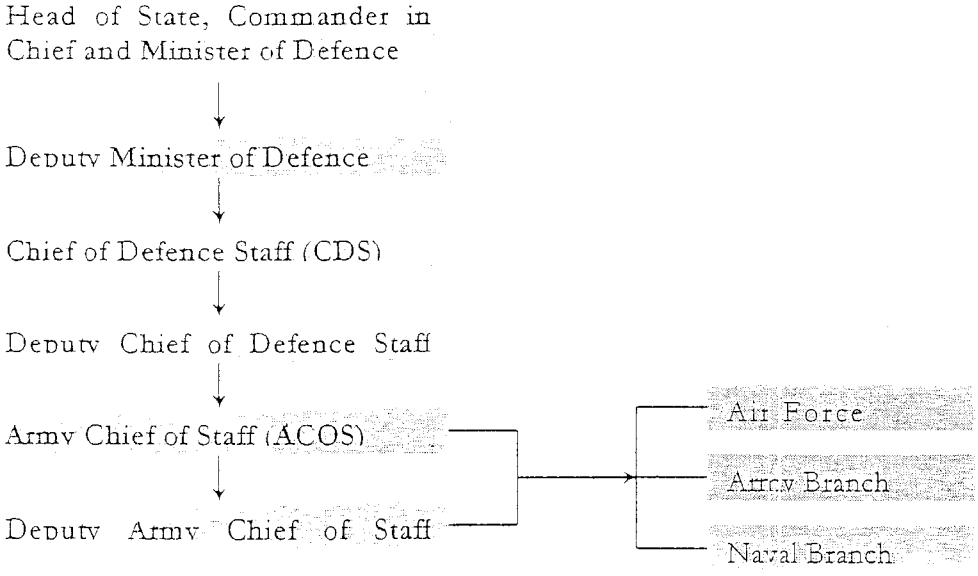
Chapter Three: Overview of Armed Forces Involved in the Sierra Leone Conflict

1 Fighting factions

a. The Republic of Sierra Leone Military Forces (RSLMF)

The Republic of Sierra Leone Military Forces (RSLMF) is commonly known and referred to as the Sierra Leone Army (SLA). When RUF/NPFL forces commenced military operations in the south and east of Sierra Leone in March 1991, the SLA was under-staffed, under-equipped and often poorly trained. The SLA had three battalionsdeployed in the Eastern and Southern Provinces.

Until 2002, when the Government of Sierra Leone embarked on significant military reforms, the sennior heirarchy of the SLA was as follows:



Army Branch forces below Army Chief of Staff were and are divided into brigades, battalions, companies, platoons and sections, with a conventional officer and non-commissioned officer ranking hierarchy. In addition to barracks in provincial Sierra Leone, the SLA has a number of major installations in the Western Area, including the Defence Headquarters at Cockerill and the Armed Forces Training Centre near Waterloo.

From the beginning of the war in 1991, the SLA did not engage RUF forces unaccompanied. In addition to ad-hoc civilian security initiatives and local militias, including those evolved from traditional hunting societies throughout Sierra Leone, the SLA fought alongside foreign forces primarily from other West African countries at different times throughout the conflict. This foreign involvement was also expressed through the provision of logistics, resources, military training and guidance to the SLA. As the war progressed, the SLA collaborated with a Liberian fighting force engaged in the Liberian conflict called ULIMO and a selection of international private military companies, including the Gurkha Security Guards and Executive Outcomes. In 1992, a contingent of the SLA made up part of the ECOMOG peacekeeping forces in Liberia.



On two occasions during the 11-year conflict, in 1992 and in 1997, members of the SLA overthrew the Government of Sierra Leone, establishing military regimes in its place. The two juntas were very different in nature. On 29 April 1992, junior officers of the SLA came to Freetown to complain about the desperate situation on the war front. They successfully staged a coup, ousting the then President and the All People's Congress (APC) establishment. They created the National Provisional Ruling Council (NPRC), swearing in 25 year-old Captain Strasser as Head of State. Shortly after the coup, SLA members looted civilian property in major centres, particularly in Freetown and the Western Area. In December 1992, SLA members suspected of having planned a coup were convicted of treason and executed, resulting in international condemnation of the NPRC. The NPRC engaged in an extensive recruitment drive, more than doubling the number of infantry available to the SLA by 1994. New recruits received only summary military training before being sent to the front lines and were unable to contain the RUF advance across the country, despite initial successes in 1993.

The swelling of the SLA ranks was accompanied by some breakdowns in discipline, compounding many of the problems already caused by the dramatic subversion of the traditional military hierarchy by junior officers. SLA attacks against civilians, including theft and summary executions of suspected RUF "collaborators" and the SLA's inability to protect civilians from RUF attacks led to a profound deterioration in civil-military relations. Many called the SLA "So-bels", or "Soldier-Rebels", noting that in some cases there was little to distinguish the two. The NPRC regime came to an end with the Presidential and Parliamentary elections in February and March 1996, during which the leader of the Sierra Leone People's Party (SLPP) was elected President of Sierra Leone.

Just over a year later, on 25 May 1997, SLA officers staged a military coup, ousting the Sierra Leonean President and establishing a military regime called the Armed Forces Revolutionary Council (AFRC). The elected Government moved into Guinea. Unlike the NPRC, the AFRC chose not to fight the RUF; rather, the AFRC Chairman — Johnny Paul Koroma — called upon the RUF leadership to join the AFRC regime, which they promptly did. The majority of the SLA aligned with the AFRC, but some "loyal SLA" retained an allegiance to the elected Government. As the coup was driven by non-commissioned officers, most of the senior SLA officers who did not want to take part in the new regime went into hiding, chased by AFRC members. This military regime was ousted from power in February 1998 by an ECOMOG military intervention.

The situation of the SLA became a priority for the Sierra Leonean President after his reinstatement on 10 March 1998. During a presidential address delivered on 22 May 1998, President Kabbah revealed he had appointed the former ECOMOG Task Force Commander as Chief of Defence Staff to "use his wide experience in helping [Sierra Leone] to develop guidelines for putting together a new army."[15] Two months later, the disbanding of the "unpatriotic Army" was announced.[16] The

[15] Presidential address delivered on the occasion of the State Opening of the Second Session of the First Parliament of the Second Republic of Sierra Leone, 22 May 1998: http://www.sierra-leone.org/kabbah052298.html.

[16] Statement of the Sierra Leonean President at the Special United Nations Conference on Sierra Leone held at the United Nations, New York, 30 July 1998.



framework of the new army, composed of 5,000 members was announced to Sierra Leoneans in early September.[17] Newly trained SLA members began fighting alongside ECOMOG forces. Earlier in the year, former SLA members were hastily retrained by ECOMOG forces and absorbed into the ECOMOG force structure to help fight the retreating RUF/AFRC forces in the Provinces.[18]

In the middle of 2000 and at the request of the Sierra Leonean Government, the United Kingdom started providing assistance in the "national restructuring exercise" of the SLA by providing advice and training.[19] UK forces carried out a series of six-week basic training courses for around eight battalions of the SLA.[20] The 180-strong team began arriving in Freetown on 10 June 2000,[21] dovetailing with the withdrawal of the Royal Marines after 15 June 2000.[22] On 24 July, nearly 1,000 SLA members graduated from the UK-run training course,[23] the first group of a total of around 8,000 who would eventually be trained this way. SLA forces again began to participate in combat actions against the RUF/AFRC in mid 2000.

Following the initial rounds of UK short-term training programs, a UK-led long-term International Military and Training Team (IMATT) was established to push a wider process of military reform. In 2002, the SLA was renamed Republic of Sierra Leone Armed Forces (RSLAF) and the separate army, navy, and air force command structures were restructured.[24]

b. The Revolutionary United Front (RUF)

The Revolutionary United Front (RUF) commenced attacks inside Sierra Leone on 23 March 1991, at which time little information about the RUF was available to the public. The RUF finds its origins in a movement to overthrow the regime of the All People's Congress (APC). In an internal RUF document written in the early stage of the conflict and entitled "Reasons Why We Took Up Arms to Fight", it is stated that, "We are fighting against corruption, because the past and present government seized political, economic and social justice in this country".[25] In 1991, the RUF was composed of around 230 members. These included former Fourah Bay College students, political opponents of the APC, former members of the SLA and other public figures that considered themselves victims of the APC regime. The majority were trained in Liberia at Camp Namma,

---

[17] See point 10 of the Broadcast to the Nation on Peace and Security by the Sierra Leonean President.

[18] The ECOMOG 128th Infantry Battalion was created to remedy the ECOMOG personnel shortage in their "mopping up operations" in the province and was mainly composed of former SLA members: Brig. Gen. R. A. Adeshina: *The Reversed Victory: Story of Nigerian Military Intervention in Sierra Leone*, Heinemann Educational Books (Nigeria) Plc., pp. 66-7.

[19] Address by the Sierra Leone President at the Pass Off Ceremony for the First 1000 Military Personnel, under the UK Short-term Training Program, Benguema Training Centre, 22 July 2000.

[20] The UK Military handed over to the UK-led International Military and Advisory Training Team (IMATT) in September 2001.

[21] BBC Online News, 10 June 2000 (19:28 GMT 20:28 UK).

[22] IRIN West Africa, 14 June 2000.

[23] IRIN West Africa, 24 July 2000.

[24] IRIN West Africa, 22 January 2002. See also the speech of the Sierra Leone President at the Opening of the New Defence Ministry Building, Tower Hill, Freetown, 21 January 2002.

[25] See also the RUF's manifesto, *The Footpaths to Democracy, Towards a new Sierra Leone*. For a full text of this manifesto, see http://www.sierra-leone.org/documents.html#RUF.

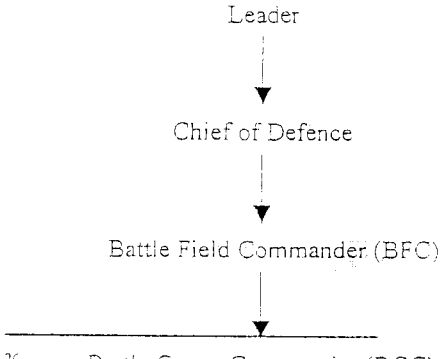
although eight of the original members – referred to as "vanguards" –were trained in warfare and the "ideology"[26] in Libya. RUF numbers swelled rapidly following their entry into Sierra Leone.

At first, many civilians joined the RUF voluntarily, seeing it as a solution to corruption and poverty. Nevertheless, the RUF commenced abducting and conscripting civilians shortly after, a practice that continued throughout the conflict. The RUF conscripted thousands of Sierra Leoneans of all ages and of both sexes to be trained as fighters at large training bases. These were opened from time to time depending on the state of the RUF advance, on the number of new conscripts and recruits and on the logistic support available. While one senior RUF officer was responsible for the opening of bases and the provision of training, this did not stop other, smaller training bases from being opened under localised commands. When the RUF needed "manpower" for planned actions, RUF members known as "Safari Teams" were sent to the villages to bring back civilians in accordance with pre-agreed figures. Children under the age of 15 were abducted, conscripted and trained to operate as Small Boy Units (SBU) and Small Girl Units (SGU). Adults were organised into platoons and trained. Instructors in the training bases were responsible for providing training on drill, military tactics, weapons and ideology, among other things.

The NPFL clearly supported and even controlled, to an extent, RUF operations in Sierra Leone. NPFL members fought alongside RUF forces and the NPFL provided logistical support to the RUF as a whole. When they first entered Sierra Leone and during the early stage of the conflict, NPFL members, who not only outnumbered the RUF but also held most of the commanding positions, dominated the RUF forces. Although the NPFL withdrew from Sierra Leone in 1993, links with the NPFL and its leader were never severed completely.

Following the SLA coup in May 1997, the AFRC invited the RUF to join the regime. RUF forces joined with and strengthened AFRC positions throughout areas of Sierra Leone that the SLA had previously controlled. RUF members held ministerial positions in the Council of the AFRC and the movement re-branded itself the "Peoples' Army".

From the beginning of the movement, the RUF, who leader was a retired signals corporal from the SLA, adopted a military-style internal organisation and disciplinary system, with clearly identified positions and tasks allocated to its members:



[26] Battle Group Commander (BGC) Battle Front Line Commander or Inspector

The BFC moved between front lines depending on to the battles in preparation and ongoing military activity, while the BGC remained in the rear at headquarters. The BGC's primary function was to take care of logistics, under the orders of the BFC. The Battle Front Line Commander moved between the front lines according to logistical needs. RUF forces were divided into brigades,[27] battalions, companies, platoons and sections. A section was composed of 8 to 10 combatants and five sections made a platoon. A platoon was composed of 30 or more combatants and five platoons made a company. A company was composed of 100 or more combatants and five companies, plus an administrative one, made a battalion. A battalion comprised around 1,000 combatants; three battalions made one brigade.

Representatives from specific supporting units were attached at battalion level. The G-5 Unit was responsible for coordinating relations between combatants and civilians, including the collection of taxation and food contributions from civilians. G-5 was also responsible for disseminating political ideology. The Army Agricultural Unit was to take care of all farming and food production in the battalion. The S-4 Unit was responsible for the storage and distribution of food and was battalion quartermaster. The Intelligence Office Unit was responsible for monitoring all operations within the battalion and for sending intelligence reports to headquarters. The Combat Medic Unit was responsible for all medical affairs and the health for everybody in the battalion. The G-4 Unit took care of all arms and ammunitions. Armoury was a sub-unit and was responsible for the maintenance of all arms. The Logistics and Motor Pool was responsible for the maintenance of all mechanical and vehicular equipment in the battalion. The Signal Unit was responsible for internal and external communications. The Military Police (MP) Unit was responsible for disciplinary actions and, therefore, for the maintenance and enforcement of law and order. Military Police (MP) also escorted prisoners and were attached to brigades, battalions and companies. The Internal Defence Unit was responsible for all necessary investigations in the battalion and also served as a link between the G-5 and other operational units.

When they entered Sierra Leone in 1991, the RUF established a headquarters in Pendembu (Kailahun District), where they remained until 1993 when SLA forces retook the town. From 1994 until they joined the AFRC in Freetown, the RUF leader was not settled in one place but was generally mobile.[28] When the RUF joined with the AFRC in Freetown, the high command established headquarters in Freetown in the Defence Headquarter at Cockerill. Following the retreat from Freetown in February 1998, a War Office was opened in Buedu (Kailahun District, on the border with Liberia). This was the administrative headquarter, the permanent radio base and the

[27] Growing rapidly after the first attack in March 1991, the RUF had one and a half brigade. Following the retreat from Freetown in 1998, the RUF had three brigades, one in Kailahun District, one in Kono District and one in Bombali District.

[28] During this period, it is not completely clear whether the RUF retained a headquarters as such and if it existed, where it was located.

base for one of the most senior RUF officers. Important meetings involving the senior RUF command took place in Buedu until disarmament in 2001. The RUF defensive headquarter was moved as RUF forces captured towns, but remained in Makeni (Bombali District) from 1999. As the RUF's positions stabilised following the general retreat from Freetown in 1999, the territory under their control was subdivided further and a number of brigade headquarters were established.

The appointments of the most senior officers within the movement were approved personally by the RUF leader. Some appointments were approved by the Liberian President, in particular when the RUF leader was in custody in Nigeria in 1997 and then Sierra Leone in 1998. When the RUF leader was again arrested after the 8 May 2000 events,[29] the then Battle Field Commander was made Interim Leader and would take instructions directly from the Liberian President.

The RUF set up a disciplinary system to deal with offences committed by its members. When an RUF member committed an offence, he or she was sent to the Military Police (MP), which would obtain a statement and issue a report. When the offence reached a certain level of severity, the MP had to refer the matter to the General Staff Officer Class One (GSO1),[30] who in turned would convene a Board of Investigation. The report of the Board of Investigation would then be sent to the RUF leader or the most senior RUF officer,[31] who would be responsible for taking appropriate measures, including recommending that a court martial be conducted. For minor offences, local commanders were vested with certain powers to conduct investigations and administer punishment in line with the gravity of the offences committed. Most of the time, commanders settled cases at the front line without going through the proper channels. The senior officers in charge of the RUF were allegedly aware of this conduct, but did not intervene to deter it. During the 11-year conflict, very few courts martial were conducted.[32]

c. National Patriotic Front for Liberia (NPFL)

The National Patriotic Front for Liberia (NPFL) emerged in the neighbouring country of Liberia in 1989. The NPFL's aim was to oust the Liberian President, who had been in power since 1980 and whose regime was accused of being corrupt and excessively tribalistic. Backed up by foreign

---

[29] On 8 May 2000, a crowd gathered outside the Freetown residence of the RUF leader to protest the resumption of hostilities in Sierra Leone and the taking hostage of UN peacekeepers by RUF forces. RUF bodyguards fired on the crowd, killing around 20. The RUF leader was detained by the Sierra Leone Police on 17 May and was subsequently held in custody.

[30] As an example of the structuring of the RUF, the functions given to the GSO1 were as follows: to maintain an ongoing roadmap or prepare a yearly forecast of events concerning general training, including bush camps, recreational sports, ceremonial parades and the planning and implementation of training courses; maintenance of a list of all courses to be undertaken by RUF members throughout the year; to maintain a manifest of the seniority of officers and senior NCO's in the RUF for promotions; appointments and reversions; to request course bids based on existing vacancies for various courses stating educational qualifications required; to be in charge of general discipline; and to post officers.

[31] Depending on the period, it was sent to the RUF leader, to the Battle Field Commander, or to the officer who later became the Interim Leader.

[32] For example, a Board of Investigation was seized of a case involving a senior RUF officer who allegedly diverted some Guinean currency and failed to give it to the movement. The Board investigated some of the most senior RUF officers.

countries, the NPFL movement rapidly expanded its actions across the country towards Monrovia, the capital. In August 1990, the Economic Community of West African States (ECOWAS) sent to Monrovia a peacekeeping force known as the ECOWAS Ceasefire Monitoring Group (ECOMOG). ECOMOG established a rear base near Freetown's International Airport in Lungi. In September 1990, the President was arrested, tortured, killed and his body paraded through Monrovia by an NPFL splinter group called the Independent National Patriotic Front of Liberia (INPFL). An Interim Government of National Unity (IGNU) was formed in November 1990. Despite a reconciliation accord signed in Yamoussoukro, Côte d'Ivoire, between the President of the IGNU and the NPFL leader in October 1991, fighting continued in Liberia. In March 1991, the NPFL assisted the RUF in launching its "revolution"[33] in Sierra Leone. NPFL members started fighting alongside the small RUF force. The strength and involvement of NPFL forces in Sierra Leone would decline over the subsequent years owing to the emergence of the United Liberian Movement for Democracy (ULIMO), a counter-revolutionary force comprised of supporters of the late President. The NPFL's physical withdrawal from Sierra Leone did not, however, lead to the withdrawal of the NPFL's active support for the RUF.

In March 1994, pursuant to the Cotonou Agreement signed in July 1993 between the NPFL, ULIMO and the Interim Government of National Unity, a tripartite Liberian National Transitional Government (LNTG), headed by a five-seat Council of State replaced the IGNU. The three signatories each obtained one seat in the Council of State. Hostilities continued in Liberia and a splinter group of the NPFL, the NPFL-Central Revolutionary Council (NPFL-CRC) emerged and formed a coalition with the ULIMO-J. Following a new peace agreement signed in Abuja, Nigeria in August 1995, a new six seat Council of State was established, and the coalition obtained a seat in the Council.[34] Pursuant to a peace accord signed between the same fighting factions in August 1996 – referred to as Abuja II – disarmament started and in February 1997, the various groups were disbanded. In July 1997, Presidential and Parliamentary elections were held in Liberia; the NPFL leader was elected President of Liberia, his National Patriotic Party also winning a majority of seats in the National Assembly.

d. United Liberation Movement of Liberia for Democracy (ULIMO)

The United Liberation Movement of Liberia for Democracy (ULIMO), mainly composed of former members of the Liberian Armed Forces (AFL) and other refugees who had found refuge in Sierra Leone and who were supporters of the late Liberian President, emerged in 1991 as an opposing force to the NPFL. In September 1991, ULIMO forces attacked NPFL forces in the west of Liberia, using Sierra Leonean territory as a staging point. ULIMO rapidly started fighting alongside the SLA to push the combined RUF/NPFL assault back into Liberia.

Over the subsequent years, the existence of this fighting force would be punctuated by rivalries between two personalities, leading to various splits and reunifications. In May 1992, the ULIMO Chairman was removed and the movement was split between two potential leaders, one of whom was accused of using ULIMO to wage a holy war while the other was accused of financial

[33] This is how the RUF referred to its actions in Sierra Leone. The RUF would further consider itself a government, referring to property stolen from civilians by RUF members as "government property".
[34] For a full text of these peace agreements, see http://www.usip.org/library/pa/liberia/pa_liberia.html.

impropriety and hijacking the movement for political ends. Nevertheless, between August and December 1992, ULIMO reunified and resumed fighting with the NPFL. Following this, two branches of ULIMO clearly appeared: a Freetown-based branch, fighting alongside the SLA in Sierra Leone, and a branch based solely in Liberia.

A reunification congress between the two branches in October 1993 and a selection of joint communiqués issued in early 1994, some at the initiative of the Sierra Leonean NPRC Chairman, did not prevent the two branches from fighting. One of the main points of disagreement was the participation of the ULIMO Liberian branch in the Cotonou peace process for Liberia in July 1993.[35] In June 1994, the violence committed against civilians by ULIMO fighting alongside the SLA led a delegation of Sierra Leonean Chiefs to call for the withdrawal of ULIMO from Sierra Leone and also resulted into the disarmament of some members of the Freetown-based branch by the SLA.[36]

In 1994, the two branches were clearly identified by two different acronyms: ULIMO-J (Freetown) and ULIMO-K (Liberia); the letters "J" and "K" referred to the names of the respective branch leaders. From the end of 1994 until 1996, ULIMO forces as such were not active within Sierra Leonean territory. In May 1995, demobilised ULIMO-J members based in Freetown were remobilised by Executive Outcomes, a private military company hired by the Government of Sierra Leone. The Special Task Force, as the ULIMO-J/Executive Outcomes force became known, assisted the SLA in driving back the RUF from the Western Area. The Special Task Force continued to operate under the umbrella of the SLA and Executive Outcomes in Bonthe District and briefly in Bo Town in late 1995 and 1996.

The ULIMO-J branch was formally included in the peace process in Liberia in August 1995. By signing the Abuja Agreement,[37] the parties agreed to form a six-seat Council of State to exercise executive power in Liberia. The leader of the ULIMO-K branch represented ULIMO in the Council of State while the NPFL-CRC/ULIMO-J coalition received one seat and the ULIMO-J wing gained ministerial positions.[38] However, factional fighting resumed and ULIMO-K and the NPFL collaborated to capture the leader of the ULIMO-J, who they accused of murder. This fighting culminated in the widespread destruction in Monrovia, the capital, in April 1996.

Peace negotiations resumed and resulted in the signing of a supplement to the Abuja Accord, referred to as Abuja II, which would be the first step towards the end of the conflict in Liberia. This provided for the representation of both ULIMO-K and ULIMO-J in the Council of State. ULIMO was officially disbanded in early 1997, pursuant to the Abuja II Agreement. Nevertheless, ULIMO resurfaced in Sierra Leone in 1997 and 1998 when some former members joined the Kamajors and others fought alongside the RUF/AFRC.

---

[35] This accord was signed by the NPFL, ULIMO and the Interim Government of National Unity in Cotonou, Benin; the ULIMO leader of the Liberian Branch appeared in the agreement as the leader of the ULIMO. No mention of different branches was made.

[36] Those disarmed ULIMO members were encamped at Waterloo refuge camp in the Western Area.

[37] This supplemented the previous Akosombo, Cotonou and Accra Agreements.

[38] For a full text of the Agreement, see http://www.usip.org/library/pa/liberia/pa_liberia.html.



e. Armed Forces Revolutionary Council (AFRC)

On 25 May 1997, elements of the SLA staged a coup d'état and formed the Armed Forces Revolutionary Council (AFRC). The AFRC released over 700 inmates from Pademba Road Prison, including their leader, an SLA officer who had been charged with a coup attempt in 1996. The AFRC immediately suspended the Constitution of Sierra Leone and the elected President escaped to the Republic of Guinea by helicopter. In an address to the nation, the AFRC leader advanced as a justification for the coup the polarisation of the country "into regional and tribal factions",[39] and the lack of control of the President over the situation". Amidst international condemnation of the explosion of violence and looting that accompanied the coup, the AFRC leader was sworn in as Head of State on 17 June 1997.

Immediately after the coup, the AFRC invited the RUF to share power. On 28 May, the RUF leader – at that time in custody in Nigeria for a firearms offence – broadcast a statement over SLBS Radio, encouraging RUF solidarity with the AFRC. Part of his statement is worth quoting: "You will always get instructions from me through [the AFRC leader]. They are our brothers. Let no one fool you. You have to work with them to put the situation under control, especially in the Western Area. As you [sic] the field commander, instruct your other Commander ... to stand by for any reinforcement needed by [the AFRC leader] for any eventualities. We have to defend our sovereignty. You are to act on these orders immediately."[40] On 30 May, the RUF declared their support for the AFRC on SLBS television and radio and on 1 June, the AFRC declared the RUF leader to be the Deputy Head of State of Sierra Leone. The RUF/AFRC Cabinet hierarchy was as follows: Chairman and Head of State, Vice Chairman and Deputy Head of State, Chief Secretary of State, Secretaries of State and Public Liaison Officers. In June 1997, the RUF/AFRC created a 17-member supervisory team to prevent the apparatus of civilian government from grinding to a halt following lengthy strikes by public sector workers.[41]

Immediately after the coup and throughout 1997, the RUF/AFRC found itself in an escalating military standoff with Nigerian forces stationed in Freetown and Lungi. ECOWAS established a Committee mandated to negotiate with the RUF/AFRC regime. On 29 August 1997, at its 20th Annual Summit, ECOWAS imposed sanctions on Sierra Leone, effective throughout all ECOWAS member States.[42] The ECOWAS embargo included military hardware, supplies and spare parts, petroleum and petrol-derived products; an export ban was also imposed. A travel ban was imposed on AFRC members and their families, in addition to a freeze on their assets. Moreover, ECOWAS formally expanded the mandate of ECOMOG to include the use of force to impose sanctions

[39] The President of Sierra Leone had appointed the leader of the Kamajors, a pro-government local militia, as the Deputy Defence Minister in 1996.

[40] BBC Media Monitoring, 30 May 1997 transcribing SLBS, 28 May 1997.

[41] Sierra Leone Humanitarian Situation Report, 24 - 30 June 1997.

[42] Decision on sanctions against the junta in Sierra Leone, Twentieth Session of the Authority of Heads of State and Government, Abuja, 28-29 August 1997.



against Sierra Leone.[43] Effectively, this gave legal backing to a complete naval blockade of the Port of Freetown and the prohibition of air-freight traffic. On 8 October, the UN Security Council adopted Resolution 1132 (1997), imposing a range of global arms, oil and travel sanctions on Sierra Leone.[44] During peace talks in Conakry, Guinea, on 22 and 23 October 1997, the ECOWAS Committee of Five[45] and representatives of the RUF/AFRC agreed to an immediate ceasefire and a six-month peace plan guaranteeing a return to civilian government by 22 April 1998.

Following RUF/AFRC attacks on ECOMOG positions and other breaches of the Conakry Peace Plan, ECOMOG intervened militarily. Starting on 6 February 1998, ECOMOG drove the RUF/AFRC regime from power and its forces from the Western Area. Ousted from Freetown, the RUF/AFRC alliance survived but the balance of power between the allies was inverted. The situation of the AFRC members was varied: most fled from Freetown into the Provinces with their leader, others surrendered to ECOMOG forces and many of the senior officers were charged with treason, convicted and executed in 1998.[46]

Following the RUF/AFRC invasion of Freetown in January 1999, most of the AFRC forces withdrew to Makeni (Bombali District) and the rift between RUF and AFRC forces deepened. The AFRC leader did not take part in the peace negotiations in Lomé, Togo that concluded with the signing of a Peace Agreement between the RUF and the Government of Sierra Leone.[47]

While provisions in the Lomé Peace Agreement granted the RUF leader status equivalent to Vice President, the AFRC leader was appointed as Chairman of a governmental body called the Commission for the Consolidation of Peace. Following serious infighting between RUF and AFRC forces in the Northern Province in October 1999, the rift between the two groups further deepened. Both forces controlled different areas of the country. Nevertheless, the alliance between the leadership of the two forces was still valid. The two leaders issued joint statements and continued to

---

[43] *Ibid.* "Article 7. The sub-regional forces shall employ all necessary means to impose the implementation of this decision. They shall monitor closely the coastal areas, land borders and airspace of the Republic of Sierra Leone, and shall inspect, guard and seize any ship, vehicle or aircraft violating the embargo imposed by this decision."

[44] On 29 August 1997, ECOWAS had issued a recommendation on the application of sanctions against the AFRC regime: Sierra Leone Humanitarian Situation Report 23 August - 1 September 1997.

[45] Initially, ECOWAS established the Committee of Four. In August 1997, a fifth nation, Liberia, was added to the Committee of Four, which became known as the Committee of Five.

[46] ECOMOG forces, SSD and even civilians arrested many alleged members and collaborators of the AFRC regime and brought them to Pademba Road Prison, Freetown, where – despite only having the capacity for 400 – the number of inmates rose to between 3,000 and 5,000. Following the reinstatement to power of the President, civilians and military personnel were tried on treason grounds and on 19 October, 24 ex-members of the SLA who had joined the SLA were executed by firing squad.

[47] AFRC members alleged that their former leader was detained by the RUF second-in-command in Kailahun District: BBC Online News, 7 August 1999.

appear together publicly.[48] The AFRC leader visited RUF/AFRC strongholds in an attempt to engage AFRC commanders in the disarmament program[49].

When RUF forces disarmed and held hostage of UNAMSIL peacekeepers in early May 2000, the AFRC leader called on his forces to support the Government and halt the RUF advance on Freetown. In May and June 2000, AFRC forces fought the RUF alongside the SLA in Masiaka and Lunsar. The AFRC leader's declaration marked a public shift in relations between the AFRC and the RUF, compounding the division of operational areas that happened in late 1999. AFRC forces were remained active on the ground in only two principal locations.

f. The West Side Boys

Between October 1998 and the end of 2000, the West Side Boys, a splinter group from the RUF/AFRC alliance, concentrated its actions in the Okra Hills (Koya Chiefdom, Port Loko District). While it is not possible to say the West Side Boys did not fall under the command of the RUF/AFRC, their actions followed a clear pattern that was different from the RUF/AFRC and later RUF actions in Port Loko District. Although the group considered the AFRC leader to be their figurehead – the absence of the AFRC leader in Lomé and their belief that their interests had been inadequately represented[50] was the origin of the West Side Boys taking UNOMSIL, ECOMOG and NGO officials hostage in 1999 – the AFRC leader publicly dissociated himself from the group and officially disbanded the AFRC in mid-August 2000. The West Side Boys, primarily ex-SLA who aligned with the RUF/AFRC, achieved international notoriety by kidnapping 11 UK Royal Marines in late August and provoking a decisive military response from the UK that would all but destroy the West Side Boys.

g. Civil Defence Force (CDF)

As RUF/NPFL forces expanded activities the Southern and Eastern Provinces, numerous civilian initiatives emerged between 1991 and 1993 to assist the SLA. Across the Districts, NPRC and SLA authorities, traditional structures and popular personalities[51] supported the foundation of civilian security schemes. This led to the creation of a number of vigilante groups sometimes known as Civil Defence Units (CDU), whose main role was to operate checkpoints. The traditional authorities selected civilians, usually experienced hunters and well-known community people, to join these CDUs. This quality control system guaranteed that Paramount Chiefs could exercise a degree of actual and moral authority over the CDUs. In addition, the mobilisation of tribal-based hunting societies was actively encouraged and supported by the NPRC authorities. Various State agencies were involved in administering the general mobilisation of various hunting societies, which included

[48] The RUF leader announced that the RUF/AFRC alliance was transformed into a political organisation called the Alliance for Peace. UN OCHA, 30 September 1999. In early November, the two leaders issued a joint statement guaranteeing the safety of humanitarian staff and resources even in times of insecurity. IRIN West Africa, 4 November 1999.

[49] IRIN West Africa, 18 November 1999 and 6 December 1999.

[50] They also believed that their leader was held hostage by a senior RUF commander in Kailahun District. IRIN West Africa, 12 August 1999.

[51] In Kenema and Kailahun Districts, for example, a renowned local personality who was a former professor played the role of a catalyst in the regrouping of the Kamajors group.

the "Donsos" in Kono District, the "Tamaboros" in Koinadugu District and the "Kamajors" in the Eastern and Southern Provinces. Affiliates of the Kamajor Society were the largest in number of these societies.

These local militia used their intimate knowledge of their immediate localities to assist the SLA in fighting the RUF/NPFL. Both the civil militia and CDUs were given bladed weapons and rustic single-barrel shotguns and deployed alongside the SLA during combat against RUF forces. As the conflict expanded westwards across the country, similar initiatives emerged in Moyamba and Tonkolili Districts. Traditional hunters known as "Kapras" and "Gbethis" regrouped in the Northern Province.

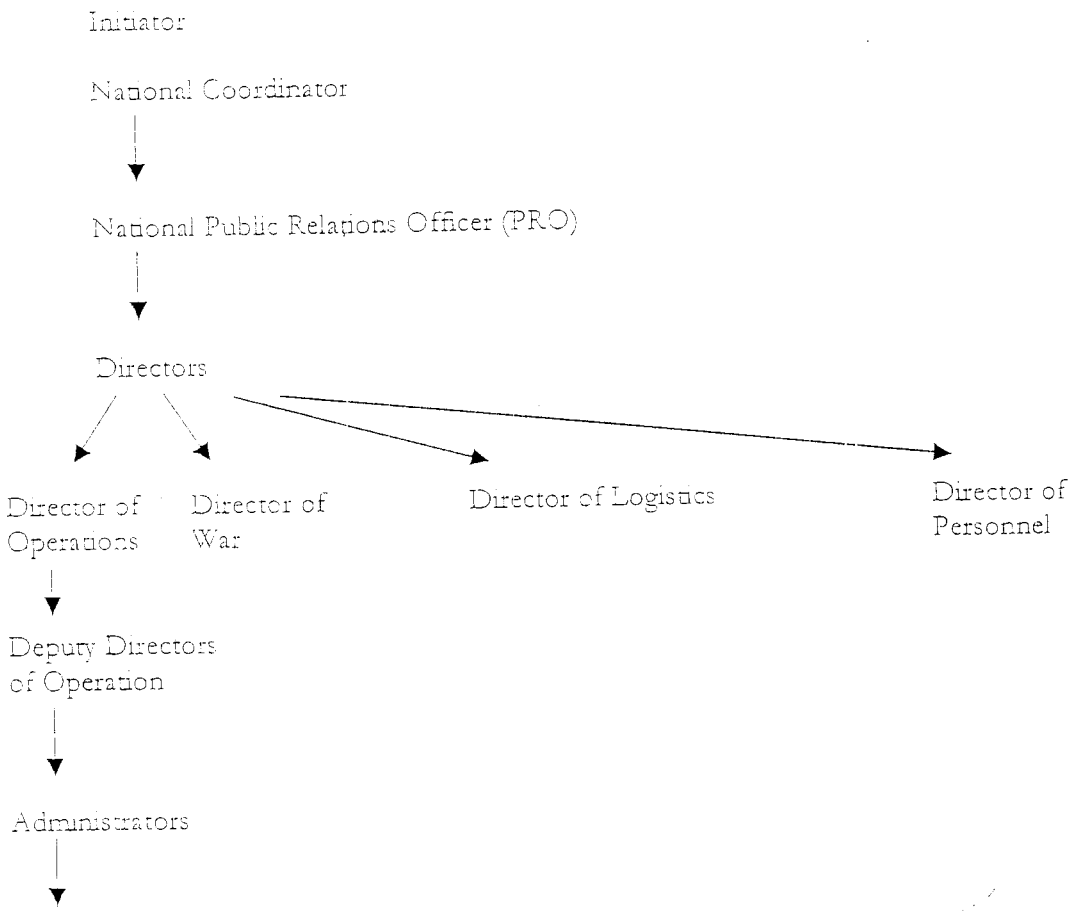
The organisation of local militias entered a new phase in 1995, when initiation of civilians into the Kamajor Society began in Bonthe District (Southern Province). Hidden behind a veil of secrecy, Kamajor initiation ceremonies revolve around an assortment of mystical beliefs and charms performed by a High Priest Initiator.[52] The purpose of the ceremony was to render initiates fit to serve at the war front, through the granting of special powers such as the ability to be "bulletproof" and being able to smell enemies. Initiators of the Gbethi Society called this process "washing". Once initiated, Kamajors had to adhere to the rules of the Kamajor Society, which governed the conduct of the members. Infractions of the rules were believed to deprive Kamajors of the powers they had been granted at the time of initiation. In the early stages of this process, hunters and youths were nominated for initiation by chiefdom authorities. Once initiated, Kamajors were sent back to the chiefdom from which they originated.

The number of initiates and the rate of initiation into the Kamajor Society increased rapidly throughout 1995 and 1996. Kamajor deployment alongside SLA forces steadily expanded into the other Districts of the Southern Province and into the Eastern Province. By 1996, almost every chiefdom in the Southern and Eastern Provinces had their own Kamajor Society. The initiation of men into the Kamajor Society brought with it the structuring of this local militia at a chiefdom level. Other organised pro-government militias – Gbethis, Kapras and Donsos – were active in the Northern Province and in Kono District.

The Civil Defence Force (CDF) emerged in late 1995 or early 1996 as a union of the various local militias active across the country. Members of the Kamajors were the main force within the CDF and presented strong resistance to RUF attacks throughout the Southern Province and, to a lesser extent, in the Eastern Province. The role and efficiency of the CDF in fighting the RUF received formal recognition from the newly-elected President in early 1996, who appointed the then leader of the Kamajor Society as Deputy Defence Minister. This strong symbolic support was backed up with practical support when the Government of Sierra Leone provided the CDF with staple food items and gave them responsibility for providing security throughout the country. Although originally aligned with and to some extent subordinate to the SLA, the CDF progressively distanced itself from SLA forces, objecting to their action and behaviour. Rivalry and tension between the two groups erupted, frequently resulting in armed clashes.

[52] The first Chief Initiator was an herbalist believed to have magical powers.

On the national level, the internal organisation of the CDF was as follows:[53]



Below battalion level, the CDF adopted a regular structure similar that of the SLA, dividing battalions into companies, platoons and sections of varying numbers. The CDF also put in place administrative structures at the chiefdom level. For example, in Dasse Chiefdom (Moyamba District), the Chiefdom Ground Commander was assisted by a Deputy Chiefdom Ground Commander, below whom was Section Commanders and then Patrol Commanders. The CDF also

[53] The then Deputy Defence Minister was made National Coordinator in the aftermath of the military coup in May 1997. Accordingly, although the coordination of the local militias within the CDF took place in 1995 or in early 1996, the schematised internal structure applies only for the period starting in June 1997.



appointed civilians as Welfare Officers to liaise between civilians and CDF forces. Chiefdom commands often merged to form battalions comprising over 500 armed personnel.[54]

Following the military coup in May 1997, the AFRC leader officially disbanded the CDF and asked its members to surrender and disarm to the Sierra Leone Police. The CDF command rejected this order and CDF members remained armed, initially keeping a low profile before regrouping to fight the RUF/AFRC. The scale of their military actions increased and progressively more initiates joined the various components of the CDF, in particular the Kamajors. With the increase in the rate of Kamajor initiations came a number of problems. The CDF started to loose control over the selection of initiates and there was some loss of discipline among the newly-initiated. The role of the traditional authorities in selecting initiates was, opening the door for the initiation of children below the age of 15. Increasingly, but notably in 1998, a dichotomy between new members and "old Kamajors" came to the fore.[55]

Following the restoration of the elected Government, the President of Sierra Leone placed the CDF under the control of ECOMOG.[56] CDF forces were deployed in Freetown; both Kamajors and members of a group called the Organised Brotherhood of Hunting Societies (OBHS) were deployed at checkpoints throughout the Western Area and deployed alongside ECOMOG. CDF forces would be active in defending Freetown in January 1999. In September 1998, the President decided to formalise their position, stating that a Civil Defence Force with a CDF Administrator would be appointed to liaise with the SLA in every District. The District CDF would report directly to the Paramount Chiefs, thus restoring much of the authority that had been eroded during the development of the CDF.[57] However, the CDF continued to impose a progressively more insidious system of administration throughout the territory it occupied, invading many aspects of civilian life.

2. Private military companies

a. Gurkha Security Guards Limited

In January 1995, the NPRC Government entered in a three-month renewable[58] contract with the Gurkha Security Guards Limited (GSG), a British company based in the Channel Islands. Nepalese Gurkhas have long been trained and incorporated into the UK armed forces pursuant to a tripartite agreement between the governments of Nepal, India and Britain. The British Government made significant cuts to the number of Gurkhas serving in the armed forces, resulting in their increased availability to private security and military firms. GSG's contract was to train and advise the SLA in jungle warfare tactics and provide security for the SLA base at Camp Charlie, near Mile 91. GSG

---

[54] For example, in Bonthe District, Dema, Sittia and Bendu Cha Chiefdoms merged to form a battalion, while the CDF battalions were formed through pairing the chiefdoms of Kwamebai Krim and Nongoba Bullom, Jong and Imperi, Kpanda Kemo and Bum, and Sogbini and Yawbeko. In Bo District, nine battalions were formed to cover 15 chiefdoms.

[55] In April 1998, for example, the High Priest and Chief Initiator called for registration of the Kamajors "because of growing lawlessness among them": AFP, 29 April 1998.

[56] CDF fought alongside ECOMOG forces for the restoration to power of the Sierra Leonean President.

[57] Broadcast to the Nation on Peace and Security by the Sierra Leone President, 2 September 1998.

[58] AFP, 23 March 1995.

was not contracted to engage in direct military actions against the RUF. In February 1995, RUF forces killed two senior GSG advisers and the aide-de-camp of the NPRC Chairman during a road ambush near the Kaikant Hills in Tonkolili District.[59] The NPRC Government let GSG's contract lapse in April 1995.

b. Executive Outcomes

In late April or early May 1995, the NPRC contracted Executive Outcomes, a South African private military company, to train SLA forces.[60] At the time Executive Outcomes was contracted, RUF forces had pushed through Moyamba District into the Western Area and were engaging SLA and Guinean forces in and around Waterloo, not far from metropolitan Freetown. Near Freetown, Executive Outcomes created a "Special Task Force" of around 600 re-mobilised Liberian militia from the ULIMO-J movement. The Special Task Force assisted the SLA and organised civil militia in forcing the RUF to withdraw from the Western Area. Executive Outcomes rapidly expanded operations into the Provinces, securing the diamond-rich areas of Kono District. The Special Task Force also engaged RUF forces in Bonthe District later in the year. In March 1996, the newly-elected President of Sierra Leone retained the services of Executive Outcomes.

Executive Outcomes were also hired by mining and hydroelectric companies in Kono, Moyamba and Tonkolili Districts to provide security at their sites. Their departure from Sierra Leonean territory would be one of the main terms insisted on by the RUF during the peace negotiations that led to the signing of Abidjan Peace Agreement on 30 November 1996 between the RUF and the Government of Sierra Leone. Article 12 of the Peace Agreement provided that, "The Executive Outcomes shall be withdrawn five weeks after the deployment of the Neutral Monitoring Group (NMG). As from the date of the deployment of the Neutral Monitoring Group, the Executive Outcomes shall be confined to barracks under the supervision of the Joint Monitoring Group and the Neutral Monitoring Group."[61] In early 1997, Executive Outcomes left Sierra Leone.

c. Sandline International

Sandline International is a British private military company[62] linked both to Executive Outcomes and to an array of companies with commercial mining interests in Sierra Leone. On 23 December 1997, Sandline International entered into a contract with the exiled Government of Sierra Leone to assist the Government in removing the RUF/AFRC regime through the "provision of technical knowhow, military logistics and equipment" to a value of around 10 million US dollars. This included the provision of 2,500 assault rifles, 180 rocket launchers, 50 machine guns and quantities of ammunition and spare magazines.[63] A number of finance problems reduced the money available

[59] For background information, see Cilliers, J. and Mason, P. (eds.), *Peace, Profit and Plunder: The Privatisation of Security in War-Torn African Societies*, 1999, pp. 129-33. http://www.iss.co.za/Pubs/Books/PeaceProfitPlunder/Chap7.pdf [Link alive: 7 January 2004].

[60] Associated Press Worldstream, 11 May 1995.

[61] For the full text of the Agreement, see http://www.sierra-leone.org/abidjanaccord.html.

[62] For the company profile of Sandline International, see http://www.sandline.com/site/.

[63] Sir Thomas Legg, KCB QC and Sir Robin Ibbs, KBE; *Report of the Sierra Leone Arms Investigation, 27 July 1998* (the "Legg Report"), paras. 4.15-4.18. Full text and annexes of the report are available from the Official Documents section of the UK Foreign and Commonwealth website: http://www.fco.gov.uk/Files/kfile/complete.zip [Link last visited: 28 February 2004].

to around 1.35 million US dollars. Sandline International flew 35 tonnes of weapons costing 700,000 US dollars to Freetown International Airport at Lungi.[64] Landing on 23 February 1998, the shipment arrived well after ECOMOG forces had driven the RUF/AFRC from the Western Area. The arms shipment was placed in storage by ECOMOG, who passed on a small number of weapons to the CDF commander for use by the Kamajors.[65] Sandline International was also responsible for establishing an operations base at Lungi for use by the returning Government of Sierra Leone.

In late March 1998, a few weeks after the Sierra Leone President's reinstatement to power, UK Customs and Excise investigated Sandline International's arms shipment as a possible breach of UK law implementing the arms and oil embargo imposed on 8 October 1997 by the UN Security Council.[66] Ultimately, Customs and Excise decided that it was not in the public interest to prosecute Sandline International.

The details of the investigation and allegations made in the media, led to a political row in the UK concerning the possible involvement of Foreign and Commonwealth Office (FCO) officials and ministers in the breaking of UN sanctions. On 18 May, the UK Government announced an independent inquiry into what had become known as "the Sandline affair", to be led by Sir Thomas Legg. The report of the Legg Inquiry led to a series of administrative and policy changes concerning internal Government communications, particularly in the FCO, and the clear elucidation of future Government policies concerning both economic sanctions and private military companies. Following the submission of the findings of the Legg Inquiry, the House of Commons Foreign Affairs Select Committee also conducted its own investigation into the handing of the Sandline Affair by the FCO.[67]

3. Peacekeeping forces

a. Economic Community of West African State (ECOWAS) Cease-fire Observer Group (ECOMOG)

The Economic Community of West African States (ECOWAS) is a regional organisation comprising 15 member States, including Sierra Leone. It was created in 1975 and its founding Treaty was re-affirmed by all member States in July 1993. The ECOWAS Treaty allows ECOWAS to "establish a regional peace and security observation system and peace-keeping forces where appropriate",[68] although it does not have a standing military component.

Since 1990, the forward operating base of the ECOMOG mission in Liberia had been located in Lungi, near the Freetown International Airport. The military mandate of ECOMOG, however, did not encompass Sierra Leone until 29 August 1997, when the ECOWAS Heads of State and Government authorised ECOMOG to "employ all necessary means" to enforce a comprehensive

---

[64] *Ibid*, para. 4.24.
[65] *Ibid*, para. 7.9.
[66] UN Security Council Resolution 1132 (1997), 8 October 1997.
[67] The Second Report of the Foreign Affairs Committee of the House of Commons: http://www.parliament.the-stationery-office.co.uk/pa/cm199899/cmselect/cmfaff/116/11602.htm.
[68] Treaty of the Economic Community of West African States, article58(2)(f). Available online at www.sec.ecowas.int.



trade embargo on Sierra Leone.[69] In addition to the ECOMOG forces already deployed in Sierra Leone in support of operations in Liberia, additional forces from ECOWAS member States were also deployed alongside the SLA in Sierra Leone pursuant to a series of defence pacts and agreements between those States and Sierra Leone. In early 1993, for example, Nigerian forces were deployed in Kono District while Guinean forces were active in Kailahun District. However, according to the Abidjan Peace Accord signed on 30 November between the Government of Sierra Leone and the RUF, all foreign forces were to leave the county.[70]

The evolution of ECOMOG's direct military involvement in Sierra Leone began with the AFRC coup on 25 May 1997. Nigerian forces reinforced the ECOMOG deployment at Lungi and the Nigerian force headquarters at Kossoh Town, near Freetown. On 2 June 1997, Nigerian forces – not acting under ECOMOG, the mandate of which did not cover Sierra Leone – attempted and failed to unseat the combined RUF/AFRC forces.

The military situation between the RUF/AFRC and Nigerian forces remained tense throughout 1997. Following the failure of diplomatic negotiations carried out by the ECOWAS Committee of Five, the ECOWAS Heads of State and Government imposed a trade, arms and petroleum products embargo on Sierra Leone on 27 August 1997. As noted, this decision also expanded ECOMOG's mandate to include monitoring and supervising ceasefire violations and enforcing the sanctions and the embargo instituted by the authority of the Heads of State and Government against the RUF/AFRC regime.[71]

Although Nigerian forces had established a de facto naval blockade of the Port of Freetown since the coup, the ECOMOG mandate allowed them to intensify enforcement operations. The UN Security Council supported the ECOWAS action and applied its own sanctions regime to Sierra Leone, authorising ECOWAS to ensure its strict implementation.[72]

The continuous shelling of strategic locations in Freetown, the effects of the embargo and the RUF/AFRC's inability to dislodge ECOMOG from Kossoh and Jui prompted them to continue the negotiations started early in the year. ECOWAS mediators, led by the then Nigerian Foreign Minister, hammered out a peace plan. This led to a ceasefire on 21 October 1997, followed on 23 October by the signing of the ECOWAS six-month peace plan for Sierra Leone (23 October 1997-22 April 1998).[73] The central provisions of this agreement were the maintenance of a ceasefire and the return of the elected Government by 22 April 1998.

---

[69] ECOWAS Heads of State and Government, Decision on Sanctions Against the Junta in Sierra Leone, 29 August 1997, article 7: "The sub-regional forces shall employ all necessary means to impose the implementation of this decision. They shall monitor closely the coastal areas, land borders and airspace of the Republic of Sierra Leone, and shall inspect, guard and seize any ship, vehicle or aircraft violating the embargo imposed by this decision."

[70] Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone, Abidjan, 30 November 1996, article 12.

[71] ECOWAS Heads of State and Government, Decision on Sanctions Against the Junta in Sierra Leone, 29 August 1997.

[72] UN Security Council Resolution 1132 (1997), 8 October 1997.

[73] ECOWAS Six-month Peace Plan for Sierra Leone (23 October 1997-22 April 1998). Available online at: http://www.usip.org/library/pa/sl/sierra_leone_09231997.html [Link last visited 28 February 2004].



On numerous occasions during the remainder of 1997, RUF/AFRC, CDF and ECOMOG forces violated the spirit and the letter of the Conakry Peace Plan. During the seventh meeting of the ECOWAS Ministers of Foreign Affairs of the Committee of Five on Sierra Leone, held in Abuja on 19 December 1997, "the Ministers deplored the incessant and unprovoked attacks on ECOMOG peace-keepers. They reaffirmed ECOMOG's right of self defence".[74] In early January, ECOMOG had begun planning a military intervention to remove the RUF/AFRC from Freetown. On 6 February 1998, as the impasse in implementing the Conakry Peace Plan appeared to deepen, ECOWAS reaffirmed the three options available for the resolution of the conflict, namely: the pursuit of dialogue; the imposition of a sanctions regime; and the possible use of force.[75] On the same day, ECOMOG forces in Freetown commenced a military intervention that led to their capture of Freetown and the Western Area by 12 February.

Following the success of their Freetown intervention, ECOMOG forces commenced provincial operations in March. The ECOMOG force was divided into three brigades. The 24th Infantry Brigade would execute operations in the Northern Province and parts of the Eastern Province. The 26th and 15th Infantry Brigades would take responsibility for operations in the Southern Province and the remainder of the Eastern Province. After April, four "loyal" SLA battalions were put under the command of the ECOMOG 24th Infantry Brigade.

ECOMOG's mandate in Sierra Leone was expanded following the signing of the Lomé Peace Agreement between the Government of Sierra Leone and the RUF on 7 July 1999. ECOMOG forces became a key component and actor in the peace process.

To reflect the provisions of the Lomé Agreement, ECOWAS redefined the mandate of ECOMOG on 25 August 1999. Although the Government of Nigeria had announced the drawdown of its contribution to ECOMOG, their withdrawal was delayed to ensure that there was no security vacuum during the deployment of the UN Mission in Sierra Leone (UNAMSIL).[76] At this time, ECOMOG's additional responsibilities included monitoring the ceasefire, providing security for and disarming ex-combatants at DDR sites and guarding any arms and ammunition retrieved during the disarmament process. ECOMOG gradually scaled down its operations and UNAMSIL deployed in the areas previously under the control of ECOMOG. Out of the six Nigerian battalions deployed in Sierra Leone, four were absorbed by UNAMSIL and the remaining two had left Sierra Leone by 2 May 2000.[77]

---

[74] Final communiqué, point 14

[75] ECOWAS eighth meeting of Ministers of Foreign Affairs of the Committee of Five on Sierra Leone, New York, 5-6 February 1998. Full text available at: http://www.sierra-leone.org/ecowas020698.html [Link last visited: 28 February 2004].

[76] Sierra Leone Humanitarian Situation Report, 5 - 16 January 2000 and IRIN West Africa, 31 January 2000. On 23 December, the Governments of Nigeria, Guinea and Ghana informed the Secretary-General of their intention to withdraw their remaining ECOMOG contingents from Sierra Leone.

[77] IRIN West Africa, 2 May 2000.

b. United Nations Mission to Sierra Leone (UNAMSIL)

On 22 October 1999, in the aftermath of the Lomé Peace Agreement and following the extension of the ECOMOG mandate, the United Nations Security Council adopted Resolution 1270 (1999) establishing the United Nations Mission in Sierra Leone (UNAMSIL). Initially, the authorised force strength of UNAMSIL strength was 6,000 military personnel, including 260 military observers[78] to "cooperate with the Government of Sierra Leone and the other parties to the Peace Agreement in the implementation of the Agreement". This included establishing a presence at key locations throughout the territory of Sierra Leone and assisting the Government of Sierra Leone in implementing the DDR plan.

UNAMSIL had been preceded in 1998 by the United Nations Observer Mission in Sierra Leone (UNOMSIL),[79] composed of military observers and aiming at "monitor[ing] the military and security situation in Sierra Leone" and the "disarmament and demobilisation of former combatants", at "assist[ing] in monitoring respect for international humanitarian law" and at "monitor[ing] the voluntary disarmament and demobilisation of members of the Civil Defence Force".[80] The presence of UNOMSIL within Sierra Leonean territory and the number of its personnel would vary over the subsequent months, as its terms of deployment were amended taking into account the security situation in Sierra Leone. UNOMSIL personnel were highly dependant on ECOMOG forces for their security.

In establishing UNAMSIL, the UN Security Council decided that UNAMSIL was to "take over the substantive civilian and military components and functions and to that end" decided "that the mandate of UNOMSIL shall terminate immediately on the establishment of UNAMSIL".[81] Furthermore, despite the ECOWAS statement of impending withdrawal from Sierra Leone, the United Nations included the role and functions of ECOMOG in the resolution, stating the "need for close cooperation and coordination between ECOMOG and UNAMSIL", "commend[ing] the readiness of ECOMOG to continue to provide security for the areas where it is currently located"

---

[78] For a full text of the resolution, see http://www.un.org/Docs/scres/1999/sc99.

[79] UN Security Council Resolution 1181 (1998), 13 July 1998.

[80] UNOMSIL was initially established for a six-month period between 13 July 1998 and 13 January 1999. Its authorised deployment contained up to 70 military observers. As hostilities between ECOMOG and the RUF/AFRC resumed in January 1999, the Security Council extended the mandate of UNOMSIL until 13 March 1999 in UN Resolution 1220 (1999), 12 January 1999, paragraph 2 of which authorises the Secretary General "to reduce the number of military observers in UNOMSIL and to retain in Conakry a small number who would return to Sierra Leone when conditions permit together with necessary civilian substantive and logistical support staff under the leadership of his Special Representative". UNOMSIL's mandate was extended to 13 June by Resolution 1231 (1999) of 11 March 1999. At this time, however, there were only eight military observers and they were not deployed inside Sierra Leone. Resolution 1245 (1999) of 11 June 1999 expanded the mandate of UNOMSIL until 15 December. On 20 August 1999, Resolution 1260 (1999) authorised the expansion of the mission to include 210 military observers to monitor the implementation of the Lomé Peace Agreement and to assist with the Disarmament, Demobilisation and Reintegration (DDR) program. The full texts of all the above-mentioned resolutions are available online at http://www.un.org/Docs/scres/1999/sc99 and http://www.un.org/Docs/scres/1998/scres98. Additional sources of information on UNOMSIL can be found at http://www.un.org/Depts/DPKO/Missions/unomsil/Unomsil.htm.

[81] UN Security Council Resolution 1270 (1999), 22 October 1999, para. 10.

and noting the need "to conduct other operations in accordance with their mandate to ensure the implementation of the Peace Agreement".

UNAMSIL force numbers would increase over the subsequent months as ECOMOG forces left Sierra Leone. In May 2000, hostilities resumed and UNAMSIL forces were targeted directly by RUF/AFRC forces. The capture of nearly 500 UNAMSIL peacekeepers by RUF/AFRC forces, a series of military events including the intervention of the UK Armed Forces and expanded combat operations by the SLA identified a clear need not only for an increase in UNAMSIL's force strength, but a reform of its structure. In late 2000, the UN Security Council increased the number of authorised personnel in UNAMSIL to 13,000[82] and ultimately to 17,500.

The first of these expansions would be decided on 7 February 2000, with the Security Council approving the extension of the military component of the UNAMSIL to 11,100 military personnel, deciding the revision of UNAMSIL's mandate and approving its extension for a period of six months.[83] UNAMSIL's force strength was increased to a ceiling of 17,500[84] by 30 September 1999. While the mandate of UNAMSIL was renewed in September 2003,[85] recent UN Security Council Resolutions have authorised the gradual drawdown of UNAMSIL, paving the way for a possible withdrawal by December 2004.[86]

[82] UN Security Council Resolution 1299 (2000), 19 May 2000.
[83] UN Security Council Resolution 1289 (2000), 7 February 2000.
[84] UN Security Council Resolution 1346 (2001), 30 March 2001.
[85] UN Security Council Resolution 1508 (2003), 19 September 2003.
[86] UN Security Council Resolution 1492 (2003), 18 July 2003.



D. Eastern Province

a. Kailahun District

1. Introduction

Kailahun District is one of the three Districts in the Eastern Province of the Republic of Sierra Leone. It has a strategic position due to the fact that it shares borders with the Republics of Liberia on the east and Guinea on the northeast. It is also bordered by Kono District on the northwest and Kenema District on the west. Its headquarter town, Kailahun Town, is located in Luawa Chiefdom, in the north of the District a few miles from the Parrot Beak, the Guinean area that advances into Sierra Leone. This area would be greatly affected by the conflict, originally because it hosted thousands of refuges and later as it became the theatre of RUF cross-border attacks.

There are fourteen chiefdoms in the District:

Chiefdom	Headquarter
Dia	Baiwala
Jawie	Daru
Kissi Kama	Dea
Kissi Teng	Kangama
Kissi Tongi	Buedu
Luawa	Kailahun
Malema	Jojoima
Mandu	Mobai
Njaluahun	Segbwema
Peje Bongre	Manowa
Peje West	Bunumbu
Penguia	Sandaru
Upper Bambara	Pendembu
Yawei	Bandajuma

The geographical position of Kailahun District made it a strategic location for the entry of RUF/NPFL forces from Liberia into Sierra Leone. The District occupies about half of the border area between the two countries and is connected with the diamond-rich District of Kono. This made it possible for the forces to access funds easily through the sale of produce, diamonds and gold, with which they procured weapons and other logistics for the forces. It is therefore not surprising that the District was at least partially occupied throughout the whole period of the conflict. Two main roads allow penetration into the District from Liberia: in the north of the District through Kissi Teng Chiefdom and in the centre through Upper Bambara Chiefdom.

Kailahun District, particularly in the north and east, is composed of dense jungle, which affected the fighting in the District. Furthermore, the road that links Kenema Town to Kailahun Town, trough the main towns of Segbwema, Daru and Pendembu, is virtually impassable during the peak of the rainy season from July to August. The Moa River, which finds its source in the ocean in Pujehun District, flows in Kailahun District from the southwest to the north. The control of the few bridges

spanning this river would be of the utmost importance, as is illustrated by the case of Daru (Jawei Chiefdom), where the town is separated from the SLA Moa Barracks by a bridge.

Aside from its mining activities, the wealth of the District comes mainly from the harvest of cash crops like cocoa and coffee. From the beginning of the conflict, the presence of the RUF in the District and their control over those resources would have dramatic economic consequences for the whole country.

The ten or more years of conflict that took place in Sierra Leone first started in the border towns of this District in 1991. The fighting forces coming from Liberia entered through border villages both in Upper Bambara and Kissi Tongi Chiefdoms. Initially, Sierra Leoneans and most of the outside world regarded these attacks not as the start of a conflict as such but more as cross-border raids by the Liberian forces waging war in Liberia. However, these two incursions into Sierra Leone – together with a third one that took place shortly after in Pujehun District – were the starting point of a systematic occurrence of several events leading to a large-scale conflict that spread throughout the country and lasted for over a decade.

The District was affected by the conflict through three discernable phases. The first one, which ran from March 1991 to the end of 1993, was characterised by the progression of RUF/NPFL forces into the District and their direct confrontation with SLA forces based mainly at the Moa Barracks in Daru (Jawei Chiefdom). RUF/NPFL forces would follow the same pattern when attacking and entering a village: they would gather the civilians in the Court Barrie and hold a meeting, introducing themselves as "freedom fighters" and deposing and replacing local authorities. Their arrival and stay was accompanied by the infliction of physical and mental violence on the people of the village, the killing of some people, in particular relatives of civilians working for the Government, as well as the abduction of members of the population, including children, for use as forced labour, as fighters, as cooks and as "wives". RUF/NPFL forces also engaged in widespread theft and property destruction, notably the burning of houses. Some members, mainly belonging to the NPFL, engaged in massive rounds of killing, raping and cannibalism, which led to infighting between the RUF and the NPFL forces. Throughout this first phase, SLA forces engaged the RUF/NPFL forces in their various positions and by the end of 1993 to the beginning of 1994, they had confined the RUF forces to the extreme east of the District. These military victories over the RUF/NPFL forces were accompanied with violence against civilians, in particular against alleged RUF/NPFL members or "collaborators". Screening centres were established for this purpose.

The second phase of the conflict encompassed 1994 to May 1997 and is characterised by a change in the RUF tactics. By 1994, most of the fighters were belonging to the RUF as the NPFL had withdrawn to Liberia. The RUF engaged in guerrilla warfare, took control of the bush, began to regain control of the areas previously under SLA control and raided villages. In 1996, Kamajors emerged in the District and, together with the SLA, defeated the RUF in some areas of the District. Although the Abidjan Peace Agreement was signed on 30 November 1996, fighting between the RUF on one side and the SLA and Kamajors on the other side resumed in early 1997.



During the third phase, which ran from May 1997 to the completion of the disarmament process in January 2002, RUF forces came out of the bush and merged with the AFRC regime. Following the ECOMOG intervention in Freetown in February 1998, RUF/AFRC forces retreated to Kailahun District, where they established a War Office, the administrative headquarter of the forces. Around this time, more men were initiated into the Kamajor society. ECOMOG forces deployed in the District and engaged the forces on land and by air. Assisted by Kamajors, they obtained victories over RUF/AFRC positions but were unable to take over their main strongholds. RUF/AFRC forces continued attacking villages and ECOMOG positions; following the signing of the Lomé Peace Agreement on 7 July 1999, disagreement between senior RUF members emerged over the disarmament process. RUF opposition to this process reached its peak in May 2000 with the abduction of UN peacekeepers. Throughout 2000 and early 2001, RUF/AFRC forces were still active in the District and engaged in cross-border raids into Guinea.

It should be borne in mind that unlike other Districts, the information available for Kailahun District was often chaotic and incomplete, especially for the period following 1994, partly due to the massive displacement of the population. Indeed, from the start of the conflict, a lot of inhabitants of this District fled to neighbouring countries (Guinea, Liberia) and did not come back for years, while others, although they stayed in the District, regularly moved from one chiefdom to another, fleeing attacks. The figures of the rate of internally displaced people in the District throughout the conflict was very high; indeed, OCHA reports show that Kailahun District was one of the most affected Districts in terms of internally displaced people (IDP).[681] Furthermore, as Kailahun District was the only District to have always been controlled to varying degrees by RUF/NPFL, RUF and, later, RUF/AFRC forces, people who stayed were forced to live with them for such a long time that single events are often blurred in more general information.

2. Factual analysis

a) Events in 1991

On 23 March 1991, the first group of RUF/NPFL forces from Liberia entered through the border town of Bomaru (Upper Bambara Chiefdom) in the central part of Kailahun District and proceeded further south. A second group crossed the border with Liberia on 27 March 1991, entering the border town of Koindu (Kissi Teng Chiefdom) in the north-eastern part of the District. These forces opened two distinct entry points into the District and would join up at Pendembu (Upper Bambara Chiefdom) in April.

The forces that launched these two flanks were composed by a majority of National Patriotic Front for Liberia (NPFL) members,[682] a fighting force that had been challenging the Liberian Government since 1989, together with about 230 Revolutionary United Front (RUF) members trained in Liberia[683] at Camp Namna.[684] The Sierra Leoneans within the movement who were trained in Liberia were called "Vanguards", as opposed to the new recruits who were called "junior commandos".

---

[681] OCHA Sierra Leone Encyclopedia: http://www.humanitarianinfo.org/slis.

[682] It is estimated that at the time of the first attacks, those NPFL forces were roughly 5,000 in number.

[683] In 1989, the NPFL emerged in Liberia under the leadership of Charles Taylor and began an uprising against the Government of the then President Samuel Doe. In 1990, the Economic Community of West African States (ECOWAS) sent a peacekeeping force to Liberia and the President, Samuel Doe, was killed by a splinter group of

Those attacks surprised civilians, who thought this incursion would not last long and was only a cross-border raid form the forces fighting in Liberia who were in search of food. Hundreds of these civilians fled their villages both within the territory of Sierra Leone and outside its borders into Liberia.

The first group attacked the border town of Bomaru (south-east of Upper Bambara Chiefdom), which had little military manpower in terms of Sierra Leone Army (SLA) forces deployed along the Liberian border. The RUF/NPFL forces[685] killed eight civilians and three SLA members as they captured the town. The SLA forces were overpowered and left the town, heading for the Moa Barracks[686] in Daru (Jawie Chiefdom), the most important SLA deployment in Kailahun District. On 25 March, the RUF/NPFL forces proceeded further south to attack the towns of Baiwala and Sakiema (Dia Chiefdom). The RUF/NPFL forces entered Baiwala coming from two distinct directions: some forces passed through Seinga, a town located close to the border with Liberia, while others came from Bomaru. They encountered stiff resistance from the SLA forces, but eventually, as had happened at Bomaru, the SLA retreated and the RUF/NPFL forces were able to take control of the town. At Baiwala, the RUF/NPFL forces set some houses on fire, raped young girls[687] and killed people whom they considered to be important personalities, on the accusation that they were "APC people". Breaking down doors using the butts of guns and then looting the houses was also common, as forces were looking for money and other items they needed, although the forces presented their actions as a way to make sure there was no enemy hiding in the houses. They also wrote the letters "RUF" on the walls of some houses. Following this attack, civilians packed their belongings and headed for Daru (Jawie Chiefdom), as the SLA base appeared to be safer.

At Sakiema (Dia Chiefdom), some civilians who had escaped from Baiwala found a brief respite in the bush, thinking that the forces would only use the main road as their announced goal was to go to Freetown. However, they were discovered by RUF/NPFL forces, brought to the town, put under gunpoint and ordered not to move, or they would be shot. The RUF/NPFL forces gathered some civilians at the Court Barrie and asked them whether there was any of "Momoh's soldiers"[688] in the town. When the civilians answered that the SLA forces were at Daru, the RUF/NPFL forces stated they would kill all of them if they found any SLA member or heard any weapons being fired. The commander told the civilians that from now on everything in the town belonged to the "RUF Government", dismissed the Town Chief and appointed a Town Commander together with a Town Mother. Civilians in the town were forced to contribute to the "revolutionary effort" by providing

---

the NPFL. The Economic Community of West African States Cease Fire Monitoring Group (ECOMOG) forces deployed a battalion near Freetown at the International Airport in Lungi as a rear base for their forces in Liberia.

[684] For more information on those fighting forces, see section [X].

[685] These forces were comprised of Liberian mercenaries speaking Liberian languages like Mano, Pele and Gio, while others were Sierra Leoneans, speaking the Mende, Temne and Krio languages. They wore country clothes, carried talismans and other charms and had red bandanas tied around their heads.

[686] The Moa Barracks are strategically located at the entrance of Daru on the road to Kenema town and to access it from the north-east, one has to cross the Moa River. It would be a RUF/NPFL target throughout 1991 and beyond.

[687] Their ages could not be ascertained from the records.

[688] The President of Sierra Leone was at that time J. S. Momoh and accordingly, this term refers to SLA forces.

the forces with food as well as going in search of food and processing palm oil. When food was not available, RUF/NPFL forces would tie up the appointed Town Commander and beat him. The RUF/NPFL forces also introduced a set of laws, which were explained to the inhabitants by the RUF commander. One of these laws was that any civilian captured by RUF forces should not attempt to leave the area under their control for areas controlled by SLA forces. Civilians were also told to go to the bush and bring back to the town their relatives who were in hiding; the RUF commander stressed that anybody caught in the bush would be considered as an enemy and, accordingly, would be killed.

From these towns located in Dia Chiefdom, RUF/NPFL forces advanced westwards to the headquarter town of Mobai (Mandu Chiefdom). This town was captured on 11 April as the SLA forces had apparently left the town earlier. The RUF/NPFL forces entered the town with an armoured tank they had captured from the SLA forces. As most of the civilians were indoors, the forces banged on the doors to make people come out of their houses, threatening to kill them or to burn their house. Most civilians, including children, were imprisoned in the town mosque. The Chiefdom Speaker, a regular policeman and a court clerk were killed. The fighting forces introduced themselves as the "Revolutionary United Front of Sierra Leone" and explained that they had come as "freedom fighters" to free the country from APC oppression. During the time of their stay in the town, they passed a strict rule that no one was allowed to call on the name of God or to pray; anyone caught violating this law would be tortured and killed. Furthermore, all property was declared to be owned by the "Revolution". Some of the RUF/NPFL forces began raping women and young girls. They also took property of the people in the town. During the following days (12 and 13 April), a lot of other civilians were killed. On 13 April 1991, the Paramount Chief of Mandu Chiefdom was brought from Levuma (north of the chiefdom) to Mobai and killed two days later. He was the first Paramount Chief to be killed by the RUF/NPFL forces. The killing of the Chief caused the civilians to lose confidence in the revolution, as the RUF/NPFL presented and called themselves. Similarly to what happened in the other towns, civilians were told to bring their relatives out of the bushes. For example, on 23 April, six people who had left their hiding places in the bush and came back to the town were accused of being spies and were killed. This incident was later reported to the RUF leader when he came to visit his troops in May.

Although the exact dates could not be ascertained, towns located in Jawie Chiefdom were attacked and captured at around the same time between April and June, including Benduma (Jawie Chiefdom), a town close to Daru. In order to counteract any attempt by the SLA forces based in Daru to recapture the town, the RUF/NPFL forces also established a defence base at Baiima (Mandu Chiefdom) on the road leading from Daru to the east and the north of the District. Another defensive position was established at Potoru (Jawie Chiefdom), where there is a bypass bush road leading to Benduma. Some of the RUF/NPFL forces settled at Kuiva (Jawie Chiefdom), which is on the main highway to Daru, and at Patama, a small village on the road leading to Daru via Bombohun (Jawie Chiefdom). When they entered Benduma, the RUF/NPFL forces gathered the civilians in the centre of the town and forced them to kill their animals and to cook for them. Some civilians who managed to escape the town went to Daru to pass on the information about the attack to the SLA forces. During that time, Guinean troops came to reinforce the SLA forces based at the Moa



Barracks at Daru.[689] Shortly after their arrival, those Guinean forces succeeded in repelling the RUF/NPFL forces from Benduma by using mortar bombs, although neither the Guinean forces nor the SLA forces then deployed at Benduma. The repelled RUF/NPFL forces went to Gbiima (Jawie Chiefdom), which was already under their control.

The RUF/NPFL forces entered the chiefdom headquarter of Jojoima (Malema Chiefdom, south of Mandu Chiefdom) on 12 April 1991. Before the attack, Jojoima was overcrowded with civilians fleeing the areas under RUF/NPFL control and chiefs in the town had received letters from the RUF that they would come to the town on 12 April. In the town, the forces met with a rich farmer and asked him for money. The forces then apparently left the town for some days before returning on 19 April 1991. When they came back, they killed the renowned master farmer and his wife together with many other civilians. The forces also stole property, raped young girls aged between 14 and 20, whom they made their "wives" and conscripted children. Young men were forced to carry loads for them, mainly to Liberia, and they would be killed if they failed to do so. From Jojoima, they raided the surrounding villages, forcing civilians to lead them on these raids. At Sembehun village, for example, they stole one diamond dealer's land cruiser.

On 15 April, the RUF/NPFL forces entered Pendembu (Upper Bambara Chiefdom) from the direction of Bomaru in the south of the chiefdom, firing gunshots as they entered. As they did in the other towns, the RUF/NPFL forces gathered the civilians in the Court Barrie, introduced themselves as "freedom fighters", explained that the town was now under the "RUF Government" and asked the civilians whether there were any SLA forces or police officers in the town. Civilians were subjected to severe harassment, their property was taken and they were beaten, raped and killed. For example, an RUF member shot two boys because they did not obey a command he had given them. Several other killings were done during the two weeks they remained in the town. One civilian was asked to show the direction to Kailahun Town (Luawa Chiefdom) to one young RUF/NPFL member, who then rode a bicycle to Kailahun Town (17 miles north east from Pendembu) to tell the other front who had entered through Koindu (Kissi Teng Chiefdom) and who had reached Kailahun Town to meet the south flank at Pendembu. Shortly after, still in April, RUF/NPFL forces from Kailahun Town came to join the other group at Pendembu.

The second group mentioned at the beginning of this chapter had entered the country in the northernmost part of the District in order to establish a base at Koindu (Kissi Teng Chiefdom) on 27 March 1991. They also came from Liberia and killed a first army officer at a customs town called Beidu (Kissi Teng Chiefdom). On the same day, they reached Koindu, a strategic international commercial market centre close to the borders with Liberia and Guinea and located on the highway that leads to Kailahun Town. During this wave of attacks, this group captured all the main towns on the highway. Koindu was renamed "Kuwait" by the forces due to the valuables that it had and for two days they killed people, stole their property and burnt down houses. At this point, civilians began leaving the town and went to Guinea or inland seeking rescue. It is reported that these fighters called themselves "freedom fighters", claiming to be fighting in order to liberate Sierra Leone.

[689] As early as 1991, foreign troops, namely Guineans and Nigerians, fought alongside the SLA, pursuant to bilateral treaties between their respective states and Sierra Leone.



On 29 March, some RUF/NPFL forces advanced into Kissi Kama Chiefdom (west of Kissi Teng Chiefdom). At Dia (Kissi Kama Chiefdom), one Fullah[690] businessman was killed. At Njaah in April, RUF/NPFL forces entered the town firing indiscriminately. They killed one SLA member who had retreated from Koindu, beheaded him and displayed his head on top of a big stone to the civilians they captured in the village. They gathered the civilians, explained they were "freedom fighters" and appointed a Town Commander. Those communications were made with the assistance of an interpreter, as the commander was Liberian.

On 1 April 1991, two trucks loaded with SLA forces headed for Koindu through Kangama (Kissi Teng Chiefdom) to launch an attack on the RUF/NPFL forces.[691] The first battle between the two forces took place the same day at Dambo, a town on the main highway close to Koindu, in Kissi Kama Chiefdom (west of Kissi Teng Chiefdom). The RUF/NPFL forces overpowered the SLA forces, who had to retreat to Kangama. Dozens of SLA forces were killed during this battle. They were further dislodged from Kangama after several unsuccessful attempts to repel the RUF/NPFL forces from Koindu. Some of the retreating SLA forces arriving at Kangama created panic among the civilian population as, similarly to what was happening in the southern part of the District, the SLA forces were quickly overpowered and did not put up strong resistance to the invading forces. Some of these SLA forces were reported to take off their uniforms, hide their weapons and flee to Guinea with the thousands of civilians who were on their way. Other SLA forces withdrew to the chiefdom headquarter of Buedu (south of Kissi Teng Chiefdom).

RUF/NPFL forces captured Kangama on 6 April 1991. While in the town, RUF/NPFL forces began inflicting violence on civilians and their property. The house of the Paramount Chief was burnt down and his property taken away. The RUF/NPFL conscripted young boys and girls, whose age is unclear,[692] who were then trained and given arms and ammunition. Cases of sexual violence were reported and in one instance, an old woman from Liberia who had found refuge in the town was raped by one of the RUF/NPFL commanders; her body was later found in the bush. The first man to be killed in the town was a Fullah businessman. Seven people were also killed by the RUF/NPFL commander allegedly for having close links with SLA forces or because they had once been in the SLA; their bodies were subsequently burnt.

In the evening hours of 10 April 1991, the RUF/NPFL forces armed with sophisticated weapons like Rocket Propelled Grenades (RPGs), AK47, AK58 and other guns launched an attack on Buedu. At this time, SLA forces had withdrawn from Koindu and large numbers of civilians had started to flee to Guinea. The next day, the SLA forces retreated to Kailahun Town (Luawa Chiefdom) after

---

[690] The Fullah are an ethnic group living mainly in the north and east of the country who were targeted, together with civilians originating from Lebanon, by the RUF/NPFL forces, who believed they were the cause of inequality among Sierra Leonean citizens.

[691] Those SLA forces probably came from Daru (Jawie Chiefdom) to reinforce SLA forces based at Koindu. However, according to one source, those SLA forces at Koindu were new recruits who were still undergoing training.

[692] In the Sierra Leone context, the term "young people" could refer to anyone up to their mid to late thirties, but probably does not include people under 15.



losing three men in the battle. The RUF/NPFL forces shot and killed seven civilians and burnt down public buildings and some private houses.

On 13 April, RUF forces entered the District headquarter, Kailahun Town (Luawa Chiefdom), in the north of the District. RUF/NPFL forces on their way to Kailahun Town killed the Town Chief at Sandeya (Luawa Chiefdom). From this date on, Kailahun Town would be nicknamed "Burkina Faso". The RUF/NPFL forces entered the town from the two main roads heading east towards Buedu and Koindu.[695] From Kailahun Town, the RUF/NPFL forces spread across Luawa Chiefdom. At Sandeya on 20 April, for example, RUF/NPFL forces told civilians to go to Kailahun Town, where they were lined up and given rice the forces had stolen from shops to take back to their villages. However, one man who had brought rice to his family, who were hiding in the bush, and who came back to ask for more rice was accused of giving rice to hidden SLA forces and was shot dead. Another civilian was also killed that day near the town clinic, accused by the forces of stealing some drugs. Civilians then returned to their various villages but without their youths, as young men and girls, including children, were kept by the forces to be trained at a training base opened in Kailahun Town shortly after the RUF had taken control of the town. Those who tried to escape were killed. Since its inception, the RUF movement was organised and had an internal structure; one RUF commander, occupying the "G5" position, was in charge of opening new training bases as their territory gains progressed and as they moved further inland. It should be noted that this massive opening of training bases did not prevent the establishment of smaller ones, often at the war front by the commander in charge of the area.

During the three months following their entry into Sierra Leone, the RUF/NPFL forces were stealing, raping and abducting people and training those abductees for battle. Many women were abducted to be slaves, their heads shaved so that they could be easily identified and could not run away. Abductees who tried to escape were beheaded by RUF/NPFL forces and their heads were put on sticks at checkpoints as a warning to others.

During the first months of the conflict, most of the commanders were members of the NPFL and therefore spoke a different dialect than that spoken by Sierra Leoneans. Civilians were frightened of these forces and they did not dare to tell them they could not understand what they were being asked, although some people were killed for answering the "wrong way". For example, on 27 April 1991, on the highway that leads to Kailahun Town (Luawa Chiefdom), two men who had come to Pendembu to buy salt were interrogated at a checkpoint. As they could not understand the Liberian English spoken by the NPFL forces in charge of the checkpoint, they were mistaken for spies. The NPFL commander told the two men to step back six feet from them and shot them with an AK47. Their bodies were then decapitated and their heads put on sticks to frighten other people.

The leader of the RUF came from Liberia to visit his troops at Pendembu (Upper Bambara Chiefdom), Sakeima (Dia Chiefdom) and Baiwala (Dia Chiefdom) in late April or early May 1991. He visited his troops at Mobai, where he presented himself to the civilians as the leader of the revolution, claiming that they were fighting to remove the incumbent APC regime from power and

[695] No information concerning the fatalities for Kailahun Town was reported.

stating that he would fight until he reached Freetown. He further promised the civilians that he would bring facilities such as free education and free medical care to the people of Sierra Leone and that equal rights would be given to all Sierra Leoneans. On this occasion, the Public Relations Officer appointed by the RUF/NPFL forces at Mobai explained to the RUF leader that his members were killing people for no good reason, with reference to the six people killed on 23 April. However, although the RUF leader told the civilians that he had not instructed his men to kill civilians, this statement sounded false to the civilians who did not believe in his sincerity.

From Daru (Jawie Chiefdom) SLA forces recaptured Benduma (Jawie Chiefdom), forcing the RUF/NPFL forces to retreat to Mobai (Mandu Chiefdom) and its environs where they forcefully conscripted young men and women into their movement. The RUF/NPFL forces established a training base at Baiwala to train young men and women whom they called "junior commandos".[694] At first, RUF/NPFL forces appealed to the civilians to join them voluntarily, which some did, but as their number was not sufficient, they started arresting young men and women. At Baiwala and Sakiema (Dia Chiefdom) for example, young men and women were lined up and anybody who tried to refuse joining the forces was seriously beaten, some being instructed to roll on the ground while RUF/NPFL forces fired in the air or close to the person on the ground, killing some of them. In the process of recruiting junior commandos, the girls were used as sex slaves and some were trained as junior commandos. This prompted a lot of young men and women to flee into the bush. In several cases the forces opened fire on the civilians in the bush and food and many other items were taken from them.

The RUF/NPFL forces extended their attacks to other villages in Luawa and Kissi Tongi Chiefdoms, crossed the Moa River that divides the District in two and advanced on Peje Bongre, Peje West, Penguia and Yawei Chiefdoms. At Dawa, a border town in Kissi Tongi Chiefdom, RUF/NPFL killed nine civilians on 15 April. Some of the bodies were cut into pieces and cooked for the forces to eat that day. During the same attack, some houses were burnt down. Dawa became important for the RUF/NPFL forces, as it was located on one of their supply routes. On 17 April, RUF/NPFL forces attacked Kodu Bendu (Kissi Tongi Chiefdom), firing indiscriminately and killing civilians. Some civilians, including children under 15 years old, were abducted to join the forces.[695]

Between 18 and 27 April, RUF/NPFL forces captured Manowa (Peje Bongre Chiefdom), the first chiefdom headquarter encountered after crossing the Moa River. During their attack on the town, they killed some civilians and burnt some houses.[696] Peje West Chiefdom (west of Peje Bongre Chiefdom, bordered on the west by Malegohun Chiefdom in Kenema District) was also affected during the same period.[697]

---

[694] One report mentions that this training base was opened in May but this needs to be carefully considered, as there is no exact date for the information preceding the opening of the training base.

[695] For both of these attacks, reports mentioned that the fighting forces came from Liberia. However, it could not be ascertained with certainty whether this meant that those forces were coming directly from Liberia when they launched those attacks or whether this was a general reference to the RUF/NPFL forces who had originally entered Sierra Leone from Liberia.

[696] No further details could be obtained on this attack.

[697] RUF/NPFL forces reached this chiefdom between April and May.

On 1 May, the G2 commander[698] in Kailahun Town ordered general looting as his men needed to eat and goats and sheep were taken away. During that process, vehicles were also taken away. Some women were raped, civilians killed, houses burnt and men trying to oppose the RUF/NPFL actions were severely beaten. Shortly afterwards, another RUF commander in charge of the Bandajuma Sinneh area (Luawa Chiefdom) declared that those stealing, raping and killing actions should stop and any commando involved in such actions would be killed in the presence of the civilians. Therefore, on 27 May, one commando who raped two women who had gone in the bush to fetch firewood was taken to Bandajuma and killed by the commander, who expressly stated that this kind of action should stop. However, this incident did not please other RUF/NPFL forces and soon after, another group invaded and burnt down Bandajuma and Sandeya, killing four people.

On 4 May 1991 RUF/NPFL forces entered Tangabu (Kissi Teng Chiefdom), led by a Liberian commander. This commander killed one man in the village as he said that since he started fighting in Liberia, he kills one person per day. By this time, RUF/NPFL forces had already spread to the Kissi Chiefdoms (Kissi Kama, Kissi Teng and Kissi Tongi) and Luawa Chiefdom. The commander gave orders to his forces to rape young girls in the village; old women were forced to pound rice and go fishing. Six of the members raped a 10 year-old girl on 8 July 1991, who later died from her wounds. Around this time, the RUF leader also visited his troops at Buedu, where he outlined to the civilian population the aims and objectives of his revolution. According to him, the main target was to eliminate the APC regime and its followers and, further, to liberate Sierra Leoneans from mental slavery and other acts imposed on them by the APC government. By June 1991, Kissi Teng Chiefdom was already under the control of the RUF/NPFL forces.

The RUF/NPFL also opened a training base at a small village called Bayama, three miles from Tangabu town. The training base was located at the school and young boys were forced to join the training; those who refused were tied up and imprisoned.[699]

In early May, RUF/NPFL forces reached Yawei Chiefdom, in the northeast of the District,[700] remaining there until the end of the year. From there, they patrolled the surrounding villages, such as Massayema in the south of the chiefdom and Ngeblama in the centre of the chiefdom, west of the chiefdom headquarter of Bandajuma. When they first arrived, most notably at Baraka, they introduced themselves as "freedom fighters" coming to redeem Sierra Leoneans from the tyranny of the APC regime. This statement inspired some civilians who had indeed suffered from the APC regime to welcome the arrival of the forces and some voluntarily joined them; this happened not only in this chiefdom but in many other chiefdoms as well. However, as soon as people heard or witnessed the first killing or other acts of violence committed against the population, most of them withdrew their initial confidence in the RUF movement.

---

[698] See section [X] for a description of the hierarchy within the RUF forces.

[699] It seems that the term "imprisonment" used to report this event refers to the action of locking a civilian up somewhere. No more information could be obtained on this event.

[700] Yawei Chiefdom is bordered on the north by Gbane Chiefdom (Kono District).

Thirty RUF/NPFL members entered Woloma (Penguia Chiefdom) in mid May and forced civilians to gather in the Court Barrie, hitting some old men and women in the head with the butts of their guns. They stayed in the town for two days before 20 of them headed for surrounding villages together with some young men and women from Woloma. In the nearby villages, as they could not find young men and women, they beat elderly people, hoping that those people would ask their children to come out of their hiding places, as a result of which two of the elderly people were killed. A week later, they went to Sengema, a small village near Woloma, where the commander killed two boys and drank their blood. The RUF/NPFL forces were leaving Woloma on a daily basis to search for food, money and young people to conscript in the surrounding villages, returning to Woloma in the evening. At Sengema, young men and women were trained for three hours a day on how to use their weapons. In mid June, this group was reinforced by a group of 50 men coming from Kailahun Town. The commander of this new group immediately requested a "black goat", referring to human beings killed and eaten by the RUF/NPFL forces. Two days later, as a punishment for the escape of two civilians, the RUF/NPFL forces killed four people by cutting their throats, drank their blood and cooked and ate parts of their bodies. Among the RUF/NPFL forces, this practice was mostly carried out by the NPFL members. About two weeks later, SLA forces launched a successful attack on the town and repelled the RUF/NPFL forces. However, a large number of well-armed RUF/NPFL forces later returned, overpowered the few SLA who were in the town and recaptured it. The raids in the neighbouring villages started again.[701]

One of the main missions given by the NPFL leader to his forces who entered Sierra Leone was to capture and dislodge the SLA forces from the Moa Barracks at Daru (Jawie Chiefdom), in order to deprive SLA and Economic Community of West African States Cease Fire Monitoring Group (ECOMOG) forces based in Sierra Leone of one of their most strategic locations and, consequently, to restrict ECOMOG activity in Liberia.[702] However, it appears that after the initial attacks on Sierra Leone territory, NPFL forces lost this objective for a while and were more engaged in stealing property and inflicting violence on civilians as is demonstrated by the events described above.

After a first unsuccessful RUF/NPFL attack on Daru Town, the forces that led the attack had to retreat to Baiima (Mandu Chiefdom) and SLA forces based at Moa barracks were reinforced by Guinean forces. A lot of food items were stolen during the retreat and brought to RUF/NPFL bases at Mobai and Baiima, where many civilians accused of being government collaborators were killed. SLA forces began launching canon and dragon missiles on RUF/NPFL positions at Mobai (Mandu Chiefdom) and beyond, at Baiima. Some of the rockets hit private dwellings and in one incident at Baiima, some civilians were killed and others wounded when a rocket hit their house. In June, the RUF/NPFL forces led by a well-known NPFL commander regrouped their forces from different positions in Mandu and Dia Chiefdom at Baiima (Mandu Chiefdom) from where they launched their attack on the Moa Barracks. This attack was not successful as they were repelled by the SLA and

[701] The exact dates of these events could not be obtained from the records or from open source materials.
[702] It has to be remembered that at the time of the March attacks, Sierra Leone territory (Lungi Airport) was used by the ECOMOG forces as a base to fight the NPFL forces in Liberia.

Guinean forces. During this attack, the NPFL commander was killed on the bridge that separates the barracks from the town.[703]

Following this general attack, the RUF/NPFL forces would launch many more attacks, sometimes using bypass roads such as the one through Malema Village (Jawie Chiefdom) without managing to capture the Moa Barracks. At this time, Mandu Chiefdom (east of Jawie Chiefdoms) and some villages and towns of Jawie Chiefdom such as Kutoma, Bombohun and Benduma were under RUF/NPFL control. Those three villages were used as informants' places to pass on information to the RUF/NPFL strongholds in Gbiima, Moiba and Mandu (Mandu Chiefdom), where the RUF/NPFL had retreated after the unsuccessful attack on the Moa Barracks. The RUF/NPFL forces lost a lot of their members during these continuous attacks and a lot of civilians were killed. In December, at Gbaama, a village close to Moa Barracks, the RUF/NPFL forces killed 62 civilians, who were later buried by SLA forces from the Moa Barracks.

In Macca Kpakpeibu (Yawei Chiefdom)[704] on 21 July, a group of 110 RUF/NPFL[705] members entered the town with heavy firing and assembled the 60 inhabitants, including children, in the Court Barrie. Some civilians were told to bury the 20 people the RUF/NPFL had killed so they dug a big pit, put the bodies in it and covered it over. This group made daily patrols of the surrounding villages, capturing civilians who were then sent to Kailahun Town or Geima (Luawa Chiefdom) to be trained or used to work for the forces by carrying loads. On one occasion, those RUF/NPFL forces gathered 800 civilians and sent them to Geima to work in farms. During their stay, they sexually assaulted women, including the elderly. In mid August, some SLA forces from Daru (Jawie Chiefdom) came to the village and repelled the RUF/NPFL forces from the village, as at the time of this attack, the SLA were 200 in number while the RUF forces were only 30. The SLA did not, however, stay in the village and instead went back to Daru.[706]

During the harvest season, civilians from Senguma (Penguia Chiefdom) were forced to work for RUF/NPFL forces and had to carry the produce of the harvest on their heads to Pendembu (Upper Bambara Chiefdom). Fifty RUF/NPFL members entered Baraka on 10 May and stayed in the village for some months, raiding the surrounding area in search for food. During their raids, they always took civilians with them to carry the property they would take.

On 10 October, RUF/NPFL forces attacked Levoma (Yawei Chiefdom), gathered the civilians and appointed some to carry the property they had just taken to the chiefdom headquarter of Manowa (Peje Bongre Chiefdom, south-east of Yawei Chiefdom), which was used by the RUF/NPFL as

---

[703] It appeared that this commander was killed by one of his colleagues, another NPFL commander, who at the time was a battalion commander.

[704] This town is located on the road that links Bandajuma, Yawei Chiefdom headquarter (and further north, Kono District) to Segbwema (Njaluahun Chiefdom) and Daru (Jawie Chiefdom) in the south of Kailahun District.

[705] The two forces were dressed differently as the NPFL members were dressed in "Ronko", namely country clothes, while the RUF members were wearing civilian attire with red bandanas tied around their heads. Some of the NPFL members were from Burkina Faso.

[706] It is possible that this attack took place in August 1992.



their route to Camp Zogoda[707] in Geima. One of the civilians who could not carry the load that was allocated to him, as it was too heavy, was severely beaten. Other civilians were told to bury the people the RUF/NPFL forces had killed in the village, among them an old woman, who was killed in her house, as she was unable to run.

For two months between October and December, the RUF/NPFL forces transferred their base from Kailahun Town to Pendembu (Upper Bambara Chiefdom), which was also their headquarters.[708]

Following the retreat after the attack on Moa Barracks in late June, NPFL forces who had established strong positions on the east side of the Moa River embarked on massive looting, raping and killing of civilians, together with acts of cannibalism. These practices were carried out by NPFL forces at the end of 1991, throughout 1992 and part of 1993 and not the RUF forces. Different rounds of practices called 'Tap' were accomplished throughout this period, starting with Tap 20 in late 1991.[709]

RUF vanguards and junior commandos, inferior in number - even if by October 1991, almost 2,000 new recruits had already been trained – were unable to prevent or protest against those NPFL practices. However, in October 1991, the RUF leader welcomed the idea of an RUF commander opening a jungle base unknown to the NPFL forces. This hidden base was opened near a village called Gborworbugao, about 16 miles from Kailahun Town and about 150 new recruits (captured civilians) began to receive training in conventional and guerrilla warfare.

b) Events in 1992

In January 1992, the RUF leader visited his troops at Baraka (Yawei Chiefdom) where he had a meeting with the troops and the civilians. He explained to the civilians the objectives of his movement and later instructed the troops to be always on the offensive. Also in January, a new base was opened at Jborbu Gao (south of Luawa Chiefdom) but was never used..

On 3 January 1992, RUF/NPFL forces based in Tangabu (Kissi Teng Chiefdom) killed four men from Luawa Chiefdom who had entered Tangabu without passes; their bodies were burnt and thrown into the bush. They further explained that any civilian found not staying in the area where they lived would be killed. Later, in April, a woman was killed for having more than one lover. At the beginning of June 1992, the first boys who had been trained at this base were sent to the warfront, leading and showing routes to the RUF/NPFL forces and also assisting them in identifying the civilians who used to hold any position within the APC regime. Thus, in this area composed of the three Kissi Chiefdoms, the RUF/NPFL forces had control and no fighting with SLA forces was reported. However, internal fighting arose between forces from the RUF and those

[707] This means 'land of freedom'.

[708] Pendembu would remain their headquarter throughout 1992 and part of 1993.

[709] It should be noted that the information from the records is rather confusing on the identification of those groups as the different groups and the dates of those events are mixed. What is clear, however, is that there was no difference between those different groups with respect to the type of violence they committed against civilians.

from the NPFL, which marked the start of a split between the two factions, leading to the withdrawal of the NPFL forces from Sierra Leone.

A reinforcement group entered from Liberia in February 1992 through the border town of Batwoma (Luawa Chiefdom), south of Kailahun Town. This group held a meeting with the civilians at Ngebgema (Upper Bambara Chiefdom) at which they informed them about the aims and objectives of their movement. They stated that the town was now under their control and chose a private dwelling to host their office. The commander in charge of this group asked one of the civilians to point out all the APC government personnel such as police officers, SLA members, civil servants and foreigners, including the Lebanese.[710] However, as Ngebgema was a small village, none of those categories of persons were to be found in the village. The movement of civilians was restricted and none of them was allowed to leave the village without a pass signed by the commander.

In early March 1992, the RUF leader visited this group at Ngebgema, the civilians having been gathered at the Court Barrie for the occasion, and he mentioned that about 15,000 men and women had now been trained to fight in Sierra Leone. The RUF leader explained how the APC regime was a corrupt one and how it had toured the country giving privileges to foreigners, especially businessman, rather than to Sierra Leoneans. He made it clear that civilians were no longer under the authority of the APC government but under RUF control, that every civilian had to obey RUF commanders in their controlled areas and that whatever was obtained by his RUF forces at the war front was for them, as they were not paid. He concluded his statement by saying that all young girls and boys had to join the movement for their country. The commander of the group therefore forced young boys and girls to join the RUF to be trained, to serve as carriers or, for the girls, to become "wives".[711] It is interesting to note that the RUF appointed teachers to educate the children they had abducted, allegedly as part of their will to be and to behave as a new rulers of Sierra Leone.

In March, an NPFL member coming to fight the SLA troops at Daru entered Buedu (Kissi Tongi Chiefdom), where he killed a civilian as a human sacrifice for his upcoming battle.[712] At Manowa (Peje Bongre Chiefdom), RUF/NPFL forces made another human sacrifice. The forces had captured a large group of civilians from various towns and villages and gathered them in the town. One out of every ten people was killed as a ritual sacrifice and their bodies were thrown into the river.

In an attempt to repel the NPFL forces out of Sierra Leone, some RUF vanguards decided to use the services of the Poro society,[713] a male secret society at Mende Buima (Peje Bongre Chiefdom), which was full of NPFL forces using it as an assembly area in Kailahun District. The principle of

---

[710] Despite many living in Sierra Leone for generations, the Lebanese – who make up the majority of businessmen in the country – are more often than not unable to obtain Sierra Leonean citizenship and are therefore referred to and treated as foreigners.

[711] The age of those recruits was not specified.

[712] No more details on the circumstances surrounding this killing could be obtained.

[713] The Poro society and its equivalent for women, the Bondo society, are Mende societies where the initiation process gives social identities to its members. Those societies are based on common beliefs about the living, the dead and the gods.

this society is that when the poro devil is outside, whether day or night, only the initiated or recognised of the society are allowed outside to take part or join the group in the ceremony. This society therefore would arrest the NPFL forces since they were not members of it. However, a woman went to tell the RUF/NPFL forces about this secret society, which annoyed them and, in retaliation, the NPFL forces killed 100 civilians and burnt 200 houses.

Furthermore, around the same time, the NPFL forces discovered the existence of the hidden RUF base opened late in 1991 and a lot of RUF vanguards and junior commandos were arrested and taken to Camp Namna in Liberia.[714] Some of the top vanguards were jailed for three to four months as a result of this operation. A lot of RUF junior commandos were killed by NPFL forces while others went into hiding in the bush. The ones kept in custody in Liberia were released after the RUF leader intervened on their behalf with the NPFL leader.

In the north of the District, a combined force of SLA and local militia (Donsos from Kono District) attacked RUF/NPFL forces, recapturing towns and villages under RUF/NPFL control, including Sandaru (Penguia Chiefdom).[715] While at Sandaru, the SLA forces destroyed and took property and beat and killed people.[716] The troops also succeeded in driving the RUF/NPFL forces out of the Luawa Chiefdom, except for the town of Geima.

SLA military successes were however reported, including a few successful attacks for at least the first half of 1992. In February, SLA forces attacked and retook towns and villages in Penguia Chiefdom, including Senguma. They stayed in the area for four months, patrolling the area but also inflicting violence on civilians[717] and taking civilians' property, as a result of which some of the civilians went to Guinea. However, RUF/NPFL retook the area as they were advancing further north. SLA and Guinean forces from Daru (Jawie Chiefdom) also made some attempts to repel RUF/NPFL forces from Mandu Chiefdom and to capture Mobai, Baiima, Kuiva (Mandu Chiefdom) and Baiwala (Dia Chiefdom). Two fronts were launched, one going to Kuiva and the other one moving towards Baiima. However, both groups were defeated and had to retreat back to Daru. The RUF/NPFL position at Kangama (Kissi Teng Chiefdom) was also attacked and captured for a short while, although the forces subsequently regrouped and recaptured the town. During their stay, the SLA forces forced the civilians to break down all the houses that were close to the bush and to uproot all the coffee and cocoa plantation. The zinc taken from the houses was used to make fences around swamps. The SLA forces also recaptured other towns in Kissi Teng Chiefdom, such as Tangabu.

By mid 1992 the RUF/NPFL forces in the North had conquered the major towns and established bases. An important base was Baraka (Yawei Chiefdom), which was a strategic town on the way to Kono District. Later on Baraka and Geima (Luawa Chiefdom) were among the RUF/NPFL forces' strongest holds in the North. In particular, Geima was also an important training camp. Even towns

[714] This camp is located in the Lofa County.
[715] Those local hunters were very active in the south-east of Kono District, in particular in Soa and Fiama Chiefdoms.
[716] No more information could be obtained on this incident.
[717] No specific incidents were reported for this period.

like Bunumbu (Peje West Chiefdom) and Segbwema came under attack, although they were not captured.

One morning in April 1992, RUF/NPFL forces[718] led by a Liberian commander launched an offensive on the chiefdom headquarter of Bunumbu (Peje West Chiefdom). As they entered the town, people panicked and started fleeing to the bush. The combined forces put some people in a house and set the house on fire. They then assembled the remaining civilians in the Court Barrie and killed one pregnant woman who refused to join them. The forces used the town as a base from where they patrolled the surrounding villages in search of food and other items. During their stay, 10 school-going girls (classes 4 to 6) were raped. Bunumbu at this time was the front line as it also allowed for further advances into Kenema District, particularly into the diamond area located at Tongo Field (Lower Bambara Chiefdom, Kenema District).

In Malema Chiefdom in the south of the District, SLA forces encouraged the formation of vigilantes, composed of young people who were given basic training, to assist the troops in prosecuting the war in the District. Most of the chiefdoms were contributing funds called "war efforts", as well as willingly giving their brothers and their young people to be trained. The successes of the SLA, however, did not last long. At this time, Daru (Jawie Chiefdom) was under constant RUF/NPFL attack. The only areas the SLA forces controlled were Segbwema (Njaluahun Chiefdom) and parts of Mandu, Jawie and Malema Chiefdoms. Following the overthrow of the President of Sierra Leone by the SLA on 26 April 1992, SLA forces began more intensive attacks on the RUF/NPFL forces, defeating a large number of them. However, at that time, they did not succeed in removing the RUF/NPFL forces completely from the various areas and their actions were more of a sporadic nature, killing and torturing captured RUF/NPFL members. Furthermore, their behaviour towards civilians began to deteriorate as SLA forces on patrol started to take away civilians' property, such as domestic animals and household items.

Civilians coming from areas under the control of RUF/NPFL forces were taken to the Moa Barracks in Daru for screening purposes; a lot of civilians were killed during this process, accused of being "rebels" or "rebel collaborators". As an example, one young man from Yawei Chiefdom was arrested by SLA forces patrolling the chiefdom and was killed in the Moa Barracks. Later on, a committee made up of the elders from the 14 chiefdoms of the District was formed so that they might identify the civilians brought to the barracks and avoid the killing of innocent civilians.

The RUF/NPFL forces continued their persistent attacks on towns and villages in both the northern and central chiefdoms of the District, including the Moa Barracks.

The "Tap 20" group, consisting of the Gio-speaking tribe of Liberia (NPFL) was active in Kissi Kama, Kissi Teng, Penguia and Luawa Chiefdoms. Their local commander gave an order to his troops that all civilians captured should be killed because for him they were "without blood", i.e. less than human. This group frequently engaged in cannibalism in these chiefdoms. In Penguia Chiefdom in May, members of Tap 20 killed and ate people selected due to their larger size.

[718] These forces were dressed in military combat red t-shirts with palm fronds tied around their foreheads.

Furthermore, they often engaged in sexual assaults against women, who were raped by many men at one time.

In Ngiehun (Luawa Chiefdom), NPFL forces dropped hot melted plastic into people's eyes. Furthermore, one of the "sentences" they carried out was to put human beings in a large cooking pot with red palm oil; this kind of sentence was imposed when, for example, they thought a civilian was not obeying their commands. In Kissi Teng Chiefdom, the members of this group used to kill people and eat their flesh; babies were usually pounded in mortar to provide the type of food they liked. On 30 June 1992, a man was killed in the chiefdom and his body eaten.[719] This caused many civilians to flee to neighbouring Liberia.

The Tap 20 group was replaced by another group of NPFL members called Tap 40 during the last months of 1992. At this time, most of the top ranking NPFL commanders were recalled to Liberia by their leader as they were encountering serious attacks in Liberia from a fighting force called the United Liberation Movement for Democracy in Liberia (ULIMO). The Tap 40 group also killed many civilians and often cooked and ate their flesh. One such incident happened in the Kissi Kama Chiefdom on 9 October 1992, when two civilians caught escaping were killed, cooked and eaten.[720] Another incident of cannibalism was reported about a civilian caught trying to escape from the RUF/NPFL forces in Fobu (Luawa Chiefdom) on 5 October 1992. A man caught crossing the Guinean border was stripped naked and later killed; most of his body parts were cooked and eaten by some NPFL members. Again around this time, some RUF junior commandos were killed and eaten by those NPFL forces. There appeared to be two main reasons for these practices. First, it was simply a way to get food. Second, the forces believed that when they ate human flesh, they obtained the strength of the person they were eating; accordingly, they would first eat young, healthy, good looking men. Eating enemies was also practiced. However, reports mention that persons of any age and any gender were also eaten, including children. Indeed, in some places in the District like Pendembu (Upper Bambara Chiefdom), Mende Buima (Peje Bongre Chiefdom), Kuiva and Baima (both in Mandu Chiefdom), NPFL forces were living in separate compounds from RUF forces where they practiced cannibalism.

In Nyadahun Bambabu in March-April, the NPFL forces were the only ones living in this town. When they went on patrol, they abducted people to carry stolen goods back to their town. Upon returning to the village they then killed and ate the people they had abducted. When these NPFL forces were withdrawn from Sierra Leone to fight the advancing ULIMO forces in Liberia, the RUF forces sent to this town found a very large cauldron with three legs set up in the town mosque. These pots were usually used to cook food for large numbers of people when it was harvest time. However in this case the cauldron had been used to cook people for the NPFL forces. All around the cauldron on the floor of the mosque were the dismembered skeletal remains, including the skulls, of around 40 to 50 people. Each of these persons had been shot in the head.

[719] The conditions surrounding this killing could not be ascertained.

[720] No more details could be obtained on this bit of information.

In the south of the District, SLA forces were more successful in containing the RUF/NPFL forces, due to the presence of the ULIMO troops[721] in Segbwema (Njaluahun Chiefdom) and the Guinean troops in Daru (Jawie Chiefdom). However, on 25 December 1992, RUF/NPFL forces identified by civilians as being the 'Tap 20'[722] group launched an attack on Segbwema (Njaluahun Chiefdom), coming from the chiefdom headquarter of Manowa (Peje Bongre Chiefdom), the other road going to Segbwema and passing by Daru (Jawie Chiefdom). They entered the town through the hospital, where they beheaded one doctor after he had given them some drinks and money, hoping this would make them leave without killing him. Many drugs were taken away from the hospital and some people were captured. For seven hours, this group battled with SLA and ULIMO forces before being eventually repelled. Shortly after this incident, Guinean forces based at Daru (Jawie Chiefdom) came to Segbwema. .

Civilians escaping RUF/NPFL attacks in Yawei Chiefdom tried to find refuge in Gbane Chiefdom (Kono District) located to the north of their chiefdom. Some of those fleeing civilians were thoroughly screened by SLA forces at the chiefdom headquarter of Gandorhun (Gbane Chiefdom, Kono District). A young man, accused of being a "rebel collaborator" was doused with petrol by the SLA forces, who then set fire to him and let him burn. Furthermore, some animosity was prevailing between Kailahun civilians, who were mainly Mende, and Kono inhabitants. Furthermore, as the RUF/NPFL forces entered Sierra Leone through Kailahun District, civilians coming from this area were viewed as suspicious and were not welcome.

At Kuiva (Mandu Chiefdom), RUF forces established an execution centre for the whole District. At this centre, alleged criminals were killed and buried in mass graves. The centre was maintained throughout the war period.[723] From December until March 1993, an RUF training base was opened at Manowa (Peje Bongre Chiefdom).[724]

In December 1992, an Eastern Region Civil Defence Committee comprised of representatives from the three Districts of the Eastern Province – Kono, Kenema and Kailahun – and from Freetown was formed in a bid to assist the SLA forces.[725] "Well-meaning" Sierra Leoneans were to register for the Committee and to fulfil the work of vigilantes for the SLA.

c) Events in 1993

In early 1993, some RUF forces that were repelled by SLA forces from Pujehun District[726] briefly joined the RUF forces in Kailahun District, passing through the Golan Forest at the border between Kenema District and Liberia. Furthermore, as ULIMO forces were active and inflicted serious losses

---

[721] This fighting faction, which emerged and fought the NPFL in Liberia, also fought on Sierra Leonean territory, alongside the SLA.

[722] It is more likely that this group was actually Tap 40, who replaced the Tap 20 group in late 1992.

[723] No more details could be obtained on this centre.

[724] This base would be transferred for one month only in early 1993 to Gandorhun (Gbane Chiefdom, Kono District).

[725] BBC, 22 December 1992.

[726] In December 1992 and early 1993, RUF forces launched an offensive on Pujehun District but were soon defeated by the SLA forces, assisted by ULIMO and Guinean forces.

on NPFL forces in Liberia, the supply route for arms and ammunition and other items for the RUF/NPFL forces in Sierra Leone through Vaahun (Liberia) and Bomaru (Upper Bambara Chiefdom) was cut off, leaving the RUF forces unable to resist the SLA and Guinean forces.

Following the setting up of a Civil Defence Committee in 1992, local hunters began fighting with SLA forces, notably in Jawié Chiefdom. At this time, however, no formal initiation as such was taking place. Rather the "renowned man" who was behind the establishment of the Committee played the role of a catalyst or organiser for the local hunters.

On 18 March 1993, the RUF/NPFL attacked Bandajuma (Yawei Chiefdom) from their base in Baiima. Seventy-eight RUF/NPFL members were killed; eight civilians and four SLA members were wounded. The RUF/NPFL forces were, however, repelled by the SLA forces.

Throughout 1993 and part of 1994,[727] an RUF training base was operational at Dia (Kissi Kama Chiefdom). Furthermore, following the retreat from Koidu (Gbense Chiefdom, Kono District) in January 1993, RUF forces established their headquarters at Kailahun Town (Luawa Chiefdom).

In April 1993, some RUF commanders discovered that some RUF members together with civilians from Ngiehun (Luawa Chiefdom) had talks with SLA forces to arrange for the arrest of the RUF leader. When they learnt this, RUF forces went to Ngiehun, surrounded the town and killed an unspecified number of civilians. One of the practices they carried out at this time was to pour boiling palm oil in the ears of the men and in the vaginas of the women so that they would acknowledge the planned plot against their leader. Among the people killed were one prominent businessman and his family, two teachers and two well-known women.[728]

The SLA forces proceeded to capture Kailahun Town and also captured other towns, such as Baiima, Kuiva (Mandu Chiefdom), Pendembu (Upper Bambara Chiefdom) and Mobai (Mandu Chiefdom), probably in April. The RUF/NPFL retreated first to Dia Chiefdom, east of Mandu Chiefdom, but as SLA forces also advanced into Dia Chiefdom and recaptured the headquarter town of Baiwala, RUF/NPFL forces withdrew from the rest of Dia Chiefdom.[729] During this retreat, similarly to other Districts, notably Kenema District, retreating RUF forces frightened the civilians by telling them that if they stayed, they would be considered to be "rebel" collaborators by the SLA forces, as a result of which many civilians fled with the RUF forces. Thus, on 6 May 1993, Baiwala (Dia Chiefdom) and Bomaru (south of Upper Bambara Chiefdom, a few miles from Baiwala) were captured by SLA forces. Some SLA forces went to Vaahun, a Liberian town eight miles from Bomaru along on the motorable road used by RUF forces to enter Sierra Leone, to exhort the civilians who had found refuge there to resettle in Dia and Mandu Chiefdoms.

---

[727] This base was operational until SLA forces repelled the RUF forces and confined them in Kissi Teng Chiefdom.

[728] Although the precise number of fatalities could not be ascertained, it appears that a lot of people were killed during this incident.

[729] No figures on the fatalities during these attacks could be obtained.

SLA screening bases were operational throughout Kailahun District, including in Pendembu (Upper Bambara Chiefdom) and in Daru (Jawie Chiefdom). Civilians who returned from Vaahun were taken to Daru to check whether they were RUF members or collaborators. Following interviews in these screening bases, those people who had been appointed to any position by the RUF/NPFL forces were kept in custody and sometimes killed. In May, the SLA forces succeeded in completely repelling the RUF forces from Jawie Chiefdom.[730]

In the same wave of counter attacks in which they recaptured Mandu and Dia Chiefdoms, SLA forces proceeded further north and recaptured Pendembu (Upper Bambara Chiefdom) in May as well as towns in Luawa, Penguia and Yawei Chiefdoms. SLA forces occupied Ngiehun, a town located on the main road between Pendembu and Kailahun Town, and entered Kailahun Town with heavy firepower in September. From Luawa, they moved on to Buedu (Kissi Tongi Chiefdom).[731] In Penguia Chiefdom, SLA forces encouraged civilians to come out of the bushes and to resettle. Following the SLA capture of these towns, an announcement was made on the radio that all civilians and RUF members in the bush should come out and that RUF members should surrender. SLA force also went on "mopping up" operations in the bush searching for RUF forces; civilians who were discovered were sent to the screening process.

During the same period, the SLA commander gave orders to demolish houses in Mandu Chiefdom. Most houses within the chiefdom were then unroofed, including a hospital building. Civilians were forced to work for the SLA forces, mainly to brush the roads and to cut down foliage around the towns to prevent RUF forces from taking them by surprise.

The same SLA group that had recaptured Mandu and Dia Chiefdoms in April and May launched an attack on RUF/NPFL positions at Buedu (Kissi Tongi Chiefdom) in June 1993. SLA forces entered the town by using the main motorable road from Kailahun Town (Luawa Chiefdom, west of Kissi Tongi Chiefdom) and battled with RUF/NPFL forces before the latter fled the town, retreating back to Liberia and to the border town of Dawa (Kissi Tongi Chiefdom). While retreating, they shot and killed some civilians at Dawa, raped some women and captured youths. Some civilians were also killed during the battle. After the recapture of the town, the commander in charge of the SLA forces exhorted the civilians to tell their children who had been conscripted into the RUF to come out of the bush and settle peacefully in the town. However, one night, the commander ordered that 27 of those RUF members who had come out of the bush be killed and the 27 young men[732] were tortured to death by the SLA forces. This incident created panic among the civilians and some of them left Buedu for the neighbouring countries of Liberia and Guinea. The SLA troops further successfully recaptured Koindu[733] (Kissi Teng Chiefdom) and pushed the RUF/NPFL forces back into Liberia, while some escaped to Kono District. Thus by 1993, SLA forces, together with ULIMO and Guinean forces had confined the RUF forces to the extreme east of the District, in the north of Kissi Teng Chiefdom.

---

730 This chiefdom would be free of RUF incursion throughout the following years, until the AFRC coup where RUF forces came out of the bush and merged with AFRC forces.

731 No detail could be obtained on those attacks.

732 Their ages could not be ascertained.

733 This probably took place in November.



Tap 40 was also active in 1993, notably in Kissi Teng Chiefdom.[734] One of their commanders used to kill people by cutting into their flesh until they died, including a refugee from Liberia who failed or refused to bring palm wine for the NPFL commanders. On 21 January 1993, a woman was killed and her body cooked and eaten in Tangabu Town. Members of Tap 40 raped young girls and forced boys to carry their loads from Tangabu to Liberia. In Kangama, a woman in her fifties coming from Liberia in February was raped by many of those NPFL members; she later died in March as a result and her body was thrown into a big pit near Kangama. In April, three men previously appointed as Town Commanders in three different villages were killed for failing to provide food to the commanders. On 3 February at Mano Sewalu (Kissi Kama Chiefdom) there was a fierce battle between RUF and Tap 40, as a result of which many civilians escaped into the bush. Many other civilians were killed together with some of the RUF fighters, their bodies thrown into a pit. In Kissi Teng Chiefdom, a senior RUF officer gave the order to RUF junior commandos to hunt and kill NPFL forces. Accordingly, NPFL forces left Sierra Leone between February and May and, while retreating, burnt down many houses and killed civilians. Furthermore, it is interesting to note that in August 1993 an internal fight occurred within the RUF between two of the most senior officers belonging to two different tribes, the Mendes (from the East and South) accusing the Temnes (i.e. the RUF leader's tribe) of destroying their land.[735]

In a bid to win the support of civilians, the RUF appointed a G5 group consisting of civilians and RUF members, which served as a mediator and settled disputes between civilians and RUF forces.[736]

After losing much ground to the SLA forces, the RUF/NPFL were cut off from their supplies coming from Liberia. Furthermore, when the NPFL forces withdrew to Liberia, they took with them all their weapons, including those captured from the SLA and Guinean forces in 1991-93. Indeed, all heavy weapons, artillery, war tanks, armoured cars, small arms and vehicles were taken to Liberia. As they could not depend on irregular supplies from Liberia or on the weapons captured from the SLA forces, the RUF forces engaged in trade and barter with Guineans and Sierra Leoneans along the border towns of the two countries, in particular in Luawa Chiefdom, which was a significant black market location. They traded mostly in agricultural products like cocoa, coffee and palm oil but also in valuable items such as tape recorders, gold and diamonds. Even members of the Guinean forces protecting the borders of Guinea were involved in the trade, as well as members of ULIMO forces. However, RUF forces did not deal directly with the Guineans but traded with their own contractors who took commissions. Any property acquired through this border trade was considered to be "Government property", i.e. belonging to the RUF movement. This system enabled RUF forces to procure weapons and other logistics. Thus, while in the bush, RUF forces forced civilians they had captured to process palm oil, cocoa and coffee they would then use to trade for arms and ammunition. Another way of raising funds was through the establishment of a tax in the District, namely requiring each town or village under their control to contribute a certain amount of products, particularly coffee and cacao, depending on the size of the village.

---

[734] It is believed that they entered the chiefdom in November 1992.

[735] No more information could be obtained on this event.

[736] See section [X] for more information on the hierarchy and organisation of the RUF forces.

In the latter part of the year, with persistent attacks on SLA positions in the Kissi Teng Chiefdom, the RUF/NPFL forces succeeded in driving them from the chiefdom entirely. In addition, on 1 December 1993, the then Head of State, Capt. Strasser, declared a unilateral ceasefire. Further to this declaration, a lot of SLA forces left their positions thinking the war was over, which allowed RUF forces to redeploy in certain areas, mainly in the south of Kenema District[737] and, in 1994, in Kailahun District.

d) Events in 1994

At the end of January and following renewed RUF attacks, notably in Kenema District, the Government of Sierra Leone declared "total war" against the RUF. The Head of State engaged in a massive recruitment of SLA forces and from 3,000 men in 1991, they would reach around 12,000 in 1994.

By 1994, following the successful SLA attacks and territory gains in 1993 and the retreat of the NPFL forces, the RUF now consisted of one and a half brigades composed solely of Sierra Leoneans. These RUF forces realised that they could no longer engage the enemy in face-to-face battle or conventional warfare, due to the strength and superior firepower of SLA and foreign forces. The RUF therefore decided to engage in jungle warfare in 1994 and an Operations order on jungle or guerrilla warfare was drafted and distributed to the front line commanders. Those front line commanders were trained for two weeks in guerrilla tactics and provided with first aid and a basic stock of food supplies plus arms and ammunition before they were sent in various directions into the jungle. The commanders' individual and newly mastered skills were passed onto the squad, platoon, company and battalion levels. During the training phase, they were taught the basics of squad to battalion tactics, namely tactical deployment in diverse terrains, combined arms training, urban warfare skills, ambushes, infiltration techniques, deception operations, advanced reconnaissance and fighting patrolling.

SLA forces were occupying most of the District for the first months of the year and there were some incidents of harassment of the civilian population. In one incident in Penguia Chiefdom in February 1994, an SLA member was arrested and killed on the orders of the SLA commander for having raped a 13 year-old girl. The commander made it clear to the civilians and the SLA forces that this kind of behaviour was not acceptable.

Towards the end of March and the beginning of April 1994, RUF forces started launching massive and successful attacks on SLA positions in the District.[738] A group from Liberia attacked the town of Koindu. A second group from Liberia entered the town of Gbolabu in the Upper Bambara Chiefdom. This group conscripted children in and around the township.[739] In Geima (Luawa Chiefdom), a large quantity of arms and ammunition were captured from SLA forces.

---

[737] See the factual analysis for Kenema District where massive and successive attacks were launched in the southeast of the District in December 1993.

[738] Already in January 1994, RUF forces captured an SLA base, east of Pendembu.

[739] No more information was available on these incidents.

Once the RUF forces took the jungle and rapidly started to gain positions throughout the country,[740] Kailahun District, in particular the eastern part of the District, became a stronghold and was completely under RUF control. At sometime in 1994, RUF forces captured a large number of arms and ammunition from the SLA forces at Geima (Luawa Chiefdom) and SLA forces withdrew from Luawa Chiefdom. However, throughout 1994, 1995 and 1996, Mandu and Dia Chiefdoms remained under the control of SLA forces.

In May 1994, RUF forces came to the township of Sandaru (Penguia Chiefdom) from the direction of Kono District and dislodged the SLA forces based there. They informed the civilians that all of Sierra Leone was now under their control and that civilians should not hide or they would be chased and killed. They forced young boys and girls they had captured to take illicit drugs, claiming that it was new medicine meant to develop them and make them strong. RUF forces used Sandaru as a base to patrol and raid the villages in the chiefdom and came back regularly to the town with food, stolen property and more captured civilians, so that the number of their forces was greatly increased. Most of the captured women and girls were sexually assaulted, often publicly.

RUF forces were also to be found in the 'Peje' Chiefdoms, namely Peje Bongre and Peje West Chiefdoms. In one incident in August 1994, while patrolling in Peje West Chiefdom the RUF forces discovered a group of civilians in the bush, raped two suckling mothers, whom they subsequently killed. However, Daru (Jawie Chiefdom) and Segbwema (Njaluahun Chiefdom), where a camp for displaced persons was opened, remained under SLA control, thereby blocking strategic access to the rest of the country.

The RUF were dislodged briefly from the town of Kangama (Kissi Teng Chiefdom) by joint forces of the SLA, regrouping and recapturing the town later in the year.

As RUF forces intensified their ambushes on the Freetown-Kenema highway in late 1994, life became even more difficult for civilians in Kailahun District. They lacked essential items to live and the daily number of deaths of civilians in the District and in the refugee camps in Liberia was high.

Although RUF forces made serious gains in the country, fighting mainly in the bush and laying ambushes, it was perceived in Freetown as a "disintegrated organisation".[741] Furthermore, during the same period, a large number of SLA members were missing without grounds in war affected areas.[742]

e) Events in 1995, 1996 and 1997

Buedu (Kissi Tongi Chiefdom) was fiercely attacked and recaptured from SLA forces by RUF forces in January 1995. In February 1995, RUF forces attacked Jojoima (Malema Chiefdom), which had been under SLA control since 1993.[743]

---

[740] By 1995, all the Districts had come under RUF attacks.

[741] AFP, 16 September 1994.

[742] *Ibid.*

[743] No details on the civilian fatalities – if any – could be obtained. It is only reported that over 20 RUF members were killed during this attack.



In Penguia Chiefdom, many civilians who were abducted from the surrounding towns and villages were mistreated; women were sexually abused in public by RUF forces. Those who refused to have sexual intercourse with RUF members were killed.[744]

By the end of 1995, RUF forces from nearby Periwahun launched another unsuccessful attack on Segbwema (Njaluahun Chiefdom), where they were repelled by the SLA forces. The SLA forces were successful in repelling RUF forces' attacks on the Mandu and Dia Chiefdoms in 1995. Nevertheless, throughout 1995 and the following years, the RUF would launch attacks on these chiefdoms, occasionally controlling some areas.[745]

At the end of January 1996, prior to the elections to be held at the end of February, the one-week ceasefire declared by the RUF allowed voter registration in the District, particularly in four chiefdoms considered at that time to be unsafe, namely Jawie, Mandu, Malema and Upper Bambara.[746] Nevertheless, in RUF-controlled areas, civilians were not allowed to vote in the February General elections.[747]

In 1996, the Kamajor society, which had begun initiations in Bonthe District and developed all over the Southern Province, reached Kenema and Kailahun Districts. Similarly to other Districts where local hunters were operational, young energetic men were nominated by the Chiefs and, more often, the elders of the chiefdoms[748] to be initiated into the society. Dia Chiefdom for example, was asked to send 50 men for initiation. The appointment was done at the section level and each section was at least initially responsible for the welfare of the men they nominated and who came back to their various areas after the initiation. In Dia Chiefdom, the Kamajors worked with the SLA forces. The Kamajors from Jawie Chiefdom, under the leadership of a well-known commander who was also operational in Kenema District, began challenging RUF positions in Njaluahun Chiefdom.

However, around this time, Kamajors began to harass civilians. In Penguia Chiefdom, for example, civilians were forced to contribute to feeding the Kamajors and if they failed to do so, all their property would be taken away and they would be beaten. A man who had just lost his wife and was about to bury her refused to go and fetch wood as requested by some Kamajors, as a result of which they beat him severely. Again in Penguia, a businessman at Palima Village had his property taken by Kamajors and had to hide in the bush for two weeks with his family.

---

[744] No details could be obtained on this information, either from the records or from open sources.

[745] No details could be obtained on this information, either from the records or from open sources.

[746] SLBS radio, a national Sierra Leone radio station, quoted the elections officer for Kailahun District: BBC, 30 January 1996.

[747] The RUF-controlled areas were mainly the chiefdoms located in the east of the District, i.e. Kissi Teng, Kissi Tongi, Kissi Kama, Luawa and some parts of Penguia and Yawei Chiefdoms. No more information on what happened prior, during and following the elections could be obtained from either the records or from open source materials. In this respect it is interesting to note that the only serious incidents reported during the elections took place in Bo and Kenema Towns. While not wishing to minimise the intimidation of the voters carried out by the RUF forces prior to the elections, their scale may not have reached the levels sometimes described in the media.

[748] As the Chiefs had been targeted by the RUF since the start of the war, most of them had fled while others were killed.

In March 1996, a combined force of SLA and CDF (Kamajors) who came from Baiwala (Dia Chiefdom), attacked a major RUF base in Geima (Luawa Chiefdom), also called "Camp Burkina Faso". They overpowered the RUF forces and killed eight of them: 26 civilians were also killed during the attack. The RUF forces, however, recaptured the town four days later. The Kamajors also attacked another RUF base, established in Kailahun Town at the National Secondary School. The school was completely bombed down and some civilians were killed. Four days after the attack on Geima, RUF forces counter attacked the Kamajors and SLA forces, some of them being killed in the attack. Following this counter attack, SLA forces and Kamajors were repelled.[749]

Around this time, RUF forces started opening schools in the areas under their control, such as at Kangama (Kissi Teng Chiefdom). The school was not only for children but also for the civilians living in the areas under RUF control. The teachers were paid with seven cups of rice and two beer bottles of palm oil every three months.

However, unlike what happened in the South and especially in Pujehun District, following the elections and the start of the negotiations between the RUF and the Government of Sierra Leone, civilians originating from Kailahun District and living in displaced camps or in neighbouring countries did not return to the District.

The peace negotiations that started in February 1996 reached their conclusion in the signing of a Peace Agreement between the RUF leader and the Sierra Leonean President at Abidjan, Cote d'Ivoire, on 30 November 1996. A few days before the signing of this agreement, the RUF leader had visited his troops near Kailahun Town (Luawa Chiefdom) to talk about the peace process.[750]

Despite the signing of the peace agreement, a few incidents between Kamajors and RUF forces took place in the Segbwema area (Njaluahun Chiefdom) in early December, where some fatalities are reported on both sides. Nevertheless, it appeared that those skirmishes initiated by the RUF were motivated by their search for food.

SLA forces were still molesting civilians they suspected of being "rebels" or "rebel collaborators". On one occasion, a civilian from Mobai (Mandu Chiefdom) accused of being a "rebel" was sent to Daru (Jawie Chiefdom), tied up, had pepper put in his nostrils, was hit with a bayonet and kept in a guardroom for six days before being released. He was given a clearance document that would allow him to return to Mobai.

At the beginning of 1997, the RUF forces in the south of the District came under fierce attacks by SLA forces, thus breaking the ceasefire provided in the Abidjan Peace Agreement. Their positions, notably in Mobai (Mandu Chiefdom), were attacked and they had to retreat to their base at Baiima.[751]

---

[749] No more information could be ascertained on these events.

[750] See, for example, AFP, 25 November 1996.

[751] Many press releases relate RUF statements in January condemning the Government of Sierra Leone as having "dashed aside" the Abidjan Peace Agreement: see, for example, AFP, 22 January 1997.



On 21 January 1997, Kamajors who were deployed in most previously RUF-controlled areas in the country proceeded further east in Kailahun District and retook Kailahun Town. Nevertheless, RUF forces managed to keep control in the furthest eastern area of the District in Kissi Teng, Kissi Tongi, Kissi Kama and parts of Luawa Chiefdoms. Buedu (Kissi Tongi) thereby became a headquarter base of the RUF.[752] On 20 February, Pendembu (Upper Bambara Chiefdom), now under SLA control, was attacked by RUF forces who were defeated by the SLA, who were reinforced by their colleagues from Daru (Jawie Chiefdom).[753] The killings of three RUF members, one SLA member and one civilian were reported.[754] Also in February, the SLA forces rescued some children, once conscripted by the RUF but then living in the bush unaccompanied and malnourished.[755]

Due to those skirmishes in the District between the SLA, Kamajors and RUF forces, the resettlement program put in place following the Abidjan Peace Agreement was stalled in Kailahun District. The demobilisation process had not even started, as United Nations observers were unable to deploy. Around 10 May, between 20 and 60 civilians were killed during an RUF attack on the border town of Bomaru (Upper Bambara Chiefdom), highlighting once more the deterioration of the security situation in the District and the country as a whole, as many attacks were reported for the same period in the Northern Districts.[756]

Thus, shortly before the events of 25 May 1997, the RUF forces were mainly controlling the far east of Kailahun District, even if skirmishes with SLA and Kamajors were reported in other parts of the country, in the Kangari Hills (south of Tonkolili District) and in some parts of Moyamba District.

Early 1997, following the signing of the Abidjan Peace Agreement on 30 November 1996, one of the people the RUF leader had sent to Freetown to represent him during the implementation of the peace process declared himself the interim leader after the RUF leader's arrest in Nigeria.[757] This declaration was unilateral and did not obtain the support of the RUF forces. During a visit to Kailahun District in April to hold meetings with the RUF forces, this self-proclaimed interim leader, together with other RUF members, was arrested and kept in custody by some of the most senior RUF commanders.

Following the overthrow of the Government on 25 May 1997, RUF forces came out of the bush and merged with AFRC forces. In early June, one senior RUF commander moved to Kenema Town with 300 of his men.[758] Shortly after RUF forces joined the AFRC forces, some of them went to Segbwema (Njaluahun Chiefdom) where they looted shops and stole property belonging to civilians

[752] Sierra Leone Humanitarian Situation Report 1-31 January 1997. This report was prepared by the Office of the United Nations Humanitarian Coordinator in Sierra Leone.

[753] Pendembu would be attacked again on 6 April and reports mention there were a lot of fatalities but no more details could be obtained.

[754] Sierra Leone Humanitarian Situation Report 1-28 February 1997. This report was prepared by the Office of the United Nations Humanitarian Coordinator in Sierra Leone

[755] See, for example, AFP, 4 March 1997.

[756] AFP, 15 May 1997 and Africa News, 26 May 1997.

[757] Philip Palmer announced his self-proclamation in a press release on 15 March 1997.

[758] Sierra Leone Humanitarian Situation Report 02 - 03 June1997 REG. NO. 97/0218

and to the ICRC.[759] However, few incidents were reported in the District for the period covering May 1997-February 1998, when ECOMOG forces ousted the RUF/AFRC from Freetown, as attention was mostly concentrated on Freetown, where 600 RUF members from Kailahun District were believed to have joined the AFRC members.

Further to this overthrow and the merging of RUF forces with AFRC forces, Kamajors from Penguia Chiefdom took the bush or went to Guinea, fearing to be killed by the RUF/AFRC forces who were chasing them.[760] It should be recalled that shortly after the events of 25 May, the AFRC leader had ordered the members of the CDF to lay down their arms and surrender to the nearest police station to be disbanded, an order most of the Kamajors did not obey.

After May 1997, and throughout 1998 and part of 1999, civilians in Yawei and Penguia Chiefdoms suffered constant harassment by RUF/AFRC forces. During these years, RUF/AFRC forces killed, raped, tortured, amputated limbs and burnt houses down, as a result of which, many of the inhabitants fled to Guinea. At Baraka (Yawei Chiefdom) for example, the RUF/AFRC forces unroofed many houses and took property, which was brought to their various bases. Innocent civilians were accused of hating the forces and killed as a result. Many civilians fled to Liberia and Guinea.[761]

A combined force of Guinean forces, SLA and CDF attacked and dislodged the RUF/AFRC forces in the towns of Bunumbu and Manowa.

In September 1997, Kamajors from Jawie Chiefdom successfully repelled RUF/AFRC forces from different areas of the chiefdom. Shortly after, two weeks after the start of their operation in September, the entire chiefdom was under Kamajor control. During these attacks, many RUF/AFRC forces were killed by the Kamajors. However, in December and during an attack they launched on Buedu (Kissi Tongi Chiefdom), 100 Kamajors were allegedly captured by RUF/AFRC forces[762] and brought to Kailahun Town (Luawa Chiefdom), an RUF/AFRC stronghold.

f) Events in 1998

On 8 February 1998, the President of Liberia reportedly visited RUF/AFRC forces in Kailahun Town (Luawa Chiefdom) to meet with the field commanders. A meeting was held at the Court Barrie, where he told the forces that produce from the District, particularly cocoa and coffee, must be transported to Liberia immediately to be sold for the procurement of weapons and other logistics for the fighting forces. He also spoke about disarmament and further warned all combatants not to disarm until they heard from him in Liberia. The supply routes for arms and ammunition coming from Liberia ran through Koindu (Kissi Teng Chiefdom) and Foya (Liberia) or Bomaru (Upper Bambara Chiefdom) and Vaahun (Liberia). When they needed ammunition, RUF forces would send a large vehicle with a top senior commander carrying some diamonds to the Liberian President. On

[759] It was earlier mentioned that a camp for displaced people was operational in Segbwema.

[760] It is reported that at the time of the May Coup, the SLA forces numbered 14,000 while the Kamajors were roughly 37,000 in number: AFP, 29 May 1997.

[761] No further details are available on events during this period.

[762] Xinhua News Agency, 29 December 1997.

their way back to Sierra Leone, they were escorted by Liberian security officers and had documents similar to clearance papers that would allow them to reach Kailahun District without encountering any problems. From Kailahun District, the arms and ammunition were distributed and dispatched to other places. The construction of an airfield at Buedu (Kissi Tongi Chiefdom) was also begun, made feasible due to the increased numbers of the RUF forces, particularly the civilians they had taken with them when they retreated from Freetown. However, due to persistent air raids conducted by ECOMOG, the construction stopped.

After being pulled out from Freetown, a lot of AFRC members went to Vaahun in Liberia through Bomaru (Upper Bambara Chiefdom) while the majority of the RUF forces took back the bush, which they were used to due to having conducted warfare there from 1994 to 1997, unlike the AFRC forces. When they left Freetown, the retreating forces could not take many things with them, which led to their searching civilians in Kailahun District and taking their property. "Operation Pay Yourself", meaning take what you need from civilians, was declared in the whole country but there is little direct information on its implementation in Kailahun District. Nevertheless, when they came back from Freetown, RUF and AFRC forces engaged in killing, raping and, above all, looting actions, which prompted a lot of civilians and especially those in Upper Bambara Chiefdom to leave their farms and to go to Liberia. However, RUF/AFRC forces captured civilians whom they forced to work, to go in search for food and to dig holes on the main road of the chiefdom to prevent ECOMOG forces from advancing with their armoured tanks.

In Kailahun Town (Luawa Chiefdom), the then Chief Security Officer (CSO) of the RUF invited all returnees to a meeting in which he encouraged the CDF to identify themselves so they might broker peaceful co-existence with the RUF/AFRC forces in the township. Seventy-six Kamajors identified themselves to the RUF/AFRC forces in response to the appeal and the CSO told them that they were "brothers" and that they would work together to rebuild Luawa Chiefdom. However, the CSO then ordered his forces to arrest and detain the Kamajors. The CSO set up a court in which the Kamajors appeared, summary investigations were carried out by the RUF commander appointed as chairman of the court and his verdict was that they should all be released and handed over to their family who would sign for them. While this verdict appeared to be accepted, the CSO nevertheless ordered that those Kamajors should be kept in jail and their families authorised to come and visit them. This continued for few days, until two senior RUF commanders and other RUF members arrived in town. One of the senior RUF officers killed ten of the Kamajors and ordered his men to kill the other Kamajors still being held captive. Three days later, the CSO gathered people in the town and stated that those Kamajors were Government spies and had been preparing to launch an attack on the chiefdom. He ordered the burial of the bodies in two holes behind the police station.

Throughout 1998, Bunumbu (south-east of Luawa Chiefdom) was the main training base for RUF/AFRC forces.[765] This base was most likely set up in April following the establishment of the War Office at Buedu (Kissi Tongi Chiefdom) as RUF forces needed more manpower.

[765] In 1999, after RUF/AFRC forces captured Koidu (Gbense Chiefdom, Kono District Headquarter), the training base was moved to Yengema (Kono District).



In March 1998, CDF forces and a Nigerian contingent of ECOMOG from Kenema District came to Daru (Jawie Chiefdom) through Segbwema (Njaluahun Chiefdom),[764] supported by alpha jets and each fighting faction led by a different commander. One civilian was killed at the centre of the market area by one of the bombs launched from the airplane. On their arrival, the CDF and ECOMOG forces engaged in battle with the RUF/AFRC forces. Civilians were killed during the crossfire and houses suspected of belonging to RUF/AFRC family members were set on fire by the Kamajors. Throughout their deployment and attacks on RUF/AFRC positions in the District, ECOMOG and CDF forces would use missiles and other long-range artillery, sometimes missing their targets and destroying property and killing civilians. In Kissi Tongi Chiefdom[765] during the course of the raids, civilians were killed and property destroyed by the bombs dropped by the ECOMOG jets.[766]

In early March, ECOMOG and CDF forces fell into an ambush two miles from Bunumbu (Peje West Chiefdom) while on their way to recapture Macca Kpakpeibu (Yawei Chiefdom). In this ambush, some of them were seriously injured and the ECOMOG forces lost one armoured car, which was burnt, four machine guns and a truck loaded with arms and ammunition.

The ECOMOG forces assisted the Kamajors' further advances into the District and on 12 May, launched two attacks on Koindu (Kissi Teng Chiefdom) and Buedu (Kissi Tongi Chiefdom),[767] killing over 150 RUF/AFRC supporters.[768] From there, they then proceeded to capture Kailahun Town, although their progress was slowed by the thick forest surrounding the town. Thus, by 20 May 1998, ECOMOG forces would claim to control Daru (Jawie Chiefdom), Segbwema (Njaluahun Chiefdom), Pendembu (Upper Bambara Chiefdom), Mobai (Mandu Chiefdom), Kailahun Town (Luawa Chiefdom), Buedu (Kissi Tongi Chiefdom) and Koindu (Kissi Teng Chiefdom).[769] However, those attacks did not free the District from RUF/AFRC presence and throughout 1998, Kailahun District would still be qualified as their stronghold in the media. Due to this intense fighting, thousands of civilians fled the area and found refuge in Liberia (Lofa County) and Guinea (Gueckedou region, Parrot Beak).[770]

---

[764] In February 1998, ECOMOG forces deployed in Kenema Town (Nongowa Chiefdom, Kenema District) advanced further in Kenema and Kailahun Districts. On 22 March, two ECOMOG battalions left the Freetown Peninsula to reinforce the contingent already deployed at Daru and to prepare the assault on Kailahun Town: Sierra Leone Humanitarian Situation Report 10 - 30 March 1998. REG. NO. 98/0031. In the same report, it was also revealed that a lot of "ex-junta" men surrendered to ECOMOG forces. In this context, "Junta" probably refers only to the members of the AFRC and not to the RUF forces.

[765] Kissi Tongi Chiefdom would remain under RUF/AFRC control until disarmament started in 2001.

[766] The date of this (these) bombing(s) could not be ascertained.

[767] AFP, 12 May 1998.

[768] No more information could be obtained on these killings.

[769] AFP, 20 May 1998.

[770] Between March and June, 237,000 Sierra Leoneans fled the country to Liberia and Guinea and over 50,000 IDPs were living in camps: UN News Archive, 26 June 1998. Since the ECOMOG intervention in February, it was believed that 27,000 IDPs were leaving in the Eastern Province (Kailahun, Kenema and Kono Districts) and 113,000 in the Northern Province while there were no new displacements in the Southern Province. Sierra Leone Humanitarian Situation Report, 9 June – 6 July 1998. REG. NO. 98/0068.

After the reinstatement of the President of Sierra Leone in March 1998, more men from the District, many of whom had found refuge in Guinea, were initiated in the Kamajor society. Some from Penguia Chiefdom went to Bo Town (Kakua Chiefdom, Bo District) for the initiation. Kamajors from Penguia Chiefdom were successful in repelling the RUF/AFRC forces from some sections of the chiefdom as far as the Moa River (south-east of the chiefdom) but the RUF/AFRC forces regrouped and retook control of some areas previously held by Kamajors, including Sengema, Kumantandu, Sandaru, Lalehun and Bagibu. The RUF/AFRC established themselves in particular in the Nimmi Hills, an area rich in gold mines. Sengema became their base in the chiefdom, as it is located on a hill. Raping, looting and the unroofing of houses was common in 1998 and the commander in charge of the area was ordered by the Battle Field Commander not to have mercy for civilians who did not support them. On one occasion and following a meeting organised at Woroma by the RUF/AFRC commander in the chiefdom, eight men and four women accused of being supporters of the Government of Sierra Leone were killed and burnt by the RUF/AFRC forces, which led civilians once again to flee to Guinea. However, shortly afterwards in June, the commander ordered to his men to kill any civilian caught attempting to cross the Moa River or the Mennu River to go to Guinea. Some civilians were therefore killed and some of them drowned in the rivers, which were swollen due to the rainy season. Furthermore, another order passed by this commander was for his men to check for tattoos on the men's bodies, as this would be proof of belonging to the Kamajor society. Besides pursuing RUF/AFRC positions, the Kamajors in Penguia Chiefdom chased and killed those they suspected of being "rebel" collaborators.[771] Kamajors from Peje West and Peje Bongre Chiefdoms were also attacking RUF/AFRC forces in their chiefdoms.

The town of Neama (south of Jawie Chiefdom, near the border with Kenema District) was considered a safe place where many civilians from the surrounding chiefdoms were seeking refuge. The town was under the command of the CDF and was an important ECOMOG and CDF base. RUF forces attacked the town and over 300 civilians were killed; it took three days to bury them in mass graves.

When the chairman of the AFRC and his government were driven out of Freetown by the ECOMOG forces, he sought temporarily refuge in Kangama town[772] (Kissi Teng Chiefdom), four miles from Buedu (Kissi Tongi Chiefdom), the headquarter of RUF/AFRC. Indeed, Buedu in 1998 became the War Office[773] and a very important centre for supply routes, smuggling of produce and diamonds and for training. All these activities became rampant throughout the year and enabled the RUF/AFRC forces to strengthen their positions and strongholds in the entire District. The War Office was the administrative headquarters where all the operational orders were given and throughout 1998 to 2001, all the important meetings for the top ranking commanders took place there. There was only one War Office and the other headquarters were subsidiary to that office. During this time, a lot of civilians were tortured, raped, killed and conscripted into the fighting

[771] No specific incident was recalled on this information.

[772] He was seen during the same period in Kono District, en route to Kailahun District.

[773] Although ECOMOG forces claimed to have recaptured Buedu in 1998, it is clear from the records and other open source materials that the war office was open in Buedu at the latest in April 1998. Accordingly, either ECOMOG forces attacked but did not capture the town or captured the town only for a short period of time.

forces. Also children under 15 were conscripted,[774] as the forces were increasing their number not only to resist and fight ECOMOG and CDF forces but also in preparation for the planned attack on Freetown.[775] On one occasion that probably took place in April, the senior RUF officer in charge of the War Office at Buedu brought back about 100 machine guns from Liberia.

Kailahun Town and the Geima camp became important training bases for the RUF/AFRC.[776] RUF commanders regularly shuttled between Kono District and the rest of the deployment areas in Kailahun District and were able to procure more weapons from Liberia. Weapons were stored at Foindu (Peje Bongre Chiefdom) with the aim of engaging in simultaneous attacks on Bunumbu, Segbwema and Daru. Mamboma (Peje Bongre Chiefdom) was the identified base for the attacks. Main RUF/AFRC positions in the District included Pendembu (Upper Bambara Chiefdom), Kuiva (Mandu Chiefdom) and Geima (Luawa Chiefdom).

Throughout 1998 and 1999, until peace talks started, the RUF/AFRC launched several unsuccessful attacks on the ECOMOG/CDF forces based at Daru, often surrounding the town. One of these attacks took place on 25 May 1998 but no fatalities were reported. The commander of the Kamajors admonished his men not to loot houses in Daru, but his order was defied as Kamajors engaged in much stealing in the township.[777] Furthermore, the Kamajors recruited children to be initiated into their society to fight the RUF/AFRC forces still in the east of the District.[778]

Besides their attack on Daru (Jawie Chiefdom) the RUF/AFRC forces assaulted ECOMOG and CDF positions in different places in the District, including Bunumbu (Peje West Chiefdom) and Benduma (Jawie Chiefdom).

During the second half of the year, ECOMOG successes in the District appeared to have come to a halt and to be hampered by the RUF/AFRC activities. In September, the ECOMOG spokesman stated that they needed at least 2,000 more troops, "real fighters, as well as logistical support" to put an end to the conflict.[779] However, massive ECOMOG air raids in the District killed a lot of RUF/AFRC members in November in Pendembu, Kuiva and Geima. Furthermore, according to ECOMOG forces, they attacked and killed many RUF/AFRC forces in villages on the border with Liberia in November and December.

---

[774] No specific dated incident could be obtained, apart from this information of a general nature.

[775] It should be recalled that when they were ousted from Freetown in February 1998, the RUF/AFRC stated that they would return.

[776] It seems that ECOMOG and CDF forces did not succeed in capturing Kailahun Town during their attack in May.

[777] No more information could be obtained on these events.

[778] According to a Kamajor field commander quoted in an IPS press release on 29 June 1998, Kamajors "have 3,000 child Kamajors... These kids are very brave on the frontline... children are unadulterated and ... they follow the laws governing the conduct of the militia like abstinence from sex, drugs and looting when in combat... We don't trust adults quite (as) much because many have breached the rules governing our militia group and so they get killed by the enemy."

[779] See, for example, AFP, 30 September 1998.

On 30 December 1998, the RUF/AFRC forces launched an attack on the combined forces of ECOMOG and CDF based in Segbwema[780] (Njaluahun Chiefdom), where they battled for over nine hours, during which a lot of civilians were killed and houses were set on fire by the RUF/AFRC forces. The RUF/AFRC forces captured the town and established a base there. Apparently this was a strategic plan by the RUF/AFRC forces to cut off ECOMOG forces based at Daru and so prevent them from undertaking any counter attack while they were heading for other Districts and the capital.[781] Furthermore, it allowed further advances towards Kenema Town (Nongowa Chiefdom, Kenema District), which would be attacked in early March 1999.

g) Events in 1999

In 1999, the population of Kailahun District was cut off from the reach of Kenema District despite ECOMOG deployment at Daru (Jawie Chiefdom).[782]

The strategic town of Segbwema (Njaluahun Chiefdom) became a battlefront for the greater part of 1999. On 6 April, CDF troops from Kenema District unsuccessfully attacked the RUF/AFRC positions there, during which one RUF/AFRC member was killed.

Two days before the ceasefire provided for in the Lomé Peace Agreement on 7 July 1999, a massive RUF/AFRC group attacked the Moa Barracks, Daru (Jawie Chiefdom), without being able to dislodge the ECOMOG forces who had been based there since March 1998.

On 17 July 1999, CDF forces planned an attack on an RUF/AFRC position at Daru Junction (Jawie Chiefdom). On their way, they fell into an RUF/AFRC ambush and three Kamajors were killed. The CDF forces were, however, successful in capturing Daru Junction, where they made a temporary base. RUF/AFRC forces launched an attack on this base on 29 September 1999. They succeeded in dislodging the CDF, who again launched a further attack on Segbwema, but were once again unsuccessful. During their withdrawal, a lot of Kamajors as well as civilians were killed by the RUF/AFRC forces. At this time, Pendembu, Kailahun Town and Buedu were the RUF/AFRC main bases in the District.

In August at the War Office in Buedu (Kissi Tongi Chiefdom), a senior RUF commander sent one of his subordinates to Liberia to bring back all the AFRC members to Buedu[783] so that an arrangement could be made to launch an attack on ECOMOG positions. While he was there, a woman came from Liberia and informed the commander that she had seen his subordinate at the ECOMOG base in Monrovia. On his return, the subordinate was arrested and tortured at Buedu

[780] Segbwema is located on a strategic position in Kailahun District, as it allows for further advances inland towards Kenema District. It is almost a compulsory point of passage as there is only one other road to leave Kailahun District through Manowa Junction (Peje West Chiefdom). However, this road leads to Kono District while the Segbwema road leads to Kenema District and accordingly puts Freetown within much closer reach.

[781] This information has to be read in conjunction with what happened in December 1998 in Kono, Bombali, Magburaka and Tonkolili Districts and in Freetown on 6 January 1999.

[782] It could not be ascertained whether ECOMOG deployed in other towns, although it is known that from Daru, they were launching long-range missiles up to Kissi Tongi Chiefdom.

[783] Following the ECOMOG intervention in Freetown, while some AFRC members dispatched in the provinces, others went to Liberia.

until he explained the purpose of his visit to the ECOMOG base. The subordinate denied having visited the ECOMOG base in Monrovia and he further stated that if anyone had given such information about him it was false. He even went on to say that if that were true he would not have come with over 100 AFRC members to Buedu from Liberia. His defence never convinced his commander, who eventually killed him.

In mid October, RUF forces captured personnel of the World Health Organisation (WHO) who were on a vaccination mission in Segbwema. At that time, even if Segbwema was still a RUF stronghold, no major security threat was perceived, as illustrated in the report of the interagency humanitarian assessment mission that took place in the District between 29 September and 1 October. In this report, it was stated that "relief agencies can now move into [towns assessed by the team in the District] provided that prior information on their itineraries is made available to the Organisation for the Survival of Mankind (OSM) leadership", which was the humanitarian wing of the RUF, based at Buedu (Kissi Tongi Chiefdom).[784]

Also in October, the RUF leader went to Buedu (Kissi Tongi Chiefdom) to exhort his troops to disarm, accompanied by members of ECOMOG and the United Nations Observation Mission in Sierra Leone (UNOMSIL).[785] This visit was part of a general tour throughout the country. By the end of the month, however, hundreds of RUF members led by one senior RUF commander left the District and went to Makeni (Bombali District), where an internal fight, most likely of a personal nature, took place with the AFRC forces based there.[786] This event took place almost at the same time as the first UN peacekeepers arrived at Lungi, the international airport, marking the first step of their country-wide deployment.

Immediately after the RUF leader left Buedu, the Battle Field Commander and second in command to the RUF leader based at Buedu convened a meeting in Buedu and Kailahun Town to which he invited all the RUF vanguards, namely those who were trained in Liberia before the start of the conflict in 1991. At those meetings, he openly challenged the orders of the RUF leader and requested his men not to disarm to the Nigerian-led ECOMOG forces they had been fighting for almost a decade.[787] He further claimed that as the Battle Field Commander, he was the only one that could order disarmament and not the RUF leader. He sent the Chief Security Officer and his bodyguard to Liberia to secure more weapons and when this officer came back, he sent him with loyal troops, mostly vanguards, to persuade the RUF members not to disarm. Furthermore, in early December, two Médecins Sans Frontières (MSF) workers were abducted by RUF forces in the District, in a bid to focus the attention of the international community on the disagreement of RUF forces with the DDR process. The NGO workers were released two weeks later, unharmed.[788]

---

[784] IRIN West Africa, 15 October 1999.

[785] The peacekeeping operation was established by UN Resolution 1181 on 13 July 1998 to monitor the military and security situation in the country; the UNOMSIL mission initially had a six-month term, which was extended.

[786] IRIN West Africa, 29 October 1999.

[787] He notably gave an interview to the BBC on 30 November 1999.

[788] IRIN West Africa, 16 December 1999.

The RUF men sent by the Battle Field Commander went to Pendembu, a brigade headquarter, and to Segbwema, having been requested by the Battle Field Commander to appoint new commanders in these towns that were loyal to him. At Segbwema, following the arrest of one RUF member caught trying to send a message to the RUF leader, the Battle Field Commander gave the order to arrest all the officers loyal to the RUF leader and to destroy two bridges on the way to Kono District. Those orders were never carried out as, in the meanwhile, the RUF leader ordered the arrest of those men sent by the Battle Field Commander. Those men were tied up, tortured and taken to Koakuima, the second brigade headquarter in Kono District. The RUF leader also ordered the arrest of the Battle Field Commander. However, on hearing his men had been arrested and that the RUF leader had given an order for his arrest to another senior RUF officer,[789] the Battle Field Commander fled to Liberia with his family and 200 RUF members.

On 20 December, the CDF forces launched another attack on Segbwema. They received support from the ECOMOG forces based in Daru who sent their alpha jet to bomb RUF positions. This attack was again unsuccessful, as was another one that took place on 25 December, following which the CDF forces retreated to Kenema District. Two days after this last attack, CDF from Kenema District went to Fola village (Njaluahun Chiefdom) in the hope of attacking the RUF/AFRC position in Segbwema. At Fola, ceremonies were performed to enable the troops to capture Segbwema. The CDF troops fell into an ambush close to Segbwema, where one Kamajor was killed, but they continued nevertheless and launched a fierce attack on Segbwema. During this attack, which was eventually unsuccessful for the Kamajors who went back to Kenema District, a lot of houses were destroyed during the crossfire. The CDF, however, were successful in capturing the town of Pendembu Njegbla (Njaluahun Chiefdom) and made a base there.

In late December 1999 or early January 2000, the first UNAMSIL troops - part of the Ghanaian battalion, also deployed in Bo and Kenema Towns - were sent from Freetown to Daru Barracks.

b) 2000 and 2001

The demobilisation, disarmament and reintegration (DDR) of the estimated 45,000 combatants in the country was slower than had been envisaged at the launch of the DDR program on 20 October 1999.[790] For Kailahun District, where the DDR camp was located at Daru, the RUF leader stated that the slow process was due to the lack of the necessary structures, namely no ceasefire committees and no logistics.[791]

In early January, the RUF commander in Makeni mobilised his fighting forces and went to Buedu to attack and arrest the RUF Battle Field Commander. However, the Battle Field Commander was nowhere to be found as he had earlier left for Liberia with his loyal troops, his bodyguards, some civilians and a lot of property, including FM radio broadcasting equipment, radio communication sets, computers, fax machines, arms and ammunition. A large number of civilians were maltreated and killed by the RUF commander who came to Buedu at this time.

---

[789] This senior RUF officer was going to be the next Battle Field Commander.

[790] It should be noted that the start of the DDR program had already been delayed since it was meant to take place within six weeks of the signing of the Lomé Peace Agreement, i.e. by 18 August 1999.

[791] IRIN West Africa, 31 January 2000.

In March 2000, the position of the RUF leader towards the DDR program changed, as far from appealing his men to disarm as he had done in late 1999, he stated that he would not order his men to disarm unless the other fighting forces simultaneously disarmed.[792] However, soon after, 2,000 UNAMSIL peacekeepers from the Indian Battalion known as INDBATT, arrived in Kailahun Town with six unarmed military observers (MILOBS).[793] Both RUF members and civilians in the town warmly welcomed this group.[794] Within a short time, the troops had proved to be very friendly to the people of the township, engaging themselves in various activities.

Some Sierra Leoneans who had found refuge in the Parrot Beak area in Guinea returned to Daru (Jawie Chiefdom) where UNAMSIL was deployed. They were registered and screened at the entry points by the CDF, the Kailahun District Development Foundation (KADDF) and an international NGO.[795]

In early April, UNAMSIL personnel engaged in speeding up the disarmament process, together with the RUF leader, a representative of the ex-AFRC leader and other personalities went to Segbwema (Njaluahun Chiefdom).[796] However, on 3 May 2000, a UN helicopter and its crew were captured by RUF forces in the District. This abduction of UN troops was not isolated, as at the same moment, UNAMSIL personnel were seized at Makeni (Bombali District) and a 23 man-unit was surrounded at Kuiva (Mandu Chiefdom).[797] Although the helicopter and its crew were released shortly after, the rate of UNAMSIL forces' abduction grew, with over 300 estimated abductions by 5 May 2000.

Within Kailahun District, the UNAMSIL troops, including their commanders, were prevented from moving outside their compound in Kailahun Town following an order from the RUF's Chief Security Officer.[798] All their vehicles and all other property were taken and conveyed to Geima (Luawa Chiefdom). The Chief Security Officer also ordered the arrest of the MILOBS in Geima. All of their property was taken and they were conveyed to the District barracks in Kailahun Town (Luawa Chiefdom) and were then brought to the UNAMSIL compound. The RUF Chief Security Officer also stopped the UN helicopter from bringing food and other logistics for the peacekeepers and instructed the Indian commander of the peacekeepers deployed at Daru to bring food for the prisoners by road. The situation of the 224 Indian peacekeepers and 11 MILOBS was similar to their colleagues at Kuiva (Mandu Chiefdom) as none of these groups was allowed free movement and were surrounded by RUF forces. They were supplied with food coming by truck from Daru (Jawie Chiefdom) but on various occasions, the RUF allowed only half of the load to be supplied or none

---

792 IRIN West Africa, 16 March 2000.

793 It took more than one attempt for the UNAMSIL troops to reach the town as in early March they were stopped by RUF forces on their way to the town.

794 It was not clear why the RUF forces were happy to see UNAMSIL.

795 Sierra Leone Humanitarian Situation Report 11 – 31 March 2001.

796 On 3 April, nearly 22,000 combatants were disarmed, out of the total estimated 45,000 combatants, according to the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR): IRIN West Africa, 11 April 2000.

797 IRIN West Africa, 4 May 2000.

798 Others peacekeepers were also captured in May in different places across the country, in Kambia, Bombali and Tonkolili Districts.

at all. On 29 June, the UN troops from Kuiva were released and transferred to Monrovia before being airlifted to Freetown, their arms and ammunition being kept by the RUF forces.

UNAMSIL engaged in diplomatic and political negotiations for the release of its personnel but as those negotiations failed, around 15 July 2000, UNAMSIL helicopters bombarded the RUF position in Kailahun Town. The sound of those bombardments could be heard all over Luawa Chiefdom and beyond. During this aerial attack, the peacekeepers and MILOBS pulled out of Kailahun Town with their weapons, some being airlifted, the majority going on foot to Pendembu (Upper Bambara Chiefdom), some unarmed but with air protection from helicopters. On their way to Pendembu, they were engaged by RUF forces who also fired at the helicopters. Two members of the UNAMSIL Indian Special Forces team and seven of the released members were injured while the RUF forces suffered heavy fatalities in Pendembu and Kailahun Town. The helicopter gunship afterwards made frequent trips to view the areas in and around Kailahun. Following this rescue events and the resulting fighting, nearly 5,000 civilians from the surrounding area fled to Daru.

Following the rescue of the UNAMSIL personnel, the disarmament process resumed at Daru (Jawie Chiefdom), one of the two operational DDR camps in the country,[799] but on a lower scale, as RUF activities were still being reported in the District. For example, although they had signed a recent agreement with the CDF forces to allow commercial trucks to use the Kenema-Daru road, in early August RUF forces captured three trucks and three taxis at Segbwema.[800]

Starting in September 2000, RUF forces were seriously engaged in cross-border attacks into Guinea, in the area known as the Parrot Beak in the east and at the border with Kambia District in the north. As a result of those attacks, Sierra Leoneans who had found refuge in Guinea returned to Sierra Leone and to Kailahun District; between February and April 2001, around 12,500 people arrived in Daru on foot.[801] In addition, some Guinean troops set up positions inside the territory of Sierra Leone to protect the Guinean border, notably in Kissi Teng Chiefdom. Furthermore, at this time Kailahun District became widely affected by the renewed hostilities in Liberia.[802]

As RUF forces still controlled areas in the District, a one-month ceasefire was signed on 10 November, known as Abuja Cease-Fire, thereby reactivating the disarmament process, which had been interrupted following the events of May 2000. Its main provision was the disarmament of the RUF forces and the deployment of UNAMSIL troops in RUF-held areas.[803]

In mid March 2001, UNAMSIL peacekeepers conducted a patrol to Kailahun Town, the first since the rescue operation the previous year. They left from Daru and on their way to Kailahun Town, passed by the RUF-held towns of Kuiva, Moiba (Mandu Chiefdom) and Pendembu (Upper Bambara Chiefdom), where they met with the RUF commanders and "secured their firm

[799] The other camp was in Lungi (Port Loko District).
[800] IRIN West Africa, 10 August 2000.
[801] IRIN West Africa, 25 April 2001.
[802] Since 1998, fighting resumed in Liberia with the Liberians United for Reconciliation and Democracy (LURD) fighting to overthrow the Liberian Head of State
[803] Sierra Leone Humanitarian Situation Report 14 November - 6 December 2000.

commitment towards collaboration with UNAMSIL".[304] At Kailahun Town, they met with the RUF High Command and raised issues concerning the deployment of UNAMSIL personnel, including the freedom of movement of UNAMSIL patrols and the opening of the Daru-Kailahun road. Around 19 April, UNAMSIL troops eventually deployed in some RUF-held areas and dispatched regular patrols to Kailahun Town.[305]

In early 2001, clashes between the CDF and the RUF/AFRC forces persisted along the Yawei Chiefdom bordering Gandorhun Chiefdom (Kono District). At one point in April or May, a group of CDF from Guinea[306] who had earlier captured towns in the Penguia Chiefdom proceeded to attack Manowa and Bunumbu to cut the RUF/AFRC forces off from Kono District.

A meeting between the RUF, the Government of Sierra Leone, UN representatives and the ECOWAS Mediation and Security Council to review the cease-fire signed on 10 November 2000 was convened on 4 May 2001, again in Abuja, Nigeria. The main points of concern related to the acceleration of the demobilisation, disarmament and reintegration of the remaining RUF forces, the release of child combatants and the freedom of movement of persons. Furthermore, during a meeting between the Government of Sierra Leone and the RUF on 15 May at UNAMSIL headquarters in Freetown, both parties agreed to consider the establishment of a DDR camp in Kailahun Town.[307] During the following weeks, an official disarmament ceremony including the release of children was held in the District. In October 2001, during a meeting of the Joint Committee on Disarmament, Demobilisation and Reintegration (DDR), comprised of the Government of Sierra Leone, UNAMSIL and the RUF, the Government of Sierra Leone and the RUF agreed on a schedule for the completion of the disarmament process. This accelerated disarmament was to take place in Kailahun District between 15 and 30 November 2001.[308]

Following fresh negotiations with the RUF, 170 peacekeepers from the Pakistani Battalion (PAKBATT II) were deployed in the District on 26 October; shortly after, the main body of 800 men was airlifted to the District.[309] Both in Kailahun and Kenema Districts, the disarmament, which stalled for three weeks, began in earnest around 10 December. Since the third phase of disarmament started in May 2001, the figures of the disarmament process by mid December were as follows: a total of 37,654 combatants had disarmed, among them 12,546 RUF, 24,699 CDF and 400 Others. In Kailahun, 2,936 combatants had disarmed: 1,994 RUF and 942 CDF.

---

[304] UNAMSIL press briefing, 16 March 2001.

[305] Sierra Leone Humanitarian Situation Report 01 - 19 April 2001.

[306] In late March 2001, Kamajors coming mostly from Kono District who had found refuge in Guinean refugee camps and were armed by the Guinean authorities launched simultaneous attacks in Kono District and in the north of Kailahun District. Accordingly, this action in Kailahun District has to be read in the light of the factual analysis for Kono District during this period.

[307] UNAMSIL press release, 15 May 2001.

[308] The schedule for the completion of the disarmament was agreed as follows: Koinadugu and Moyamba Districts by 22 October; Bo and Bombali Districts by 31 October; Western Area between 1-7 November; Pujehun and Tonkolili Districts between 1-15 November; and Kenema District between 15-30 November: IRIN West Africa, 12 October 2001.

[309] With the deployment in November of Nepalese peacekeepers in Moyamba District, the UNAMSIL mission reached its authorised ceiling of 17,500 troops: IRIN West Africa, 20 November 2001.



The PAKBATT II contingent sensitised the RUF forces on the urgent need for peace in the country and encouraged them to disarm. The attitude of the peacekeepers made civilians and RUF members become very friendly and cooperative. However, a senior RUF commander sent instructions that the fighters of Luawa Chiefdom, indeed the whole of Kailahun District, should not disarm until the arrival of their leader. This instruction was never obeyed as even the Chief Security Officer did not stop anybody from disarming. Those who disarmed were protected and looked after of by the peacekeepers. The senior RUF commander later visited Kailahun District in early December together with the UNAMSIL force commander and the formal order for disarmament was issued.

The disarmament process successfully continued in the District until early January 2002; on 11 January 2002, senior RUF commanders symbolically turned in their weapons to the Force Commander of UNAMSIL in Kailahun District. The eighth and final tripartite meeting between UNAMSIL, the RUF and the Government of Sierra Leone took place on 17 January 2002: "Both groups called for the extension of government authority throughout the country, the reintegration of fighters back into society and they supported the on-going Community Arms Collection and Destruction Programme. They appealed for the international community to continue its support to the DDR." [810]

3. Conclusion

The first batch of RUF forces, at that time fighting alongside the NPFL, entered the District through the two motorable roads that link the District to Liberia and the last RUF members were disarmed in early January 2002. Kailahun District was the only District where RUF forces, first with the NPFL, then alone and subsequently with the AFRC, established strong positions throughout the war. They were never completely repelled outside the boundaries of the District.

The first major incursion into Sierra Leone was carried out concurrently in Kailahun and Pujehun Districts, where the main roads between Liberia and Sierra Leone are located. The headquarters of the RUF/NPFL were established in Kailahun District from the beginning of the conflict and remained in the District throughout the conflict, although defensive headquarters were opened in Makeni and Kono, as the RUF/AFRC controlled these areas, making Kailahun District the RUF stronghold.

During the first years of the conflict, the RUF/NPFL forces directly engaged the SLA forces but never succeeded in dislodging them from their strategic position in Daru. These years were marked by the initial progression of the RUF/NPFL throughout the District, which was later halted by the SLA. Attacks and counter attacks from both sides made it difficult to have a clear picture of who was in control of any given area. However, the main SLA victory took place in late 1993, at which time they confined the RUF forces to the extreme east. This SLA progression led the NPRC Chairman to declare a unilateral ceasefire on 1 December 1993.

[810] Sierra Leone: Humanitarian Situation Report 1- 31 January 2002.

This ceasefire was soon violated, when in March 1994, RUF forces, alone this time as the NPFL had earlier withdrawn to Liberia to defend their positions in the Liberian conflict, changed their military tactic to that of guerrilla warfare and began retaking positions from the SLA. Shortly before that, in December 1993, the RUF forces had launched a massive and successful offensive in the south-east of Kenema District and by March 1994, were scattered throughout the Kenema District. In 1994 also, the south-east flank of Pujehun was clearly reopened and RUF forces spread across the District. This new development of the conflict left the three bordering Districts almost under RUF control and allowed further incursions in the rest of the country. The scale of this second wave was acknowledged by the NPRC Chairman himself, who declared "total war against the rebels". By 1995, all the Districts of the country were directly affected by the RUF incursions.

From 1996 onwards, Kamajors emerged and fought the RUF and later the RUF/AFRC forces in the District. Although they retook control of some RUF-held areas, they never succeeded in taking control of the whole District.

Following the merging of the RUF with the AFRC forces, those CDF members, as in other Districts of the country, went underground before challenging the RUF/AFRC positions by late 1997 but particularly in 1998, following the ECOMOG deployment in Daru. As in 1998, Kamajors were in total control of Pujehun District and the Southern Province in general, thereby cutting off one of the supply roads from Liberia, although not the main one, which was through Koindu (Kissi Teng Chiefdom) in the north-east of Kailahun District. This strong grip over the Southern Province and especially over the Freetown-Kenema and Freetown-Pujehun highways blocked the retreating RUF/AFRC forces from Freetown, preventing them to go to Liberia through Pujehun District and forcing them to reach Kailahun District through Kono District.

RUF/AFRC forces had control over certain areas of Kailahun District, mainly in the north-east of the Moa River and continued engaging the Kamajors, who at that time were assisted by ECOMOG forces. Around this time, many RUF/AFRC forces had regrouped in the District before launching their offensive on Koidu (Kono District) in December 1998. As part of this massive operation, which ended in Freetown on 6 January 1999, RUF/AFRC forces retook position of Segbwema, a strategic town on the main road to Kenema District thus blocking ECOMOG at Daru.

The period following the invasion of Freetown was mainly characterised by political negotiations and reached its conclusion by the signing of the Lomé Peace Agreement on 7 July 1999. Although the RUF leader exhorted his members in the District to disarm, a senior RUF officer, then Battle Field Commander and CDS categorically refused and engaged in actions to put a stop to the disarmament process. RUF forces furthermore engaged in cross border raids in the Parrot Beak in Guinea. This action was not isolated as another Guinean flank was open in Kambia District. The peace process was reactivated in November 2000 but more than one year was necessary to complete the disarmament in the District and to declare the war over in January 2002. Kailahun was amongst the last Districts to be disarmed.

b. Kenema District

1. Introduction

Kenema District is one of the three Districts composing the Eastern Province, together with Kailahun and Kono Districts. It is bordered on the north by Tonkolili District and, mainly, by Kono District, on the east by Kailahun District, on the southeast by Liberia, on the south-west by Pujehun and on the west by Bo District. Its headquarter town is Kenema Town in Nongowa Chiefdom, in the centre of the District. Kenema Town is located on the highway that goes to Koidu (Kono District Headquarter) in one direction and to Bo Town (Bo District Headquarter) and further on to Freetown in the other direction. As in the other Districts of the country, control of the highway was of fundamental importance as it is the only way to bring necessary daily items for civilians in the District.

There are 16 chiefdoms in the District:

Chiefdom	Headquarter
Dama	Giema
Dodo	Dodo
Gaura	Joru
Gorama Mende	Tongi
Kandu Leppeama	Gbando
Koya	Baoma
Langrama	Ya Baima
Lower Bamabara	Panguma
Malegowuin	Sembehun
Niawa	Sendumei
Nomo	Faama
Nongowa	Kenema
Simbaru	Boajibu
Small Bo	Blama
Tunkia	Gorahun
Wandor	Faala

The Moa River, which takes its source in the ocean in the south of Pujehun District, flows through the southern parts of Kenema District (Koya and Dama Chiefdoms). The Sewa River, coming from Bonthe and Bo Districts, reaches Kenema District in the central east in Kandu Leppeama Chiefdom and continues towards the north, reaching Kono District through Simbaru, Wandor and Gorama Mende Chiefdoms. On its eastern edge, at the border with Liberia, Kenema District is bordered by the Golan Forest.

After Kono District, Kenema District is one of the most important diamond mining areas of the country. The main diamond area, Tongo Field, is to be found in Lower Bambara Chiefdom, but other chiefdoms are also mainly mining areas, such as Kandu Leppeama and Gorama Mende Chiefdoms.

Kenema District was affected by the conflict through three discernible phases. During the first phase, which encompassed 1991 to the end of 1993, Kenema District was attacked by RUF/NPFL forces coming from the south and the east. This phase was marked by widespread violations committed primarily by RUF/NPFL forces, but also by SLA forces. Initially, in the south, there was little resistance put up by the SLA, who were also inflicting violence and terror on the population as part of their "screening" of the population for "rebels". However, towards the middle of 1992, the SLA regrouped and mostly drove the RUF/NPFL forces from their positions back towards Liberia. In the east, the fighting and infliction of violence and terror on the population was more intense, in part because there was a greater concentration of SLA forces due to the location of the SLA brigade headquarter in Kenema Town.

The patterns in both incursions were remarkably similar: the RUF/NPFL forces would gather the people of the villages in the Court Barrie and hold a meeting, toppling the existing authorities and setting up new power structures. Their arrival and stay was accompanied by the infliction of physical and mental violence on the people of the village, as well as the abduction of members of the population, including children, for use as workers, as fighters, as cooks and as "wives". RUF/NPFL forces also engaged in widespread theft and property destruction, notably the burning of houses, particularly when the people had fled the village prior to their arrival. Indeed, there was much internal displacement within the District as some people fled their villages ahead of the arrival of RUF/NPFL forces until mid to late 1992, when the combined SLA and ULIMO[311] forces began retaking control of the District and driving the RUF/NPFL forces out.

The second phase spanned from the end of 1993 until May 1997 with two concurrent incursions, one from the north and one from the south. This period saw the birth of the Kamajors, who were local hunters initially coming together in informal groups before coming under the wing of the CDF. The "Kamajors" began to fight the RUF, alongside the SLA. During this second phase, a lot of civilians were killed, abducted, forced to carry property and work in the diamonds mines; the number of rapes increased. The RUF also set up a number of camps throughout the District, from where they launched attacks on surrounding chiefdoms. These camps were also the sites where they brought abducted civilians and inflicted physical and mental violence on some and trained others to be fighters, including children. Atrocities were mostly carried out by RUF forces but also by SLA members who were actively engaged in mining activities and, to a lesser extent, the Kamajors.

The third and final phase of the conflict in Kenema District ran from May 1997, the date of the Coup that saw the AFRC seize power, until 2002, when the war officially ended across the country. During this time, there were still many incidents of violence against the population both by the RUF/AFRC forces and, to a lesser extent, by the Kamajors. This violence was most pronounced just after the Coup in May 1997, but continued throughout this phase, tapering off towards 2000 in the north, when disarmament began across the District.

[311] This fighting faction, composed mainly of supporters of the late previous Liberian President, Samuel Doe, emerged in May 1991 to fight the NPFL, which was led by Charles Taylor.

2. Factual analysis

a) First Phase: 1991 – end of 1993

The war began in Kenema District as early as 1991, when RUF/NPFL forces entered the District in Tunkia Chiefdom, in the south, from Pujehun District and Liberia, and in the east from Kailahun District, where they entered Malegohun Chiefdom, which shares a boundary with Kailahun District.

Southern incursion

In April 1991, armed men identified as RUF/NPFL fighters (the NPFL, by their Liberian accent) entered Tunkia Chiefdom[812] in the south of the District from Pujehun District through the Golan forest and, to a limited extent, from bordering Liberia. After gathering people at the Court Barrie or in a school field, these forces introduced themselves as the people's "redeemers and liberators" from the APC Government.

Coming from Makpele Chiefdom (Pujehun District) in April, RUF/NPFL forces attacked the chiefdom headquarter of Gorahun. Some of these forces had leaves tied around their wrist. This is a symbol of the Sierra Leone Peoples Party[813] (SLPP) and it is reported that this was done to gain the support of the people of Tunkia Chiefdom, since it was common knowledge that Tunkia was an SLPP stronghold. After taking control of the city, the RUF/NPFL appointed new chiefdom authorities and began looting houses. SLA forces from Kenema Town repelled them for a while but they came back shortly afterwards.

RUF/NPFL forces also entered the chiefdom from Liberia, through Tolo, and rapidly advanced into the chiefdom, harassing and molesting the population, inflicting physical violence, looting, killing and raping. When they arrived at Tolo, where RUF/NPFL forces stayed two days before proceeding further, they burnt some houses and killed civilians. At Tigbwema, RUF/NPFL forces burnt houses but did not meet the inhabitants as they had already left the town. At Mano Jeigbla, one man was shot and wounded and two young women were taken as "wives".[814]

At this time, SLA troops had recently arrived in Gegbwema, in the north of Tunkia Chiefdom, to brief the local authorities on security issues. However, when the RUF/NPFL forces approached the town and started firing, the SLA left Gegbwema, allowing RUF/NPFL forces to take control of the town without any armed opposition. One of the commanders of the RUF/NPFL forces told the people that they had come to unseat the APC Government. The day after they had arrived, chiefs from Jao (located in the centre of the chiefdom), Kamasu and the surrounding villages came to the town, unaware that the town had fallen into the hands of the RUF/NPFL, because they had previously been called upon for a meeting by the SLA Major. When they arrived, they were arrested by RUF/NPFL forces, undressed and forced to lie on the ground and look at the sky for a long time. These authorities were then told to go back to their towns, escorted by RUF/NPFL forces, and return to Gegbwema with food items.

---

[812] The chiefdom headquarter is Gorahun, located on the Kenema–Bo Waterside (Pujehun District) road. Gegbwema and Jao are two major towns in the chiefdom.

[813] At this time, the SLPP was the opposing party to the APC regime.

[814] A term used by RUF/NPFL forces to denote women who they would abduct and force to perform domestic tasks and have sex with them.

On their arrival in Jao, one group of RUF/NPFL forces settled there due to the large number of cattle in the town. During their stay at Jao, they forced civilians to cook for them and an unknown number of women were forced to have sex with RUF/NPFL personnel. Joru, Gaura Chiefdom headquarters was attacked many times during that period but without success. In June, Guinean forces[815] who were deployed at Joru launched heavy missiles on RUF/NPFL positions in Tunkia Chiefdom. This led RUF/NPFL forces to leave the chiefdom for Zimmi (Makpele Chiefdom, Pujehun District), together with some civilians.

After their departure, people started coming back out of the bush to their villages and SLA and ULIMO forces were deployed at Jao and Gegbwema. However, many people were afraid to leave the bush, because the RUF/NPFL had told them that the SLA would kill them if they found them in places previously occupied by RUF/NPFL forces. As a result of their belief that they would be killed by the SLA, some people went to Zimmi with the RUF/NPFL forces.

Furthermore, there was also harassment of civilians by the SLA. In one incident, SLA forces assaulted a civilian from Jao, accusing him of being a "rebel", beating his head with the butt of a gun and threatening to cut his throat. An SLA commander who knew him intervened, saving his life. At that time, Jao was hosting thousands of people who had come from various villages to avoid RUF/NPFL forces. During their stay, SLA forces routinely carried out a practice known as "screening", checking that people coming to the villages were not "rebels". During the rest of the year, there were two other attacks on Gorahun where SLA forces repelled the unidentified assailants.

In July 1991, the chiefdom was attacked again at Gorahun. SLA forces fought RUF/NPFL forces before withdrawing. Subsequently, SLA forces deployed at Jao and Gegbwema also withdrew. Consequently, thousands of civilians left the chiefdom for safer havens such as Kenema Town, where they received information of attacks and the burning of villages in the chiefdom. In September, the SLA mobilised its troops, driving the majority of RUF/NPFL forces from positions in the chiefdom back to the Liberian border. After these last attacks, Tunkia Chiefdom was quiet for two years until hostilities resumed in December 1993.

Eastern incursion

In 1991, Kenema Town was an SLA brigade headquarter and the Major in charge was responsible for arms and ammunition for the war front in Kailahun District.

In May 1991, the war, which had previously been contained in Kailahun District, spilled over into Malegohun Chiefdom (north of the District, sharing a border with Kailahun District). A few days after they had taken control of Bunumbu (Peje West Chiefdom, Kailahun District), RUF/NPFL forces entered Ngiehun (Malegohun Chiefdom). Before their arrival, a lot of people had left, hearing terrific news such as killing of sick people to save them from suffering or killing of the most frightened ones so that they do not create fear in the others. Fighters searched the bushes to bring back civilians to the town. Following the usual pattern of gathering the village in the Court Barrie, a

[815] Guinean and Nigerian forces, deployed in the country under bilateral treaties with Sierra Leone, fought alongside the SLA.

Town Commander, a Deputy Commander and a clerk were appointed and a committee was set up. Two men were executed and some women were taken to become their "wives".

The Town Commander conscripted manpower, swelling the ranks of the RUF/NPFL forces and enabling them to take control over other sections (the chiefdom has seven sections). After taking Konjo Buema Section, RUF/NPFL forces controlled Konjo Njagore and Konjo Yematanga Sections.

Following a disagreement with the Town Commander,[816] a local RUF commander removed all the people he had previously appointed from power. Four days later, his forces came back to the town to arrest the elders. However, the elders had left and the town was deserted, so the RUF/NPFL forces burn down 19 houses. The RUF/NPFL forces who were in Ngiehun moved to Bunumbu (Peje West Chiefdom, Kailahun District) and intermittently patrolled the three sections in Malegohun Chiefdom that were under their control.

After these first attacks, 1992 saw RUF/NPFL activities expanding mainly in the chiefdoms of Koya, Dama and Niawa in the south of the District. Some activities were also reported in the chiefdoms of Small Bo, Gorama Mende and Lower Bambara, in the east of the District on the boundary with Bo District.

Several civilians were killed in February 1992 during SLA attacks on the headquarters of the three sections of Malegohun Chiefdom under RUF/NPFL control. SLA forces remained there, fighting to repel RUF/NPFL attacks. When SLA forces cleared Bunumbu (Peje West Chiefdom, Kailahun District), Ngiehun became calm and people began to return from the bush.

Gorama Mende Chiefdom is a hilly and forested chiefdom, bordered on the west by Bo District, on the north by Tonkolili District, on the east by Kono District and on the south by Wandor Chiefdom. Its location near Kono District, its forest vegetation and the wealth of its soil, in particular the diamonds, made the chiefdom ripe for bush warfare. However, like Lower Bambara and Small Bo Chiefdoms, Gorama Mende was barely affected during the first phase of the conflict. In February 1992, five armed men coming from the direction Jaiama Sewafe (Nimiyama chiefdom, Kono District) reached Pundutu, a large town at the border with Nimiyama Chiefdom. Their mission appeared to be have been to carry a message informing people of the aims and objectives of the RUF/NPFL, as they stated people should not be afraid because they had come to redeem them from the oppressive ruling party. However, when they had entered the village, an old woman who threw verbal insults at the RUF/NPFL forces was shot dead.[817]

[816] On hearing that the Town Commander had sent two of his men to remove chairs from the College at Bunumbu for his house, a more senior local commander followed these two men and killed them, entering Ngiehun with his men the following day.

[817] Although no RUF presence was noted in Nimiyama Chiefdom (Kono District) in early 1992, it is possible that a pocket of RUF members coming from this direction reached Pundutu.



Niawa Chiefdom in the south-west of the District was attacked for the first time in 1992, [818]although the headquarter town of Sendumei was not affected. On 22 April, RUF forces[819] coming from Kandorhun (Barri Chiefdom, Pujehun District) through Langrama Chiefdom attacked Gandorhun in the south of Niawa Chiefdom. Upon entering the town, they appointed new Town Commanders for Gandorhun and its surrounding area. After going back for couple of days to Potoru (Barri Chiefdom, Pujehun District), they returned to Gandorhun, from where they launched attacks in villages in the south of the chiefdom and in the north of Langrama Chiefdom.[820] All these attacks took place in April. After this first visit in Gandorhun, RUF fighters came back to the town three days later, as they had promised they would.

At Ngolahun Vaama, civilians were killed, some houses were burnt and six girls together with five underage boys were taken away. At Gandorhun, young girls were raped and a ten year-old girl was killed. Her father was also threatened with death if he ever smiled any time they came back to the town. In another place, civilians were killed, some women raped and taken as their wives and few houses were burnt. In all the villages, property was taken. At Ngolahun Vaama, some houses were burnt and two people in two houses were burnt. Hearing that SLA forces were preparing to attack them, some of the RUF/NPFL forces went to Ngolahun Menila, hiding their identity, and were told that inhabitants were waiting for the SLA forces, for whom they had prepared food. Following this, RUF/NPFL forces attacked the town, inflicting physical violence on people, breaking doors and taking property. There were few killings at this time, apparently because the commander was mainly looking for the Chief to join their movement. A civilian who had been appointed the Town Commander of Gandorhun was killed during the attack, allegedly for hiding his people (civilians) whenever RUF forces came to the town. It is reported that the new Town Commander was doing what the rebels asked him to do. During his term, many young girls were raped and the stealing of food was commonplace.

Lower Bambara Chiefdom, located in the north of the District at the border with Kono District, comprising seven chiefdoms is well known for cash crops including cocoa, coffee and palm oil and, above all, for Tongo Field, its diamond area. Villages within this area such as Bomi, Gehama, Tokbomou, Tongola, Lalehun and Vandema are devoted to mining activities. Lower Bambara Chiefdom was affected to a limited extent during the first phase of the war and few incidents are reported, one around May 1992 and the other one at the end of the year. During the May attack, fighting forces wearing military uniforms and t-shirts and writing "RUF" on the walls of the houses attacked the diamond-mining town of Welma from Malegohun Chiefdom in the east. Civilians were killed and others were forced to carry loads.

Shortly after the overthrow of the APC Government, Dama Chiefdom authorities made an appeal to the Defence Minister to send SLA forces to the chiefdom. Dama shares a boundary with Jawei

[818] In Niawa Chiefdom, the following villages were assaulted by RUF/NPFL forces: Ngolahun Vaama, Woroma, Kponima, Kerga, Menila and Buwema.

[819] NB: On the identification of the fighters, key persons mention only the term "rebels" and RUF. No mention of NPFL. However, it is said that one of the commander was a Liberian.

[820] In Langrama Chiefdom, as well as Yebema, which is the first village after the border, Wanjama, Menima Langrama and Marker were attacked.

Chiefdom (Kailahun District). SLA and ULIMO forces were deployed to Konia, on the border with Nongowa Chiefdom and Jawei Chiefdom (Kailahun District), where they established a base. Soon after, Tawahun was attacked by RUF forces, most of them speaking Krio and coming from Jawei Chiefdom. Most of the forces were dressed in civilian attire, with some in military fatigue, as the RUF had begun to use military uniforms in 1992. During this attack, some civilians were killed, one woman's breast was cut off and a family was burnt in their house.

Around May 1992, Sahun and Sherif Jembehun were also attacked. An unknown number of civilians were killed and all the important buildings were burnt down. Also in 1992, a civilian vigilante movement started operating in the chiefdom under the command of the SLA. They were armed with axes, cutlasses and single barrel guns, sent to checkpoints and asked to shout when assailants were approaching.

However, despite the presence of SLA forces in the chiefdom, attacks were still carried out until the early days of 1993, during which RUF forces mutilated civilians, including carving "RUF" on their bodies.[821]

In September 1992, ULIMO forces launched a powerful attack on Gandorhun (Niawa Chiefdom) and retook control of both Niawa and Langrama Chiefdoms. Almost two months later, they handed over their base to SLA forces, who were still stationed there when RUF forces attacked the chiefdoms again in March 1994.

During the end of the year, a large number of RUF/NPFL[822] forces attacked Konjo (Lower Bambara Chiefdom), but were repelled by SLA forces. A lot of civilians and RUF/NPFL forces were killed during the encounter. RUF/NPFL forces took a lot of property and the people of the nearby villages, such as Njalagbahun and Venema, fled into the bush for several weeks. By the end of 1992, the population of Small Bo Chiefdom swelled as displaced people fleeing Barri Chiefdom (Pujehun District) sought refuge there.

An Eastern Region Civil Defence Committee, comprised of representatives from Kailahun, Kenema, Kono Districts and Freetown Peninsula was formed in December 1992, aiming at supporting the SLA by gathering "well-meaning" Sierra Leoneans, whose role would be of a vigilante nature.[823] The youths' knowledge of the terrain would be used to lead the SLA.[824]

In 1992 and 1993, ULIMO forces used Blama (Small Bo Chiefdom) as their base to fight RUF forces in other chiefdoms and were living peacefully with the population there. However, in 1992, coming back from Yibema (Langrama chiefdom), some ULIMO members, to manifest their bravery, displayed severed male genital organs, claiming they were those of "rebels" they had killed. However, it is reported that this claim was later proved to be false and that the people who were

[821] This statement is general and unique and no more information is available on it.
[822] It is specified that some of the assailants were talking with Liberian dialect.
[823] BBC: 22 December 1992.
[824] Youths in the context of Sierra Leone could refer to anybody aged over 15 up to their mid to late 30s.

killed were actually civilians. Although following this event, people of the chiefdom wanted them to leave, they were sent back in mid 1993 by the NPRC Government.

Koya Chiefdom, in the south of the District, was left in the hands of the RUF forces, as no SLA or ULIMO forces were stationed or deployed there. People of the chiefdom felt totally neglected. Koya would later be notorious for hosting one of the main RUF bases, Camp Zogoda, meaning "Land of Freedom."[825] Starting in May 1992 until 1994, there were massive violations committed in various villages in Koya Chiefdom, resulting in the death and abduction of hundreds of civilians. RUF forces entered the chiefdom headquarter town of Baoma in May 1992, gathered the population in the Court Barrie and opened fire, killing about two hundred people. Women are reported to have been raped "at will" and the town was set on fire before they left. The forces then proceeded to other villages and towns,[826] where they repeated the same course of action: killing dozens of civilians, raping women and looting and burning houses before leaving. They stayed in Nyadehun from June until September and then moved to Pelewama, where they occupied the town until December. In each of these towns, before killing people, they asked civilians to tell them where SLA members were. In January 1993, they crossed the Moa River and occupied Serabu and its surroundings until September 1993 before moving to Kamasu until December.

Because SLA forces had driven almost all the RUF/NPFL forces from most of the District by the end of 1992, 1993 was relatively calm until the end of the year. The last months of 1993 mark the beginning of what can be labelled the second phase of the conflict, with the resumption of RUF/NPFL activities in Tunkia, Nomo and Gaura Chiefdoms.

b) Second Phase: End of 1993 – May 1997

This second phase started in December 1993 when RUF forces entered Nomo Chiefdom, on the border with Liberia. Those forces rapidly spread over the south of the Moa River, which flows from Pujehun District to Kailahun District through Koya and in the west of Dama chiefdom, and expanded their activities further north by crossing the river. Concurrently to this southern incursion, RUF forces entered the north of the District, attacking Lower Bambara Chiefdom.[827]

Southern incursion

During this phase, Moawama area, made up of Nomo, Gaura, Tunkia and Koya chiefdoms, was the first area to be affected. The majority of villages in these chiefdoms were devastated and most of the civilians moved to Kenema Town and further north.

---

[825] The report does not specify in which of Sierra Leone's languages "Zogoda" has a meaning. Most likely Mende or Temne.

[826] Borgboabu, Giema, Maporma, Segbwema, Gorahun, Njaluahun, Bongor and Nyadehun.

[827] It could not be ascertained whether the north attack derived from the south one or whether the North and the South constituted two different fronts. As no troops movement from the south-east of the District to the north (Lower Bambara Chiefdom) was recorded, it could be concluded that those two attacks constituted two different flanks. However, if those flanks were autonomous, the north attack would have come from Kailahun District where no movement of troops were recorded and where RUF forces started to gain territories on the SLA around March only, i.e. two months after the attacks on Lower Bambara Chiefdom. Furthermore, it cannot be inferred from the reports whether these forces joined at one point.

On 1 December 1993, the Head of State unilaterally announced a one-month ceasefire, which allegedly led many SLA forces to leave their positions thinking the war was over. However, towards the end of December 1993, RUF/NPFL forces crossing the Mano River from Liberia attacked Nomo Chiefdom,[328] bordered on the east by Liberia. Shortly after their attack on Faama in the west of the chiefdom, RUF/NPFL forces proceeded further into the District and had reached Tunkia, Gaura and Dama Chiefdoms by early March 1994. When RUF forces attacked Faama, civilians and SLA forces who were deployed there suffered heavy losses. The SLA forces retreated, leaving a large cache of arms and ammunition in the hands of RUF forces, which would allow the RUF forces to spread all over the District. Doubts were also raised among civilians and some people were suggesting that SLA left this cache of arms on purpose.

On the following days, other towns in Nomo Chiefdom came under attack, including Kpendebu, Madina and Loawoma. During these attacks, civilians were killed and others were forced to carry stolen property, some to the border town of Dambala. At Madina, civilians gathered in the Court Barrie were forbidden to sleep in their houses for three days and were threatened to be killed if they were caught trying to escape. One young trader accused of carrying out reconnaissance for the SLA was shot dead. The town was surrounded and property was taken.

Beleibu (Tunkia Chiefdom) was attacked during the same period on Christmas Day in 1993. Some civilians were killed and half of the village was burnt down. The same day, RUF forces advanced towards Jao (Tunkia Chiefdom). On their way, they found two Kamajors, one at Nomo Tunkia Junction and another one at Kokoru, both of whom were instantly killed. At Jao, inhabitants were gathered and forced to sit on the ground; some were stripped naked, kicked and beaten. After looting Jao, RUF forces moved to Gegbwema where they burnt the military post and some went to Tijoyeima, where they burnt some houses. Before reaching Gegbwema, they stopped at Jewahun where they looted and burnt houses. Nobody was killed, as the inhabitants had left the town before their arrival.

Also in December 1993, Gaura Chiefdom came under attack. The chiefdom headquarter of Joru, where the SLA was stationed, was the setting of many attacks and counter attacks. SLA forces from Joru fought the assailants in the chiefdom and came back to the town with the head of a man, who they claimed was an RUF fighter, hanging on the front on their vehicle. Two other members, both from Burkina Faso and fighting for the NPFL, were captured and placed in custody.[329]

SLA forces coming from Moa Barracks, Daru (Jawie Chiefdom, Kailahun District) recaptured Faama (Nomo Chiefdom) from the RUF, who launched another unsuccessful attack in mid January 1994. Some civilians who had previously returned to Faama were trapped by RUF forces and killed.

At the end of January 1994, the Head of State declared "total war" against the RUF and engaged in a massive recruitment of SLA forces; from 3,000 men in 1991, they reached around 12,000 in 1994.

[328] Nomo has only nine villages and its headquarter town is Faama.

[329] What happened to them after during and after their custody was not reported.

The behaviour of SLA forces towards civilians was not acceptable to some of the chiefs and other elders who had stayed in the chiefdom, who were arrested and detained to answer allegations of "collaboration". Some civilians were also regularly beaten up in Faama for allegedly convening a meeting without giving notice to the SLA.

Early 1994, RUF forces regrouped at Kokoru and bypassed Joru to attack Venima (5 miles west of Joru). They were then led by a civilian who took them to other villages, including Gboyama, Madina, Tanima and Verma, where they were hosted by the Town Chief and another local authority. ULIMO forces coming from Joru repelled the RUF forces and brought the two local authorities from Verma back to Joru, where they were stripped naked. The Town Chief allegedly faced a firing squad but he did not die, was tied up and taken into custody. The other local authority was brought to Kenema Town then to Freetown, where he was imprisoned. In April 1994, the villages of Sandaru, Nyandeyama, Mendekelema and Seifula (Gaura Chiefdom) came under RUF attack. The only actions reported concern Sandaru (north of the chiefdom), where RUF forces captured some young men, whose age could not be ascertained, to carry the property they had stolen. When they left Sandaru, RUF forces promised that they would come back at night or the next morning, returning early the following day.

On the walls of the houses at Faama (Nomo Chiefdom) and Madina, RUF forces inscribed the acronym "RUF".

Dama Chiefdom, west of Gaura Chiefdom and where many civilians from Moawama had taken refuge at one time, came under RUF attack in 1994.[850] At Torgboru, some civilians were killed by these forces. Gbewubu and Loppa were attacked. At Loppa, an unspecified number of civilians were killed with automatic guns and others were captured. During those attacks, some of these RUF members had their faces painted so they would not be recognised, because some of them were former SLA members. Other villages including Lelema, Konnehla, Kpandebu, Korma and Konia were attacked, mainly for looting purposes and civilians were most often forced to carry the loads. The RUF forces also killed a number of people, inflicted physical violence on the population and engaged in property destruction. At Konnehla, for example, men were captured to carry stolen property and one man who became tired and unable to continue carrying the load was killed. Korma was burnt down and at Kpandebu many people were killed, either shot or beaten to death. Some civilians were told to bury the bodies. At Konia, one pregnant woman was raped and gave birth instantly after. At Mano in June, RUF forces who were dressed in combat uniforms gathered the inhabitants in the Court Barrie and requested that they stand, placing guns very close to the civilians' ears and then firing, killing one old man. The RUF also forced the people of the village to lie down on the ground and look at the sun. Three civilians were killed when they attempted to run away. As they left the village, RUF forces took away all the cattle and poultry.

According to their inhabitants, Small Bo, Niawa and Langrama Chiefdoms form a block such that events occurring throughout this phase in one of these chiefdoms have a link with what happened in another one. RUF forces reached these chiefdoms early 1994 and launched attacks on many villages

[850] The months when the reported attacks took place could not be ascertained. Furthermore, although no precise example was reported, it was however stated that the same kind of attacks also happened in 1995.



throughout the year, which led the population to flee the area for displaced camps in Bo Town (Kakua Chiefdom, Bo District), Gerihun (Boama Chiefdom, Bo District) and Talama (Kori chiefdom, Moyamba District).

In early March 1994, RUF forces crossed the Moa River in Koya Chiefdom and attacked Jai and Menima (Koya Chiefdom).[831] From Menima, at the border with Niawa Chiefdom, RUF forces divided into two groups, both going to Niawa chiefdom, the first one heading for Ngandorhun in the south of the chiefdom and the second one going to Bandawor at the border with Koya Chiefdom.

While on their way to Ngandorhun, the first group of RUF forces ambushed and killed a prominent local hunter with sticks and knifes. They then moved to Yibema, in the north of Langrama Chiefdom by the Waanje River. They attacked the town for the first time on 6 March. RUF forces entered Yibema heavily armed with AK47s, RPGs and grenades and killed three civilians; one person was killed because he was speaking a language that the fighters could not understand. The RUF forces then returned back to Ngandorhun after making a promise to Yibema inhabitants that they would come back on 8 March, which they did.[832]

They then moved to Woyema (Langrama Chiefdom), where they made a base from which they could attack the surrounding villages. Their intention in Woyema appeared to be to capture the Section Chief, but as he was nowhere to be found, six houses were burnt, 10 men and women captured and one civilian, a carpenter, was killed. They also entered Menima (Langrama Chiefdom), where they killed two civilians, raped three women, burnt some houses and captured civilians. They then returned to Woyema and killed one Muslim leader because he was praying day and night for his village not to be attacked. While in Woyema, people were forced to do community work like brushing the area and preparing the rice farms. Window frames and doors were used as cooking wood. From Woyema, RUF forces launched attacks on Small Bo Chiefdom.

The second group that headed for Bandawor, at the border with Koya Chiefdom, used a bush footpath through Nyandehun, where they killed three civilians, raped some women and burnt some houses. Sendumei was attacked on 4 March 1994 early in the morning, when residents heard a heavy exchange of fire with SLA forces. During this attack, civilians were killed and girls were raped. The heavily armed RUF forces entered Bandawor in the afternoon, set the town on fire and gathered civilians under a tree near the main street that leads to Small Bo Chiefdom. A few armed men guarded the gathered civilians while others went into the town, raped, looted and killed nine civilians.

In the forest of Bandawor (Koya Chiefdom), the RUF forces built a camp they named Camp Zogoda. This camp was a strong base, where the RUF leader allegedly stayed in 1994. An airfield was also established between Menima and Jai (both located in Koya Chiefdom). The RUF forces

[831] The fact that many reports mention this date adds to the confusion concerning Koya chiefdom as according to the report for Koya, RUF forces had crossed the Moa River, before March 1994. Furthermore, the group that came to Niawa and Langrama Chiefdoms in March 1994 was different from the one allegedly in Koya Chiefdom.
[832] No details were given for this second attack and fatalities – if any – are not specified.

used this camp to launch attacks on Small Bo Chiefdom and they also laid ambushes on the Bo-Kenema highway, despite vehicles being escorted by SLA vehicles, and on the roads going through rural areas. Many civilians were killed during these attacks, property was taken and vehicles burnt.[855] Serious doubts were raised among the population as to the identity of those assailants.

One of these ambushes, which took place in April 1994 at a hilly position close to Joru (Gaura Chiefdom) called Kwalekpehun, is illustrative of how RUF forces were operating at that time. RUF forces hiding in the bush used RPGs to attack convoys of passenger vehicles that were escorted by SLA forces. The commander ordered the passengers to lie down on the ground and an exchange of fire followed, during which three civilians were killed. When the firing stopped, the civilians boarded and no sooner had the vehicle ascended the hill than firing from the bush resumed. During this second attack, the SLA members left the convoy to get some reinforcements from Joru. Some civilians were killed, some injured and others were captured, pushed out of the vehicle and beaten with the butts of rifles. In the bush where they were taken, they met other civilians. All the passengers were searched for anything valuable or of interest to the forces. Two young men believed to be Fullah traders were shot at a close range. One died instantly and had his stomach cut open. One of the captives was asked to take the names of all the captured civilians who were allocated different jobs like conveying the wounded fighters to Gegbwema, carting the goods looted from the vehicles or taking the armour boxes. Another example occurred in March 1994, when an ambush was laid between Blama and Lungima, a town two and half miles from Blama. A trailer carrying load of rice was looted and the 350 bags of rice taken away. In another incident on 14 March 1994, one driver was killed while driving his vehicle from Bo to Kenema. Stolen property and captured civilians were taken to Camp Zogoda.

Blama, the headquarter town of Small Bo Chiefdom, is located at a strategic crossroad to Kenema Town, Kombondo (Jiama Bongor Chiefdom, Bo District) and Potoru (Barri Chiefdom, Pujehun District). On their way to Blama Chiefdom, RUF forces passed by Topanda Ngovokpan, Kpatema and Yawuema. Between March and April, they attacked Blama six times. At this time, SLA forces were deployed at Blama, some ULIMO members were patrolling in villages and civilians from the surrounding villages had deserted their homes to come to Blama, the headquarter town. Vigilante groups[856] controlling checkpoints in Small Bo Chiefdom were monitoring the movement of people entering and leaving the chiefdom and reporting persons suspected of being "rebel" collaborators or spies to the head of the vigilante unit, who in turn reported to the SLA Commanding Officer in Blama. On 5 March 1994, a man suspected of being an RUF spy was apprehended at Blama, taken to the Police Station and shot dead in public by a member of the military police. On 6 March, another man was captured in Blama and taken to the Police Station. He denied being a collaborator and declared that RUF forces had planned to attack the town. The man was not killed but left in the cell and the information was passed on to Kenema SLA Brigade Headquarter with a request for reinforcements, but none was sent.

---

[855] Since June 1994 in particular, the Bo-Kenema highway came under repeated ambushes, putting pressure on Kenema Town: Inter Press Service, 10 August 1994

[856] These vigilante groups were equipped with clubs, spears, single barrel guns and slings.

Despite repeated efforts,[835] RUF forces were unable to capture Blama but established a base at Yawuema, from where they raided surrounding villages, leaving civilians caught between RUF activities and SLA activities at Blama. SLA forces were using the Blama men to carry property they had stolen to Kenema Town and were forcing women to marry them. Civilians were also punished for minor reasons, such as failing to carry out work assigned to them by an SLA member. Punishments ranged from beatings to detention in a guardroom for a day or two without food. Curfews were also declared, particularly when the SLA was going on "looting missions", with civilians forced to stay in their houses from 5.00 p.m. until 11.00 a.m. the following morning. Furthermore, life for Small Bo inhabitants was made even more difficult due to the continuous ambushes laid on the Bo-Kenema highway, rendering the highway unusable for trucks and thus depriving them of necessary daily items.

In April 1994, civilians returning to Tunkia Chiefdom assembled mainly in Jao and Gegbwema where ULIMO forces were deployed. It is believed that around 15,000 civilians regrouped at Jao and around 30,000 at Gegbwema at that time. However, ULIMO forces were committing violent acts against civilians, ranging from harassment, such as asking people to go indoors during the day without any reason, to detaining or shooting dead those who ignored their orders. ULIMO forces would also draw up lists of alleged "rebels" for execution, such as seven young men from Mani village who were executed in front of their parents, accused of being "rebels". At Jao, in May, ULIMO forces gathered 15 civilians, explaining they were to be sacrificed for them to win the war and also for the death of one of their colleagues. One civilian was killed at close range, while the remaining 14 people were saved through the intervention of the Section Chief.[836] In another incident, ULIMO forces brought inhabitants from Giewahun to Jao, executed four of them and killed three Imams. ULIMO forces based at Gegbwema displayed the same behaviour; for example, 12 young men from Damawuro, branded "rebels" or collaborators, were arrested and executed, as were seven men from Tolobu. During this period, people were living in very poor conditions and lacked food because the only vehicles that could drive on the roads were ULIMO vehicles.

Gaura Chiefdom was also the scene of the death of civilians killed by ULIMO forces. After an attack on Sandaru in 1994 and following the death of a ULIMO commander, another ULIMO commander from Joru decided to take reprisal for this death and bombed the prison, leading to the death of all the inmates. All these inmates were coming from a small village outside Joru. In another incident in May 1994, a ULIMO member was ordered to take an RUF member captured during an attack on Joru (Gaura Chiefdom) and "bath" him, meaning to execute him.

Around July, Tilorma (Tunkia Chiefdom) came under RUF attack at dawn while some people were praying at the mosque. Some people were put in one house that was set on fire. This latest development urged many civilians out of the 45,000 residing at Jao and Gegbwema to leave the chiefdom and to head for Kenema Town. On their way to Kenema at the bank of the Moa River in Dama Chiefdom, civilians heard that the RUF forces were on their back, which urged them to cross

[835] RUF forces reportedly attacked Blama six times between March and April.

[836] It seems that the reason given by the ULIMO forces was untrue, as it appeared instead to have been a way to obtain palm oil from civilians.

the bridge. This panicked and disorganised movement of people resulted in the death of many civilians, who drowned in the river.

These attacks on the Moawama area (Nomo, Gaura, Tunkia and Koya Chiefdoms) left the civilians in total disarray. Most of them fled into the bush for safety and the behaviour of the SLA forces, who put up little or no resistance to the RUF forces, increased their doubt as to their loyalty to the Government. It was also believed that some of the SLA forces had completely defected and joined the RUF. This disarray was further enhanced by the fact that when escaping RUF advance, civilians also had to look out for SLA forces who often shot on sight anybody coming from the direction of a place hold by RUF forces, as they were suspected of being a "rebel". Indeed, SLA forces from Dama Chiefdom were instructed to kill anybody coming from Tunkia, Nomo or Gaura Chiefdoms as civilians from those chiefdoms were considered to be "rebels" or were believed to have made their children join the RUF forces.

Throughout 1994 and 1995, those chiefdoms were under sporadic raids, mainly for looting purposes carried out by armed men whose identity could not be ascertained with certainty, for people suspected SLA forces to be responsible for some of these raids. Young men and girls continued to be abducted. During these raids, houses were looted and burnt and people killed, although most of the civilians had fled the villages. Intermittent raids carried out by RUF forces took place throughout 1995 on Sandaru, north of Gaura Chiefdom. During these raids, people were taken to carry the stolen property.

In April 1995, ambushes took place on the Kenema-Dama road, mainly to take food from Dama farmers who were bringing their produce for sale in Kenema. In one incident, a young boy who escaped the ambush explained that four of them who attempted to escape had their throat slit as deterrence to others who might plan to escape.

The few people who stayed in the chiefdoms hid in the bushes and built huts called "sorquehun". Armed men believed to be both RUF fighters and SLA forces who were in the chiefdoms were creating havoc, often going into the bush to find the hiding places and to loot them. People were forced to carry out tasks for the RUF forces and some were killed. The death of one Imam at Gondama (Tunkia Chiefdom) shocked people, as he was well known for being "brilliant and brave". At Damawulo (Tunkia Chiefdom), one man who refused to join the RUF movement was killed. At Jenen, a prominent chiefdom elder was also killed by RUF forces. Even the civilians who had earlier fled the chiefdoms were coming back regularly to get news and to find food. Those who were caught by RUF forces were often killed, alleged to be spies[837] for SLA forces.

At Gorahun (Tunkia Chiefdom) where SLA forces were stationed, civilians were harassed and intimidated, obliged to contribute to the feeding of the SLA. Civilians also had to pay the SLA a "landing fee" to be allowed to sell extra food items.

Northern incursion

[837] Note that at this stage, it is not possible to explain with certainty what happened in Koya Chiefdom.



Similarly to what happened in the Moawoma area, RUF fighters attacked all the chiefdoms in the north of Kenema District in early 1994.[838]

On 30 January 1994, RUF fighters attacked Tongo (Lower Bambara Chiefdom) from Peyama. Throughout this second phase, Peyama was an RUF stronghold whereas Tongo became the SLA base. Following this attack, the RUF forces scattered all over Lower Bambara Chiefdom and launched attacks on Malegohun and Nongowa Chiefdoms, often coming in high numbers. In January 1994, Peyama and Tongo were attacked. Before coming to Peyama, RUF forces had earlier sent a letter to the inhabitants warning them they would attack their village. When the village was attacked, the identity of the assailants was not clear for people as they were wearing military uniforms. However, no doubt remained after the RUF fighters identified themselves by writing inscriptions on the walls.

After Peyama, RUF forces moved on to Tongo, where they were repelled by SLA forces. During that battle, a lot of civilians were killed and property was stolen. The precise identity of the forces responsible was unclear, as both were wearing the same attire. From Tongo, RUF forces went to Lalehun, where they abducted hundreds of adults and children, forcing some to carry loads, and burnt down a lot of houses. In February, RUF forces attacked Ghana and killed almost everybody; later on, they moved to Talamah, where they killed a lot of civilians and burnt few houses. At Talamah, they also wrote on the walls on the houses inscriptions to identify themselves.

Largo (Nongowa Chiefdom, south of Lower Bambara Chiefdom) was attacked early one morning in February 1994 by heavily armed RUF forces. People were killed and houses looted and burnt. It is reported that one of the commanders vowed to kill any living thing he saw in the town. On the same day, Mano Junction, a strategic town and major business centre at the crossroad leading to Kailahun, Tongo and Kenema, was attacked; civilians were killed and massive looting was carried out before some houses were burnt. Villages on the Mano Junction – Kailahun Road, mainly located in the Lower Bambara Chiefdom, were attacked during the same period, including Talia, Bo Ngeiya and Kangama. At Talia, some civilians were killed and at Bo Ngeiya, the Town Chief and other civilians captured by the forces were ordered to lie on the ground and their throats were cut, because they were accused of supporting the Kamajors and Government forces.

RUF forces coming from different directions attacked Panguma, the chiefdom headquarters town in the west of the chiefdom, at the border with Dodo Chiefdom. They captured some civilians and put them in one house, which they set fire to, killing all the people inside. Around 80 civilians were killed during that attack on 12 March 1994, including an Irish priest and a Dutch doctor, together with his wife and daughter. Houses in the town were destroyed and looted as well as the hospital, where drugs worth millions of Leones[839] were stolen. Again in March, Talamah was attacked and

[838] However, it cannot be ascertained whether the attacks on most of the chiefdoms located in the North of the District were carried out by the group that had attacked Lower Bambara Chiefdom or by the Southern group who had entered Nomo Chiefdom.

[839] As a very rough guide, one million leones is approximately equivalent to 500 USD. This should be placed in the context of Sierra Leone's position at the bottom of the Human Development Index between 1991 and 2000, 57% of the population lived on less than 1 USD (2.000 SLL) per day and 74.5% lived on less than 2 USD (4.000 SLL)



RUF forces fought the SLA. During the indiscriminate firing by both forces, many civilians were killed. At Kornia Kpindima, in late March, a large number of RUF fighters coming from Foindu and Yombuma killed some civilians, looted and burnt houses and forced many civilians to carry the loads. During a second attack on this town in April 1994, the Town Speaker and his family were captured, molested and tortured; the Town Speaker was later killed at Yombuma.

RUF forces attacked Koi town (Nongowa Chiefdom) early one morning in mid 1994, reportedly to terrorise the inhabitants, whom they accused of supporting the Kamajors. They fired indiscriminately and many civilians were killed and others were wounded. The town was looted and people were forced to carry the stolen property to Peyama.

Jormu Town (in the east of Nongowa chiefdom) was attacked three times in 1994, the first being on 28 March in the early hours of the morning by RUF forces coming from Peyama. During this attack, which resulted in looting and the abduction of many people to carry the loads, civilians suspected there was collaboration between SLA forces based there at that time and RUF forces because both factions were firing into the air, rather than at each other.

Soon after, Combema was attacked and burnt down. Some civilians were killed and a man was seriously wounded in his arm. RUF forces, who sketched a map of Sierra Leone showing areas under their control on the blackboard of the primary school, did not stay long. Before leaving, they took nearly all of the food and other valuable items in the village, forcing people to carry those items to Jormu.

Jormu was attacked for the second time few months later and RUF forces fired indiscriminately at civilians, who were running here and there, dazed and confused, killing dozens. Many houses were burnt and massive looting was carried out, with people of the town being forced to carry the stolen property. As the RUF forces left the town, they painted graffiti and writings on the walls, naming some of their commandos.

SLA forces based in Tongo Field also carried out massive looting and harassed large numbers of civilians suspected of being collaborators. Civilians were also forced to work for the SLA at mining sites and many people were shot at these sites. Girls and women were raped and Chiefs and community leaders were molested and tortured, suspected of being "rebel" collaborators or sympathisers. SLA also sent messages to civilians who had earlier deserted the area to come back to the town. Checkpoints were mounted and were used to take away money and valuable items from civilians intimidated with guns and daggers. This situation remained the same under the authority of successive commanders. Besides these activities, SLA forces also undertook ambushes.[840]

Thus, at that time, civilians were under the pressure of both RUF and SLA forces, even if from time to time there was fighting between the two factions. Relief came in mid 1994 when a group of local hunters from Malegohun Chiefdom (east of Lower Bambara Chiefdom) established bases in Lower

---

per day: see UNDP Human Development Report 2003, http://www.undp.org/hdr2003/indicator/cty_f_SLE.html, last visited on 30 December 2003.

[840] This information was related in such general terms and no specific example can be given.

Bambara Chiefdom. They fought RUF forces but sustained heavy losses. At the beginning, these local hunters worked directly with the SLA forces but were later on disarmed by SLA forces.[841]

The third attack on Jormu (Nongowa Chiefdom) took place during the last months of 1994, apparently mainly for the purposes of obtaining food. Civilians were abducted and taken to the nearby village of Saami, where they were forced to harvest the rice fields. Shortly after this third attack, RUF forces searching for "pro-Government", i.e. SLA, forces attacked Vaahun Town. A door-to-door search operation was carried out and people were gathered in the centre of the village. One young man suspected of being a Kamajor was shot in the Court Barrie in front of all the villagers, who were told by the commander to clap for him and laugh.

At Potehun (Nongowa Chiefdom), people were killed and many were taken away to work in the diamond fields. The continuous attacks on Jormu and its environs drove the inhabitants out of their villages. Sanguahun, Nyandeyama, Nekabu, Baoya, Damawulo, Guabu and Ngeyawamie were attacked during the last months of the year but few civilians were to be found. Most of these villages were burnt and RUF forces coming from Saami started looking for people in the bushes to increase the number of workers for the harvest.

Kenema Town was attacked on Christmas Day in 1994. A high number of heavily armed RUF forces[842] from Camp Zogoda launched the attack from the south-eastern part of the city, known as "Reservation side". The battle lasted for eight days but SLA forces were unable to protect the town, although a financial contribution to help them had been asked and obtained from the inhabitants. During this attack, which lasted several days, many civilians were killed and a lot of young boys and girls were abducted. Among those killed was a prominent lawyer, whose death struck people as far away as Freetown. However, up to now, doubts still remain about the identity of those who killed him.

Throughout 1994 and 1995, villages all over Lower Bambara[843] came under persistent attacks. In all the attacks, people were routinely molested, tortured, killed, forced to carry stolen property and forced to join the RUF. Girls and women were raped and many houses were looted and burnt. In December 1994, RUF forces coming from Peyama killed fourteen civilians and two SLA members. People were slaughtered with knives and some of their bodies were put in pots. At Lowoma (Lower Bambara Chiefdom), also in December 1994, some houses were burnt, some civilians taken away and a few others were killed. Those who were killed were thrown into water cells, which became contaminated and caused diseases. During 1995, schools, clinics, mosques and churches throughout the chiefdom were unroofed.

In February 1995, RUF forces attacked the mining town of Kpava (Nongowa Chiefdom), asking whether any Kamajors or SLA forces were in town. Following indiscriminate shooting, around 15 civilians were killed. The town was then looted and some civilians forced to carry the load to Peyama, the main RUF base in Lower Bambara Chiefdom. People who were caught trying to escape

---

[841] These events happened in 1994 and probably 1995. See above, note 165.

[842] It is believed they were 400 in number.

[843] These villages include Torpombu, Foindu, Kamboma, Komende, Bumpe, Kornia, Sahaha and Jagor.

faced severe beatings with sticks and car tyres until they died and very young girls were routinely raped.

Government forces based in Lower Bambara Chiefdom ambushed a lorry between Ngiehun and Lalehun in May 1995. During this attack, 14 civilians, mainly businessmen, were killed. Civilians from Lalehun were forced to take the bodies and bury them in a mass grave in Lalehun. The following month, some women of Kenema Town decided to go and plead with RUF forces stationed at Tabulay Junction. On their arrival, RUF forces opened fire and many of the women died on the spot. Others sustained bullet wounds or were taken to the RUF base and raped.

In November 1995, local hunters equipped with short guns, cutlasses and knives coming from Kenema Town attacked RUF positions in Lower Bambara Chiefdom,[344] repelling RUF forces who, while retreating, burnt down some villages. Civilians who had earlier fled to the bush started to come back to their villages. These local hunters at this time were not undertaking initiation as such and reporting to a man called a prominent Doctor.[345]

Throughout 1995 and 1996, RUF forces were coming sporadically to Nongowa Chiefdom. Fewer incidents are reported, possibly due to the fact that many people were living in the bushes and that many villages were already destroyed. During this period, RUF forces used to bypass Jormu where Kamajors and SLA forces were based, launching raids on villages out of their reach like Kpalu and Konabu.

On Election Day in February 1996, RUF forces singing "RUF says no election" attacked Kenema Town early in the morning. Among the people killed on that day was a final year student at Fourah Bay College. On the same day, the RUF launched systematic attacks on towns and villages in Dama Chiefdom, as they did not want the election to take place. An unspecified number of people were killed on that day. In some instances, the RUF forces attacking villages on that day were dressed in military fatigues. Nevertheless, despite these incidents, the elections went on as planned.[346]

After the 1996 elections, more SLA forces came to Foindu, Kamboma, Largo and Bendu Junction (Lower Bambara Chiefdom). At checkpoints, civilians without a written document called a "pass" were not allowed to continue their journey. They were often molested and detained for long periods of time. In another incident, in June 1996, the SLA forced a lot of civilians to brush the area near Peyama. As Peyama was a RUF base, many civilians fell into an RUF ambush and were killed.

The North-west of the District

---

344 These positions were located at Kornia Kpindima, Foindu, Kamboma, Largo and Kombuy.

345 Initiation of Kamajors did not take place in Kenema District before 1996. However, these local hunters, as in other places in the country, were organising themselves to protect their chiefdoms, mainly equipped with bladed weapons and local guns. The registration process will require further clarification

346 It is interesting to note that very few reports mention RUF disturbances on Election Day. Furthermore, besides Kenema Town (Nongowa Chiefdom), the other area affected was Dama Chiefdom, to be found south of Nongowa Chiefdom, Kenema Town being located nearby the border with Dama Chiefdom.

Coming from Lower Bambara Chiefdom through Dodo Chiefdom, RUF forces reached Simbaru Chiefdom in February 1994; Wandor and Kandu Leppeama Chiefdoms were affected shortly after. These chiefdoms will be examined together as it appears that the same RUF commander was in charge of the RUF forces operational in these chiefdoms. As for Gorama Mende Chiefdom, the northernmost chiefdom of the District, it is likely that RUF forces who reached it came from two different directions and the actions of one group may be linked with what happened in Kandu Leppeama, Simbaru and Wandor Chiefdoms (south of Gorama Mende Chiefdom) while the other actions that affected mainly Punduru (north-east of the chiefdom), were directed from Kono District.

In February 1994, an RUF group called "Tav Go" entered Simbaru Chiefdom and rapidly established a camp under the Lome Hill they called Joe Bush.[347] Before establishing their camp, RUF forces attacked Goma. They entered the town with sporadic firing while people were fleeing. The RUF forces stayed for three days in the town and abducted some civilians. The civilians who came out of the bush after the attack counted 15 bodies. The houses were unroofed and young men were forced to carry the stolen property, including food, poultry and personal items such as radios, recorders and clothes to a site that became an RUF camp. Before leaving, they set the town on fire, burning down all the approximately 123 houses of the town.

Shortly afterwards, the first group was reinforced by a second group called "Death Squad", which also came from Lower Bambara Chiefdom. On their way to Simbaru Chiefdom, this second group passed by Dodo Chiefdom, east of Simbaru Chiefdom. At Guala (Dodo Chiefdom), they shot and killed nine civilians and burnt 18 people alive. After spending two days in the town, they continued towards Simbaru Chiefdom and reached the Hydro Electricity Power Dam, located in Simbaru Chiefdom at the border with Dodo Chiefdom. They vandalised the dam and killed civilians who stayed with the Security Police who were stationed there. Civilians who went to the dam afterwards counted 16 bodies, including women and children. Eight civilians were also mutilated and four young boys, allegedly below the age of 15, had melted plastic dripped into their eyes while they were being interrogated by the RUF forces.

The RUF used Camp Joe Bush as a training camp and as a permanent base to attack the whole of Simbaru Chiefdom and the surrounding chiefdoms. Civilians who had been captured were taken to the camp, where they were subjected to physical and mental violence. One example of this was called "Gunproof society". During the course of this action, captives were first forced to dig deep pits and to collect over 150 different kinds of leaves from the bush, where they had been escorted for this purpose. Captives were then obliged to lie down in the pit, where they were covered with the sticks and boiled leaves they had collected, which were then set alight for the captives to be smoked. After this, civilians were forced to wash themselves with the water in which the leaves had been boiled. They were then covered with burnt oil on their whole body and forced to sit for hours under the sun. Following this, RUF members shot them to prove they were "gunproof", as a result of which many people died. In addition, people who had been captured and brought to the camp were shot dead and their flesh cooked by women captives.

[347] Joe Bush was a generic name given to training bases, like "Camp Lion" in other places. Other camps called Camp Joe Bush were to be found at other places in Kenema District.



From this camp, RUF forces started attacking villages, systematically molesting, torturing, killing, raping and abducting people and looting and burning houses. The scale of these acts was very high. The following incidents describe the actions carried out during this period.

The first village to be attacked from the camp was Lomabu (Simbaru Chiefdom), where RUF forces killed 13 people, set the village on fire and captured some men and women. They then divided into groups to visit the whole chiefdom, coming back after the attacks to their camp with stolen property and captured civilians. Patrol groups undertaking these actions in various villages were given descriptive names such as "Operation No Mercy" and "Operation Fire".

At Borboru, a section headquarter in Simbaru Chiefdom, people fled as the RUF entered the town, firing their weapons. Those people who were caught were either captured or killed; this attack resulted in the death of 27 civilians, including children. The village was massively looted and civilians were forced to carry the stolen property, which included animals, clothes and zinc, back to the camp. The RUF forces remained in Goangeima for nine weeks, during which time they mutilated civilians, raped women and girls, burnt people alive, skinned people alive and ate the flesh of their victims. Top commanders were given the most beautiful girls and the other women who had been caught were distributed among the junior commandos. Two young girls were buried alive as a sacrifice at the river bank. People were forced to work and cook for them. At the entrance and exit points of the town, they mounted checkpoints at which they displayed human heads. At one point, they started burning furniture instead of gathering wood and moved all the captives to the camp. Before leaving, they set the village on fire, destroying almost all the houses. People who managed to escape from the camp later found the village destroyed and over 40 bodies lying on the ground.

Deima Town (Kandu Leppeama Chiefdom, south of Simbaru Chiefdom) was attacked many times during this period, as it was a diamond rich area. In March 1994, the RUF group called "Tay Go", wearing combat attire and red berets, attacked Deima, killing 20 civilians on the spot and abducting many young girls. The heavily armed RUF forces attacked and raided many villages in the chiefdom. The RUF group then settled for a while at Bouajabu, from where they attacked other villages. At Bouajabu, 15 people were captured and forced to carry stolen property. At Jenneh, many civilians drowned in a deep stream as they tried to escape an oncoming RUF attack, of which they had been warned by an inhabitant of the village. RUF forces stayed in Jenneh for three days, killing civilians and raping girls. When they entered the town, the RUF forces met a student from Milton Margai College with his aunt. Accusing him of being a SLA member, RUF forces dragged him away, beat him, wrapped him in rice bags and a bed mat and set fire to the mat. His aunt was then taken away and sexually assaulted by more than one member of the RUF. She was taken with them, forced to cook for them and they said that she was now their "Mammy Queen", forcing her to have sex with them. This woman managed to escape later during a fight between the RUF group and SLA forces that took place at Gbando.

Other villages in Kandu Leppeama Chiefdom - such as Motorma, Banda and Leppeama - also came under attack in March 1994. Civilians were killed and houses were burnt down. At the headquarter town of Gbando, one young man from Levuma who had been sent by the acting Paramount Chief

to report on what was happening in the surrounding villages saw members of a fighting force wearing combat uniforms and identifying themselves as RUF forces. Many houses in the town were on fire and bodies were lying in the backyards of some houses, while other inhabitants who were in houses that were on fire were crying.

RUF forces raided other villages in Simbaru Chiefdom before reaching the chiefdom headquarter of Boajibu. During those raids, they vandalised and took everything they came across, including cattle and poultry, and took away civilians to carry what they had just taken. At Tawalun, they looted extensively, including domestic animals, burnt down the village, captured 19 strong young men to carry the load, killed two civilians with machetes and threw three people into a burning house. At Kpetema, where they arrived in the evening hours, they entered the village with heavy fire and captured eight men to carry their load. At Peyeila, a village of 98 family houses, they vandalised the houses and took all the property they found, including household items, cash, money, clothes and cattle. They captured civilians to bring all the items to Camp Joe Bush, set the whole village on fire and mutilated seven civilians, namely three women, a three year old girl and three young men. One woman who was six months' pregnant had her belly cut open to settle an argument the RUF forces were having about the sex of the baby she carried.

On 17 March 1994, the same group launched an attack on Simbaru Chiefdom headquarters, Boajibu, known to be a business centre for the neighbouring chiefdoms and containing the offices of many dealers in diamonds and gold. Before entering the town, they laid ambushes on all the entrances. Seven hundred and sixty-nine civilians were captured and divided into four groups, each of which was to be given a section of the town to burn down. Each day civilians were killed; they were burnt alive, dropped in boiling water, shot or had melted plastic dripped into their eyes. The bodies of their victims were cooked and eaten; this human flesh was called Yanimi. Many people were mutilated and dozens of women and girls were often raped by numerous RUF members. Relief came from SLA forces from Komboya Chiefdom (Bo District) who attacked the town after 17 days of RUF occupation, repelling the RUF forces. SLA forces then returned to their base in Bo District.

RUF forces began a looting spree on 29 March 1994 at Konta (Gorama Mende Chiefdom), a town known for its business transactions.[348] RUF forces entered the town at dusk with heavy firing and, as civilians had already fled, undertook systematic looting and burning of the houses. Two people were killed: one man, described as insane, who did not leave the town was stabbed to death because RUF forces were suspicious that he did not leave and an old man was burnt alive in a house the RUF forces had set on fire. Those RUF forces then continued their looting spree in the surrounding villages and captured civilians were forced to carry the stolen property on their heads. At Palima, five civilians were killed and 20 houses left in ashes. The RUF forces went back to Konta, where they killed and ate domestic animals.

---

[348] The direction the RUF forces came from cannot be ascertained with certainty. As Konta is located at a nodal point on a road coming from the south (Wandor Chiefdom), it is likely that those forces came from Wandor Chiefdom. However, information collected for Wandor Chiefdom does not mention any troops movement late March 1994, only in May 1994. It could nonetheless be deduced that the troops who passed by (and only bypassed) Wandor Chiefdom in May 1994 are the same as the one who attacked Konta (Gorama Mende Chiefdom) and that one of these two dates is not completely exact.

Three days later, the RUF forces left for Modema, which is on the road that leads to Tonkolili District, in the north of Gorama Mende Chiefdom. On their way to Modema, RUF forces burnt many houses: five houses at Gbandi, six at Kortuhun, three huts at Fulawahun and 20 at Kenyema. At the Kenyema Bridge, one civilian who was wearing a t-shirt with a NPRC logo was stabbed to death. Another civilian was captured at the bridge and joined the captives. Modema, a periodical market centre located in an area producing coffee and cocoa, was attacked on 1 April 1994. During this attack, all the public buildings were burnt down and one civilian caught trying to flee was killed. Houses were also burnt down in the surrounding villages. The RUF forces left Modema for the road leading to Masingoi (Koinke Sanda Chiefdom, Tonkolili District). SLA forces came to Modema late April, unsuccessfully pursued the RUF forces, stayed in the town for some days and looted what was left before leaving.

In April 1994, RUF forces entered the north-east of Gorama Mende Chiefdom. At this time, vigilante groups[349] composed of local hunters and volunteered civilians trained in basic military tactics were active in the chiefdom. Those vigilante groups were to serve as local observers assisting the SLA forces and were sometimes used for reconnaissance (RECE). One of those vigilante groups had its first encounter in April 1994 when, hearing that RUF forces coming from Nimiyama Chiefdom (Kono District) were near Punduru, they ambushed those RUF forces in Kemuya forest, killing one of them and injuring others. Following this incident, RUF forces entered Kemuya and killed five civilians, including women and children, and burnt 10 houses. On their way back to their base in Nimiyama Chiefdom, those RUF forces went through Ngorgbedehun, on the east bank of the Sewa River, where they raided the houses and burnt down two of them.

On 8 May 1994, SLA forces came back to Modema (Gorama Mende Chiefdom), claiming they had been deployed to protect civilians. They taxed the people of the town and on 9 June they left, allegedly for another military assignment. Three days after they had left, Modema was attacked but the inhabitants could not tell whether the assailants were RUF or SLA forces. During this attack, five people were killed and the armed men located the civilians in their hiding places, beat them and took their property.

The situation prevailing in Simbaru Chiefdom also affected Wandor Chiefdom, north of Simbaru Chiefdom. Beginning in June 1994, small groups of RUF forces were coming from Simbaru Chiefdom, initially at least led by the same commander who had been leading the "Tay Go" group. Before these regular visits of small groups, hundreds of RUF forces passed by the chiefdom in May 1994, en route to open a new base further north, killing two people as they passed through Gendema. In June 1994, RUF forces coming from Boajibu (Simbaru Chiefdom) arrested the Town Chief and killed him in a nearby village, on the basis that the inhabitants did not feed them well. His wife was raped and the RUF forces took two young girls away with them as they moved from village to village to take food. In December, on a food-finding mission, they went to Kpangbaru, where they mutilated a man they identified as being a vigilante. While he was still alive, his stomach was slit open and his organs removed and eaten.

---

[349] These vigilante groups were equipped with traditional weapons like swords, lances, knives and short guns (local hunters).

At one point (reports vary between June 1994 and the end of 1995), SLA forces were based at Boajibu (Simbaru Chiefdom). When they arrived, they asked people to come out of the bushes and those who did not were later forced to come out. Civilians were forced to stay indoors from 5.00 pm until 9.30 am. Every morning, civilians were dispatched to bring food for the SLA forces in the chiefdom, which later extended to neighbouring chiefdoms when food supplies in Simbaru Chiefdom were exhausted. SLA forces were patrolling in Simbaru Chiefdom and the neighbouring chiefdoms, bringing with them civilians used to carry properties they would loot. Civilians were forced to work for SLA forces, mainly to mine diamonds for them; villages were raided to bring manpower for this purpose. Civilians were also forced to do farm work. Orders were given to shoot any civilian caught trying to steal gems. In one incident, civilians fleeing RUF attacks in Kono District and coming to Boajibu were arrested and detained for two days. Three of them were then shot to death and civilians were told to tie their feet together and to "throw them away". Civilians were beaten if they failed to give food to the SLA forces. Orders were passed that civilians had to divide their food in two parts, one part for them and one for their commander. Civilians were harassed for their property and SLA forces were searching for civilians in their "sorquehun". During one of these searches, some SLA members fell into a RUF ambush. In reprisal, SLA forces killed two young civilians accused of being responsible for the death of their colleagues. They cut their throats, slit their stomachs, cut out their organs and cooked them. During all this period, many women and girls were raped and anyone who denied a request from an SLA member was severely beaten. Similar actions continued under successive commanders.

Punduru (in the north-east of Gorama Mende Chiefdom) was attacked in October 1994 by RUF forces on a looting spree. Over 250 men entered the town wearing red headbands, about 50 of them unarmed, one of whom was a Lebanese businessman captured in Nimiyama Chiefdom (Kono District). The heavy firing frightened civilians and vigilantes, who all fled the town. The RUF forces then started hunting for people and property, raiding the whole town. They killed 10 civilians, mainly people who could not escape, including the elderly and young children. Other civilians they found were not killed but used as manpower to carry the stolen property. However, one man who was told to carry property taken from the pharmacy and who refused was beaten to death with a bladed weapon. Before leaving the town for their base with their captives, the RUF forces set fire to the mosque, the health centre, the primary school and two churches.[850] However, some of the local hunters managed to encounter the RUF forces at the border with Nimiyama Chiefdom (Kono District). RUF forces, heavily laden with stolen property, were not able to put up strong resistance and fled, leaving most of the stolen property behind and enabling most of the captives to flee.

Another group of RUF forces[851] reached Kandu Leppeama Chiefdom in August 1995[852] and inflicted a lot of violence on both person and property as the following examples highlight. At Levuma, RUF forces killed civilians, sexually assaulted women, burnt some houses and captured civilians to carry their load. At Jenneh, they killed five civilians and tortured others. The RUF forces

[850] Punduru would not come under other RUF attack until 1997.

[851] It was not the 'Tay Go' group.

[852] This event could have taken place in 1994.

also killed 16 civilians, burnt 45 houses, amputated the limbs of seven civilians, raped four girls and took other women from their husbands at Gbando, the chiefdom headquarter. Deima, a diamond rich town, was attacked not only during this wave of attacks but also many more times throughout the following months as RUF forces, although not based there, sporadically entered the chiefdom on raids.[853] Following these attacks, local authorities addressed the Government, expressing their deep need to have some SLA forces stationed in their chiefdom. However, the SLA forces who were sent as a result of this request also began harassing civilians and taking their property.

Due to SLA attacks in 1995, RUF forces mounted serious assaults in Wandor Chiefdom. At Gendema, civilians were assembled and nine of them were locked up in a room after three had been killed. The nine men in the room were taken out one after the other and beaten to death. The RUF forces did not use bullets, both to save ammunition and to avoid alerting SLA forces based at Boajibu (Simbaru Chiefdom). RUF forces later proceeded to one of their main bases, called "Bokurr", in Valunia chiefdom (Bo District).

Tongi, the headquarter town of Gorama Mende Chiefdom, was overrun by RUF forces in March 1995. Over 500 well-armed RUF forces entered the town, coming from the north of the chiefdom,[854] gathered people in the Court Barrie and declared that the town was now an "RUF entity". New authorities were appointed, including a Town Commander, a Town Mother and a clerk. The Town Commander was charged with taxing the inhabitants and gathering food for the RUF. Youths were ordered to unroof houses and to use the zinc to build a camp called Joe Bush[855] in the forest near the town. During the time of the building of the camp, two civilians were beaten to death, as they did not obey the RUF order to unroof and transport some zinc.[856] Young men and children were captured and trained in the camp on guerrilla warfare throughout 1995 and 1996.[857]

Local hunters in Simbaru Chiefdom decided to organise themselves and provide assistance to SLA forces, mainly by showing them routes within the chiefdom. At this time, proper initiation was not taking place; rather it was an informal gathering of men above 20 years who then presented themselves to the SLA. This movement also took place in Wandor Chiefdom, where a meeting with local hunters from neighbouring chiefdoms was organised.

In October 1995, at Gombu (Wandor Chiefdom), RUF forces killed 17 civilians and razed the village to the ground by setting houses on fire. Women and girls were sexually abused and civilians were taken away, forced to show the RUF forces routes by which they might avoid local hunters. At Falla the next day, one civilian who cheered, thinking those forces coming to the village were SLA forces, was killed and dismembered with a bladed weapon, his body parts scattered all over the

---

853 These continuous attacks on Deima resulted to the death of a lot of civilians, the number of casualties per attack being however not ascertained.

854 The report mentions that they came from the direction of Mondema, north of Tongi (Gorama Mende Chiefdom) and accordingly those RUF forces came either from Tonkolili or from Kono Districts.

855 Joe Bush was a generic name given to training bases, like "Camp Lion" in other places. Other camps called Camp Joe Bush were to be found at other places in Kenema District.

856 These two civilians could not carry out the task RUF ordered them to do, as they were ill.

857 The camp would later on be attacked by Kamajors.

town. Another man who was requested to cook for them and took the meat for himself was also killed and his stomach cut open. On that same night, Falla was set on fire.

The SLA presence in Simbaru Chiefdom did not prevent RUF forces attacking villages. On 25 December 1995, as RUF forces attacked Boajibu for the second time, SLA forces fled the town. During this attack, the newly initiated Bondo society girls were captured, the few houses left standing after the first burning were burnt and nine men were killed. The entire town was destroyed, including all the buildings except two mosques and a school. The RUF forces did not stay in the town and around one week later, civilians and SLA forces came back to the town. SLA forces went back to patrolling Simbaru Chiefdom and the neighbouring chiefdoms, where they took away what was left after RUF attacks, unroofing houses and removing their doors and windows shutters. They forced civilians to go with them to carry those items back to Boajibu.

In January 1996, RUF forces came back in Wandor Chiefdom and this time engaged people to join them, organising meetings and appointing Towns Commanders. Those who refused to join were considered as enemies. According to one of the RUF commanders, they would not kill anybody if people followed orders. However, shortly after, their behaviour changed and elders where punished; one was strung up inside the Court Barrie and seriously flogged. Those civilians who had to cooperate with RUF forces were later denounced to SLA forces in Simbaru Chiefdom and, everyday, some were punished with lashes while others were fined.

In 1996, both local hunters and SLA forces attacked Camp Joe Bush in Simbaru Chiefdom and destroyed it. The bodies of many civilians were found almost fully decomposed in the deserted camp, most of them victims of the "Gunproof society" practice. From the documents found in the camp, it became clear that this camp was going to be developed as the main RUF base for the eight neighbouring chiefdoms. The interrogation of the captives revealed that RUF forces were coming from different chiefdoms all over the District. They revealed the way they were treated in the camp: they were forced to work all day long without proper food, continuously beaten or molested; women were constantly raped, often raped by multiple attackers and many of them died from those rapes; bodies were not buried but were thrown in the bushes or in streams; any time RUF forces left the camp to attack a village, they forced captives to go with them, forcing them to the frontline, to carry the property they would take; any civilian who was tired and could no longer sustain the weight of the load was either beaten to death or shot; and young boys and girls under 15 were trained to become combatants. Babies who were born in the camp were well treated, as they were viewed as future combatants. When they entered the camp, Kamajors took automatic rifles and machine guns, hiding these weapons from the SLA forces. Following the capture of the camp, RUF forces attacked Boajibu many times, trying to get back the documents they had lost.

Following this successive attack, the Kamajors of Simbaru Chiefdom established five bases in the chiefdom at Fonima, Gbonjeima, Goma, Boajibu and Njagbwema. They routinely led SLA forces on patrol. To buy the cartridges for their single barrel guns, they used to tax male civilians while women were requested to contribute with rice. As Kamajor control in the chiefdom grew stronger, civilians started coming back in the chiefdom.

The collaboration between the SLA and local hunters did not last long, as SLA forces started molesting and, at times, disarming those local hunters. At Boajibu, the new SLA commander who arrived in April stated that "two captains cannot drive one ship at the same time", meaning that SLA forces did not need another armed group to defend the country. SLA behaviour towards civilians became worse when the new commander arrived. Incidents of rapes, sexual harassment and forceful marriages became common practice at this time. SLA forces forced civilians to work in mines and to dig up diamonds for them. SLA forces guarding the mining areas were told by their commander to injure or kill any civilian caught trying to steal a gem. That mining activity went on throughout 1996 until early 1997, when SLA forces left the area and the Kamajors arrived. Civilians were also forced to engage in large-scale farming under the surveillance of SLA forces. Civilians worked all day and went back home in the evening without being fed. On one occasion while they were searching for civilians in the bush to take away their property, SLA forces fell into an RUF ambush and one of them was killed. The SLA commander in Boajibu accused two local hunters from Wandor Chiefdom of being responsible for the killing of this SLA member. The two local hunters had to lie down on the street and were killed, having their throats cut with a dagger. The junior SLA members then removed the organs, cut the fleshy parts of the bodies, cooked and ate them.

In December 1996, the SLA commander ordered the Bondo society heads to initiate girls into the society. At first, the heads refused, as they stated that on hearing that the initiation was going to take place, RUF forces would attack them, especially since RUF forces were constantly attacking the chiefdom headquarter of Boajibu. Nevertheless, the SLA commander forced them to perform the initiation on 23 December. In the morning of 25 December, RUF forces attacked Boajibu; the SLA forces fled and left the inhabitants, including the new Bondo initiates, in the hands of RUF forces. The RUF forces caught the new initiates with their superiors, called Soweis, and sexually assaulted the girls who had been initiated only two days previously. Furthermore, they killed nine civilians, including young married women and children. A lot of buildings were also burnt down.

The Kamajors - 1996

In 1996, on hearing that Kamajor societies were being established in Bo and Bonthe Districts, elders and Chiefs in the various chiefdoms of Kenema District started nominating their own men for initiation as Kamajors, which took place in Kenema Town. The first batches of those initiates returned to their chiefdoms in the middle of 1996 and deployed at key entry points to the towns and villages. Most of the men nominated by the elders to join the society were in displaced camps, as was almost all the population of the chiefdoms.

Events in Dama Chiefdom highlight that in 1996, the welfare of the local hunters, now regrouped under the CDF, was transferred to the Government and each chiefdom authority was required to appoint a chief Kamajor to act as chiefdom coordinator for the CDF in the chiefdom. Battalion commanders and commanding officers were also appointed.[858] The conditions for initiation, as applied at least during the early stage of the Kamajors, were as follows:[859]

[858] For more details on the structure of the CDF, see the chapter on the CDF in the Fighting Forces section of this report.

[859] These conditions were specifically reported in relation to Simbaru Chiefdom, generally applied across the whole District and, indeed, the whole Kamajor movement.

- Men must be above 18 years
- Men must join the Kamajor society voluntary and append their signature.
- Those men must be recommended to the Paramount Chief by a Town Chief or Section Chief.
- Those men must willingly contribute condiments to the Kamajors.

In some chiefdoms, such as Gorama Mende Chiefdom, men who wished to be initiated as CDF members had to pay a fee ranging from Le 15,000 to Le 25,000. Once the money was paid, a date was set and the men who were going to be initiated were to come dressed in a "war ronko", which is a type of country cloth.

RUF forces were in control of Langrama, Niawa and Small Bo Chiefdoms until 1996 when the first Kamajors coming back from their initiation and started fighting. In June 1996, local authorities from the three chiefdoms decided to form their own society. A Section Chief from Niawa Chiefdom encouraged people living in the displaced camps to be initiated. The first arrangements combined Small Bo, Niawa, Langurama (Kenema District), Wunde (Bo District), Wunde and Barri (Pujehun District) Chiefdoms; this group was known as the Wanjei Defence Committee. However, this initial arrangement did not last as the group as there were complications due to the fact that it was composed of chiefdoms from different Districts. It was therefore decided that the initiation for the Kamajors society should be undertaken at District level. Thus, Small Bo, Niawa and Langrama Chiefdoms regrouped and became known as the Upper Wanjei Defence Committee.

After the initiation in Bo, the first group of around 200 Kamajors arrived in Small Bo Chiefdom in October 1996. With weapons provided by SLA forces and together with the SLA forces, the newly initiated Kamajors launched their first attack on RUF positions in a town located four miles west of Blama.[360] It is reported that SLA forces gave weapons to the Kamajors despite the animosity and distrust between them. During this first attack, the Kamajors did not dislodge the RUF forces but obtained their first automatic rifles (AK47s). Together with the Kamajors from Wunde Chiefdom (Bo District), they successfully attacked an RUF camp at Semabu (Small Bo Chiefdom). Kamajors continued their progression into Small Bo Chiefdom, taking weapons abandoned by the retreating RUF forces.

The Kamajors of the three chiefdoms (Small Bo, Niawa, Langruma Chiefdoms), assisted by Kamajors from Bo District (Wunde and Boama Chiefdoms, sharing the border with Kenema District) and together with SLA and ECOMOG forces, then launched attacks on Niawa Chiefdom. Using two different roads, one coming from Koribondo (Jiama Bongor Chiefdom, Bo District) and the other from Potoru (Barri Chiefdom, Pujehun District), the combined forces advanced on RUF camps at Kpantena Ngovokpan, Topanda and Bandawor before reaching the main camp in Bandawor forest, called Camp Zogoda. The fighting lasted several days, as a result of which the combined forces were able to dislodge the RUF from the camp. In the camp, the Kamajors found many RUF documents consisting of records of RUF activities, including, *inter alia*, records of the attacks on the Bo–Kenema Highway, how many items were stolen and how many people were

[360] The name of the place is not specified, only its location.

captured to carry the load. In the camp, the combined forces found many captured civilians, who related how they were treated during their stay in the camp. For example, abductees who were caught trying to escape were shot dead or had the letters "RUF" inscribed on their body with hot iron. Civilians were forced to work in the camp and were given little or no food. Villages considered by the RUF as "enemy" bases were burnt down and captured civilians were used to carry boxes of ammunition on their heads for long distances. Young boys between eight and eleven were trained in the camp and sent to fight with weapons almost too big for them to carry. Some of those civilians found in the camp were brought to Blama to a camp that hosted them and the captured RUF forces were taken to the SLA Brigade Headquarter in Kenema.[861]

After the Kamajors had successfully repelled RUF forces from the three chiefdoms, civilians started to come back from displaced camps and the bush to their villages. The Kamajors who had initially all been based in Small Bo Chiefdom also returned to their various chiefdoms, namely Niawa, Langruma and Small Bo Chiefdoms. From that time, Niawa and Langruma chiefdoms did not encounter any more RUF attacks.

Newly initiated Kamajors were deployed at different locations – Deima, Levuma and Gbando – in Kandu Leppeama Chiefdom. While initially they collaborated with the SLA forces, this deteriorated as they openly disagreed with the behaviour of SLA forces towards civilians. Nevertheless, Kamajors' behaviour towards civilians was not exempt from violence either, as civilians accused of being "rebel" collaborators were chased. In one incident, two civilians who had been appointed Town Commanders at Kamboma and Koindu Villages by RUF forces and who had actively collaborated with RUF forces were killed, although it appears that these people were killed by the people of those villages, rather than the Kamajors.

In Wandor Chiefdom, strong men who were nominated by the Chiefs to be initiated in Jiama Bongor Chiefdom (Bo District) returned to the chiefdom in September 1996 and successfully repelled RUF forces. Kamajors started patrolling at the borders of the chiefdom and in order to avoid having civilians caught in crossfire during encounters with RUF/AFRC forces, Kamajors requested the civilians from surrounding villages to gather at Falla in the centre of the chiefdom. Shortly after they arrived in the chiefdom, Kamajors fought with RUF/AFRC forces who were en route to attack them at Falla[862] and succeeded in repelling them. After a second attack that took place two days later, Wandor Chiefdom did not sustain any more RUF or RUF/AFRC incursions.

In September 1996, Kamajors coming from Kenema Town repelled RUF forces from different villages in Lower Bambara Chiefdom, including Lowoma, Fowaru and Ngelaima. People who had fled to the bush started to come back to the villages. However, they were soon forced to give food to the Kamajors and those who refused were detained for hours and molested. Kamajors also deposed Chiefs and decided on private matters, punishing and fining people they found guilty. The heads of some RUF members were cut off and displayed in Tongo Field. Kamajors entered Peyama, drove the RUF out and took all the stolen property back to Tongo, where they worked with SLA forces.

---

[861] The fate of these prisoners is not known.

[862] The fighting took place near Kamboma.



In November 1996, Kamajors from Nomo, Gaura and Tunkia Chiefdoms joined forces to dislodge the RUF, launching successful attacks in Nomo Chiefdom. They were first equipped with short guns, sticks, machetes and cudasses and progressively, were provided with more sophisticated weapons, such as AK47s, taken from opponents during the attacks. Any person suspected of being a "rebel" would be killed, their heads sometimes chopped off. In January 1997, at Dambala (Nomo Chiefdom), three men were shot dead, alleged to be "rebels".

Early that same month, Kamajors came back from their initiation in Gorama Mende Chiefdom and launched their first attack on the headquarter town of Tongi. They successfully repelled the RUF forces from the town and from Camp Joe Bush. After they overran Tongi, Kamajors arrested all civilians who had held positions during the RUF's stay, threatening to kill them. However, due to the intervention of the chiefdom authorities, those people were not killed but instead were forced to pay the following fines: one bag of rice, five gallons of palm oil, two cotton cloths and Le 50,000. Kamajors also repelled RUF forces from other towns in the chiefdom such as Vengema, Modema, Keema, Jouma, Berembeh, Benduma and Nyandehun. More Kamajors were sent for initiation to strengthen their forces. Another Camp Joe Bush at Kpetema Teiyeh, in the north of the chiefdom at the border with Tonkolili District, was attacked and Kamajors drove RUF forces out of the camp. Some RUF forces were killed while most of them ran away. Kamajors from Gorama Mende Chiefdom were also active outside the boundaries of their chiefdom as they fought RUF forces in Tonkolili District.[363]

On 3 March 1997, an initiator from Bonthe District was called upon to initiate more Kamajors in Gorama Mende Chiefdom. In the same week, on hearing this information, RUF forces sent a reconnaissance (RECE) to plan an attack on the chiefdom. Kamajors did not wait for the RUF forces to come and on 10 March, attacked their base at Sullay Ground. The captured RUF forces were sent to Bo Town,[364] under the protection of the chiefdom coordinator of the Kamajors. After this last fight, Gorama Mende Chiefdom was virtually free of RUF presence, the only subsequent sightings being a few RUF forces seen on food finding missions, with no reported fatalities.

In March 1997, following an encounter between SLA forces and the CDF at Tongo (Lower Bambara Chiefdom), the Kamajors left the town and many civilians were tortured and killed by SLA forces on the grounds that they were Kamajor supporters. Kamajors who were driven out to nearby chiefdoms regrouped and retook Tongo, driving out SLA forces and establishing a permanent base. Retreating SLA forces killed a lot of civilians on their way to Kono District in Konjo and Venema (both villages are located in Lower Bambara Chiefdom). At Tongo, the Kamajors targeted alleged SLA sympathisers; they tortured and killed many civilians on these grounds. From this base, Kamajors were soon controlling the chiefdom.

When initiations started to take place in Kenema, local hunters from Simbaru Chiefdom went to be initiated. On their return in March 1997, they were told that the SLA forces had left for Kenema Town. From this time on, the Kamajors were in charge of the chiefdom. In Kandu Leppeama

[363] See the factual analysis for Tonkolili District.

[364] At this time, Bo Town was under SLA control.

Chiefdom. Chiefs recommended strong men to be initiated and when they came back from their initiation, they were divided into different groups to protect the chiefdom.

In March 1997, RUF forces attacked the following villages in Simbaru Chiefdom, setting houses on fire and killing civilians: Nyahu (over 60 dwellings were burnt and six people killed); Mamboma (over 60 houses burnt, four old men killed and two men mutilated); Paninga (45 houses were burnt and nine people killed); Gawama (over 170 houses, two primary schools and a health centre were set on fire and 17 people were killed); Gerehun (over 250 houses and public buildings were set on fire, 48 people were killed and four people mutilated); Fawana, Garahun, Jagbwema, Gogbebu and Nyeyama.[863]

In May 1997, a week before the Coup, the Kamajors' Chief Initiator conducted over 300 initiations at Falla (Wandor Chiefdom) to strengthen the number of Kamajors. Others travelled to Bo District to be initiated by the Deputy Chief Initiator.

Around the same time, SLA forces attacked the Kamajor base at Kenema, chasing away the Chief Initiator. During this attack, many civilians and Kamajors and few SLA members were killed and several houses, including that of the Chief Initiator, were burnt down as well as numerous homes of Kamajors and Kamajors supporters. On seeking refuge in Konia (Dama Chiefdom), the Chief Initiator was advised by the Paramount Chief to leave, due to its proximity to Kenema Town, so he left for Bo District.

Also before the Coup in May 1997, Kamajors from Nongowa Chiefdom, on hearing that SLA forces in the Dama axis were demanding money from people at the checkpoints they were operating, went there to inquire about the matter. When they arrived, SLA forces open fire on the Kamajors, who were mainly equipped with bladed weapons and some single barrel guns. The Kamajors captured the SLA commander and hacked him to death; other SLA members were given the same treatment.

c) Third Phase: May 1997 – 2002

Following the Coup on 25 May 1997, AFRC forces asked the CDF to surrender their weapons to the nearest police station and to suspend all their activities. CDF members did not follow this request; on the contrary, although they withdrew from the battlefronts, they regrouped themselves in villages and increased their number by undertaking more initiations. During this period, young boys under 15 began joining the society. RUF/AFRC started launching attacks on Kamajor positions and vice versa.

Shortly after the coup, on 30 May 1997, it is reported in general terms that fleeing civilians were mutilated and killed by RUF/AFRC fighters at Baoma (Kandu Leppeama Chiefdom). Indeed, across the District, RUF/AFRC forces harassed and intimidated civilians, molesting them, raiding villages and taking food and other property.

[863] These incidents may have taken place after the Coup of 25 May 1997.

In the south of the District, RUF/AFRC forces established a camp called "SS Camp" at the boundary between Dama and Nongowa Chiefdoms. From there, they raided all the surrounding villages. Besides looking for food, the main purpose of these raids was to find Kamajors. Many villages were suspected of hosting Kamajors preparing to launch attack on RUF/AFRC positions. RUF/AFRC attacks were also perceived by the population as reprisal to punish the population for failing to support them. Thus, men were stripped naked and RUF/AFRC forces searched for any marks on their bodies indicating they belonged to the Kamajor society, killing those on whose bodies they found such marks. However, not to have any marks did not prevent civilians from being killed, since people were killed on suspicion of being Kamajors or Kamajor collaborators in the absence of such a mark. This practice of undressing men to search for any mark was also carried out in the SS Camp by the Moa River.

Niawa and Langruma Chiefdoms were not attacked by RUF/AFRC forces after the Coup, unlike Small Bo Chiefdom, where SLA forces had been stationed before the Coup.[866] Shortly after the Coup, the commander in charge of the ex-SLA forces in the chiefdom announced that Kamajors should disarm to them as instructed by the high command in Freetown. RUF/AFRC forces launched an attack on Kamajor positions, from which the Kamajors were controlling part of the Bo-Kenema highway in the chiefdom and in Blama in August 1997. In both locations, the Kamajors were overpowered and fled. During this attack, RUF/AFRC forces burnt houses in Blama. Another battle between the two forces took place in Joyomei, a town six miles south of Blama. The town was burnt down, although the force responsible for this burning remains unknown, with Kamajors blaming the RUF/AFRC and vice versa.

During the RUF/AFRC stay in Kenema Town, girls were raped, houses were looted continuously and civilians were harassed for food and other items. Most commonly, alleged Kamajors or alleged SLPP[867] or Kamajor supporters were arrested, detained, beaten and/or killed and their houses looted and burnt.[868] In one incident, a man riding his bicycle on the road to Kenema was brought to the town by RUF/AFRC members and killed in front of the Sierratel Building; his stomach was cut open and his intestines tied across the road as a barricade. Civilians in the town were beaten to death if they were caught listening to the BBC.

In Small Bo Chiefdom, people who were considered to be Kamajor collaborators were severely beaten or killed. RUF/AFRC forces made civilians look for food for them and the pressure on civilians was intensified as RUF/AFRC forces in Small Bo Chiefdom had stopped receiving food and other items from their main base in Kenema. The RUF/AFRC forces believed that civilians were sending information to Kamajors who had gone in the bushes; any food found with civilians was taken away on the grounds that the food would be sent to Kamajors. Furthermore, RUF/AFRC forces used to organise groups of civilians and took them to the bush to look for food. Whatever the quantity of food brought back, it was divided into four parts, one for the forces' High Command,

---

866 Accordingly, the SLA base transformed into an RUF/AFRC base.

867 Since February 1996, the SLPP party has been the ruling party of Sierra Leone.

868 No details were gathered for this period but this assertion, although general, was common in the information gathered for Nongowa Chiefdom and beyond the boundaries of the chiefdom.

one for the lower ranks, one for the civilian administration and one for the civilians who had brought the food

Civilians in the chiefdom engaged in mining activities in villages located in the north of the chiefdom, namely in Yorwuhun, Victoria, Komoli, Limeh and Nyagbe Bo. They received food from businessmen from Kenema Town who encouraged the mining. Because of this food supply and because the movement of civilians towards these villages was perceived as sabotage,[869] RUF/AFRC forces established a base at Victoria in the north of the chiefdom, mainly to seize the food and non food items they needed from civilians and to monitor the movement of Kamajors in other chiefdoms located further north. However, RUF/AFRC forces soon also engaged in mining activities.

RUF/AFRC forces were making regular visits to Dama Chiefdom to look for CDF members and to request food from civilians. At Gofor in July 1997, they killed three civilians with automatic rifles and at Bandembu, on the same day, civilians suspected of being CDF supporters were killed. Each time they entered villages, RUF/AFRC asked civilians to locate CDF members, threatening to kill them. Houses and property belonging to suspected CDF supporters were looted and burnt down and some alleged Kamajor collaborators were tortured to death. Also in July, RUF/AFRC forces entering Kpandebu through the east killed 25 civilians, mostly men, and inflicted physical violence on others, whom they alleged to be Kamajor supporters. The following month, RUF/AFRC forces coming from Joru (Gaura Chiefdom) attacked Konia, Gboyama and Manor on the same day and killed an unknown number of civilians in those villages. During this wave of attacks, other villages including Sebehun and Kbakah were also raided and 10 civilians were killed.[870]

The Kamajors regrouped and began attacking RUF/AFRC forces, often by laying ambushes. Captured RUF/AFRC members were killed, frequently on the spot. Across Kenema District, civilians suspected of being a member of the RUF/AFRC forces or a member of their family or a collaborator were killed. For example, at Konia (Dama Chiefdom) in August 1997, one man was shot dead and another was beaten for two days, both on the grounds that they were "not on the side of the CDF".

During the second half of the year, RUF/AFRC forces reached Kandu Leppeama Chiefdom, where there were some incidents of violence inflicted on civilians. At Deima, they killed civilians for their money and property, tortured some who refused to give them their valuables and raped some girls. At Jenneh also, some people were killed. The acting Paramount Chief residing at Levuma was arrested in November 1997 as he had dismantled the checkpoints some RUF/AFRC forces had made in the town.[871]

Throughout the third phase of the conflict, diamond-rich Lower Bambara Chiefdom was the scene of numerous attacks and counter-attacks between RUF/AFRC forces and Kamajors, as a result of

[869] This movement of civilians was indeed perceived by RUF/AFRC forces as indicating that civilians had received information of imminent attacks from Kamajors and accordingly civilians were considered as fleeing the area.

[870] It could not be ascertained in which village those 10 civilians were killed.

[871] The acting Paramount Chief subsequently managed to escape into the bush.

which there were many civilian fatalities. In August 1997, RUF/AFRC forces launched attacks on numerous villages including Torkpombu, Buime, Laehun, Kpandeba, Lowoma, Fowaru, Ngeleima, most of them diamond mining villages or towns. Coming from Kenema Town, these heavily armed forces fired indiscriminately in the villages as they passed by, shouting the following slogan, called Cyburg: "We don't talk, the barrels talk". During these attacks, many civilians were killed and many houses were burnt. As a result of these attacks, the CDF were driven out of the chiefdom. RUF/AFRC engaged in mining activities almost everywhere, digging plantations without the consent of their owners. If the owners resisted these activities, they were seriously beaten. Civilians were forced to work in the mines and many people died at these sites.

In August also, RUF/AFRC forces planned to attack Punduru, a Kamajor base in the north-east of Gorama Mende Chiefdom. On their way to Punduru, they had an encounter with Kamajors at Bandabu and one of their members was killed during the battle. It is believed that this incident outraged the RUF/AFRC forces and on 30 August, around 700 heavily armed[872] RUF/AFRC members launched a fierce attack on Punduru. During this attack, four Kamajors and 28 civilians were killed.[873] RUF/AFRC forces were however repelled and moved to Sewafe (Nimiyama Chiefdom, Kono District) before burning the whole town and capturing some girls and young boys.

The following month, the Kamajors ambushed a military convoy in Lower Bambara Chiefdom and 20 members of the RUF/AFRC forces were killed and arms and ammunition were seized. In September 1997, Kamajors in Nomo Chiefdom launched an attack on RUF/AFRC forces' positions in Tunkia and Gaura Chiefdoms. Two RUF/AFRC members were captured and their heads chopped off. Any person suspected of being a RUF/AFRC member was killed such as those two men from Joru (Gaura Chiefdom) who were shot in their stomachs while entering Nomo.

That same month, CDF members came to the Court Barrie in Konia and asked the Paramount Chief of Dama where he had put the money he received from RUF/AFRC forces. Denying that he had received such money, the Paramount Chief was arrested, tied up with his hammock, taken away and killed in another village. Later, one man who tried to escape was shot on sight by a CDF member. The CDF commander stated that he was the new Paramount Chief.

In October 1997, the mountain village of Basara (Nongowa Chiefdom) came under RUF/AFRC attack, as it was suspected of being a Kamajor stronghold. The village was surrounded in the early hours of the day and forces opened fire on the civilians. Five civilians were killed during the firing and 15 were put in a hut and burnt alive when the hut was set on fire. In November 1997, the same scenario took place in another mountain village called Masao. Over 10 people were shot dead, while 10 others were forced into a house, which was then set on fire.

Kamajors started regrouping in October 1997 in Dodo Chiefdom and in Panguma (Lower Bambara Chiefdom). Jormu Kefabu (Nongowa Chiefdom) became a CDF stronghold and RUF/AFRC forces

[872] The RUF/AFRC forces were dressed in combat fatigues with red berets and armed with machine guns, an anti-aircraft gun mounted on a Hilux van, RPGs and automatic rifles.

[873] It is worth noting that throughout this time, the more the Kamajors attacked the RUF/AFRC forces, the more the RUF/AFRC forces were harassing civilians.

made several unsuccessful attempts, mainly in the mountain villages, to drive the Kamajors out. In December 1997, the mountain village of Bambawa (Nongowa Chiefdom), which was believed to be a Kamajor training base, was attacked and burnt and one person was killed. Also in December, RUF/AFRC forces encountered Kamajors at Combema and about 40 of them were killed by Kamajors.

In November 1997, RUF/AFRC forces attacked Gorahun (Tunkia Chiefdom), seizing the two roads leading to the town. In this attacks, 55 people were killed at close range. After this attack, the chiefdom did not experience further RUF/AFRC attacks.

The following month, the Kamajor commander on the ground in Nomo Chiefdom received a letter from the Kamajor High Command instructing all Kamajors in all chiefdoms to launch Operation "Black December". The purpose of this operation was to restrict the movement of the RUF/AFRC forces by regaining control of the highways. Kamajors from Gorama Mende Chiefdom took part in this operation on the Kono-Makeni highway. During the same month, at Dambala, a suspected "rebel" was decapitated and his blood drunk by a Kamajor.

"Operation Black December"[874] did not take place in Lower Bambara Chiefdom in December 1997. However, a fierce attack was launched on Tongo Field in January 1998, when Kamajors entered the chiefdom from two fronts, namely the east from Malegohun Chiefdom and the west from Dodo Chiefdom. Although few details were obtained on this operation, it was stated more than once that during this attack, many civilians lost their lives. Furthermore, following this attack, both fighting forces attacked villages believed to be under the control of the other force, killing civilians and burning houses. Hanga (Nongowa Chiefdom) was also attacked in January by RUF/AFRC forces. Twelve members of the same family and other inhabitants were shot dead and more than 10 houses were burnt down. Some people were forced to carry looted items for the RUF/AFRC forces, who also attacked other villages along the road from Mano Junction to Kenema Town, including Ngelehun, Kpanderu and Bambawa.[875]

In January 1998, RUF/AFRC forces based in Joru (Gaura Chiefdom) decided to sweep away the Kamajors deployed along the entire route leading to Bo Waterside, on the Liberian border in Pujehun District.[876] Before starting their operation, they sent a letter to the Kamajors to inform them on their plans. On their way, they burnt down many villages[877] and succeeded in driving the Kamajors away. At Jao (Tunkia Chiefdom), over 40 houses were burnt and at Kamasu, 15 houses

[874] This operation, declared by CDF High Command, was implemented across the country in the areas where Kamajors were active, in a bid to take control of RUF/AFRC positions. As part of this operation, all the highways and roads were blocked, in order to prevent RUF/AFRC forces from attacking civilians. It is believed that this Operation was launched following the AFRC statement that it would not hand over power to the President of Sierra Leone on 22 April 1998, as planned in the Conakry Peace Plan signed on 23 October 1997.

[875] As for the casualties in those villages, it is merely reported that houses were burnt but it cannot be ascertained whether all the villages had houses burnt.

[876] This road passes by Tunkia Chiefdom.

[877] Tiborma, Taninahun, Sokola, Sefula and Damawulo were also burnt down.

were burnt. At Gegbwema, where they spent the night, they burnt down all the houses except the mosque and the Court Barrie.

Kamajors from Kandu Leppeama Chiefdom, together with some from Simbaru and Dodo Chiefdoms, planned to launch attacks on RUF/AFRC positions in Kandu Leppeama Chiefdom. However, on 5 January 1998, when they arrived at these positions, RUF/AFRC forces had already left the area. Kamajors from Kandu Leppeama Chiefdom then controlled the chiefdom, although there were reports of harassment of the civilian population. At Deima, for example, one Kamajor arrested seven civilians and put them in a wooden box which he then locked because they failed to give him food. The matter was reported to the commander at Levuma, who ordered their release.

In January also, the Paramount Chief of Nomo Chiefdom, together with other prominent people, including a prominent doctor and a businessman, were arrested by RUF/AFRC fighters in Kenema Town. They were arrested at the time of a fierce battle between RUF/AFRC forces in the outskirts of Kenema and were accused of supporting Kamajors. They were beaten with sticks with their hands tied behind their backs. One of them is believed to have died in detention although his body was never found. The mutilated body of another was found with 35 others in a mass grave at the outskirts of the town. Some of those arrested were however released.[878]

At Konjo (Dama Chiefdom) in early 1998, a pregnant woman was raped by member(s) of the RUF/AFRC forces and gave birth shortly after. During the same attack, civilians were punished[879] or killed, suspected of being SLPP and Kamajor supporters. Some houses were also put down.

When they withdrew from Kenema in January 1998,[880] over 10 RUF/AFRC members and their families who took the Nomo Chiefdom road to go to Liberia were shot dead by some Kamajors in Nomo Chiefdom while crossing the river that borders Sierra Leone and Guinea in a canoe. Due to the shooting of the canoe, it sank, which resulted in the drowning of a suckling mother and her baby with other people. At Faama (Nomo Chiefdom), Kamajors shot dead an unknown number of "rebel sympathisers".

As Blama (Small Bo Chiefdom) was a stronghold of RUF/AFRC forces, Kamajors from Dodo and Kandu Leppeama Chiefdoms on the one hand and from Niawa Chiefdom, Wunde Chiefdom (Bo District) and Jiama Bongor Chiefdom (Bo District) on the other hand started operations to dislodge RUF/AFRC forces from Small Bo Chiefdom. On 31 January 1998, Kamajors from Dodo Chiefdom advanced towards Small Bo and on their way, launched a successful attack on RUF/AFRC forces based at Levuma (Kandu Leppeama Chiefdom). Kamajors from Dodo Chiefdom, with those from Kandu Leppeama Chiefdom, advanced on Blama, entering the town on 15 February 1998. However, no RUF/AFRC forces were to be found in the town as they had left earlier.

---

[878] Many reports mention that the arrest of those people and the reported killings were carried out under a direct order from a senior member of the RUF general staff.

[879] The kind of punishment inflicted could not be ascertained.

[880] Indeed, RUF/AFRC forces stayed in Kenema town throughout 1997 until late January 1998 when, fearing the imminent Kamajor/ECOMOG forces' attack, they pulled out of the town.

In February 1998, ECOMOG troops based in Liberia entered the District and on 18 February, together with Kamajors, reached Kenema Town. They then deployed at SS Camp, Gofor, Giema and Joru (in Dama and Gaura Chiefdoms). Indeed, after the intervention in Freetown, ECOMOG forces had positions all over the country and were working with the Kamajors. In Malegohun Chiefdom, for example, ECOMOG came to Kamajor positions with arms and ammunitions. In addition, ECOMOG requested the intervention of the Kamajors from Punduru (Gorama Mende Chiefdom) to be an auxiliary force to liberate Kono District, providing them also with small arms and bullets.

Once in Blama (Small Bo Chiefdom), Kamajors killed people suspected of being collaborators or tied them with a special rope called FM,[881] beat them and locked them up. Civilians were gathered in the centre of the town for "screening" purposes. Two police officers were killed, while another police officer and his wife received serious cuts on their necks but did not die. Other police officers managed to escape to a nearby village and to the ECOMOG base in Kenema Town. One man, alleged to be the Small Bo CDF chairman who stayed in Blama while RUF/AFRC were occupying the town, was killed for failing to supply ammunition to the Kamajors at one time when they had planned to attack the RUF/AFRC forces in Blama. Because of failing to supply the ammunition, he was considered to be a "saboteur". The entire town was looted by Kamajors, who also established "Kangaroo Courts"[882] presided over by Commanding Officers.

When they entered Kenema Town, ECOMOG forces and Kamajors with machetes and guns killed many people who they suspected of being "rebels" or "collaborators" [883] Some civilians were burnt alive with old tyres for supporting the RUF/AFRC forces. Those killings were a common sight in the streets of Kenema. In many parts of the town, the charred remains of bodies were seen. Many members of the SSD (Special Security Division) were killed and their bodies scattered all over the Kenema Police Barracks, some of which were set on fire by civilians.

Between January and March 1998, as they were fighting and repelling RUF/AFRC forces, Kamajors targeted alleged members of the retreating forces, their families and those who they considered to be collaborators. Those people, who in reality were mainly civilians, were tortured and killed. It is reported that a group of Kamajors called Yamotor based at Talamah and Lalehun were eating the bodies of the retreating forces and civilians accused of collaboration. Houses believed to have been occupied by RUF/AFRC fighters or by alleged collaborators were unroofed.

After the deployment of ECOMOG and Kamajors all over the District, a few RUF/AFRC incursion were still reported but on a lower scale. A CDF Office was established in Blama (Small Bo Chiefdom) for the purpose of issuing passes to monitor the movement of people. Kamajors initially based in Small Bo Chiefdom but coming from the neighbouring Niawa and Langrama Chiefdoms went back to their chiefdoms. In March, civilians started returning to their villages.

---

881 This rope has two sticks on its edges; "FM" means "frequency modulation", as it was believed that once tied with this rope, civilians began to talk.

882 In reality, these courts were simply place where Kamajors were sitting down and issuing sentences, without following any laws.

883 No further details are available on these incidents.



However, unlike what happened in most of the chiefdoms, especially in the south of the District, the situation prevailing in Lower Bambara Chiefdom after ECOMOG deployed in the District still consisted of fighting and attacks between RUF/AFRC forces and the CDF, which continued until disarmament started in December 2001.

In the south of Kenema District, RUF/AFRC forces, alleged to come from Joijoma (Kailahun District) attacked Jewahun (Tunkia Chiefdom) in April 1998, where they burnt down the village before proceeding further to Gegbwema, where they burnt the houses that remained standing. These forces were later repelled by ECOMOG troops. The following month, RUF/AFRC forces believed to come from Malema Chiefdom (Kailahun District) attacked Madina, Kwadima – where three people were killed - and Kpandebu in Nomo Chiefdom. It is interesting to note that these forces had disguised themselves as Kamajors, thus taking the civilians by surprise.

In December 1998, when RUF/AFRC forces had regained control of major towns in the country, Kamajors from Gorama Mende Chiefdom were able to defend and retain control of the chiefdom, to the extent that this chiefdom served as a safe corridor for retreating ECOMOG forces from Kono District.

At the beginning of the following year, fighting again resumed in Kenema District. In January 1999, heavily armed RUF/AFRC forces repelled Kamajors from Tongo Field (Lower Bambara Chiefdom), killing many civilians and Kamajors. Towns like Kpandebu, Lalehun, Bumpeh, Semewabu or Njaigbema were under persistent attacks from Kamajors who had in their ranks young boys under 15, who were forced to hold guns and were trained only for short periods of time.

The RUF/AFRC forces abducted many civilians from their villages and forced them to work in mining sites, beating or killing those who refused. Civilians living in these areas were harassed and intimidated at gunpoint by RUF/AFRC members, who constantly stole property and abducted girls and women and used them for sexual purposes. A lot of Kamajor collaborators were killed during this period. Private houses believed to have diamonds under their foundations were dug up, especially in Kpandebu, Torkpombu, Tongola and Bomie.

In early 1999, between January and February, Small Bo Chiefdom saw an influx of people coming from a camp in Kenema Town, following threats of RUF/AFRC attacks on the Town.

In February 1999, an event that took place in Gorama Mende Chiefdom gives an insight on the CDF internal structure. On 9 February, the Kamajor membership of the chiefdom passed a "no confidence" vote on the chiefdom coordinator for his misuse of their rations from the CDF headquarter in Kenema Town. As a result, a new coordinator was appointed. This new coordinator was requested by the Kono authorities to initiate able young men from Kono to help them liberate Kono District.[884] Five hundred men came to Jagbema for initiation. As they heard about this initiation, well-armed RUF/AFRC forces came early in the morning to Jagbema sometime in March

[884] At this time indeed, Kono District was under RUF/AFRC control.

or April, overran the Kamajors base, killed about 20 civilians and burnt down 45 houses, including the house of the CDF coordinator and a school. Twenty-five Kamajors sustained injuries and 10 civilians were taken away as load carriers. The Kamajor coordinator mobilised his men and they went to trace the RUF/AFRC forces, intercepting them at Laboya. During the encounter, 30 members of the RUF/AFRC were killed and the Kamajors liberated all the captured civilians.

At around the same time, heavily armed RUF/AFRC forces attacked Kenema Town. Some ECOMOG forces, Kamajors and civilians were killed but ECOMOG and Kamajor forces regrouped and repelled them. On their way back to Kailahun District, those RUF/AFRC forces were ambushed by ECOMOG forces at Mano Junction; many of them died in that ambush.

Many incidents relate the destruction of numerous buildings, private and public, in 1999 in Lower Bambara Chiefdom. Ngiehun market was burnt down as RUF/AFRC forces entering the town firing with the belief that Kamajors were residing there. The Roman Catholic Primary School was unroofed as were other schools in Tongo. Zinc from these roofs was used to build booths for the forces and furniture was used as firewood for cooking. Most of the buildings of the National Diamond Mining Company quarters were also destroyed.

RUF/AFRC forces during this period were terrorising the population, who saw this period as "chaos". During their stay in Tongo Field, the RUF/AFRC were recruiting young boys between 10 and 12 years of age; these child soldiers were carrying out most of the atrocities and many of them were intimidating their parents. However, by October 1999, the security situation however improved in the Tongo Field area (Lower Bambara Chiefdom) and commercial activities resumed,[385] with civilians resettling in their villages.[386]

The situation in Koya Chiefdom was still unusual during this period. Due to the total absence of SLA forces throughout the previous years, RUF forces had established firm control of the chiefdom and most of the civilians who had not fled were conscripted into the movement. The first forces to fight RUF/AFRC forces were Kamajors from Pujehun District in 1999. Koya Chiefdom had its own Kamajors only in 2001 after men went to Kenema to be initiated.

On 20 October 1999, the Sierra Leone President officially launched the commencement of the Demobilisation, Disarmament and Reintegration (DDR) program during a ceremony at Wilberforce Barracks in Freetown.[387] A DDR camp was opened in Kenema Town to disarm CDF members, while RUF members were to disarm at Daru (Jawie Chiefdom, Kailahun District).[388] The DDR process started on a low scale and on 4 November, the first day of the program, no CDF member

---

[385] IRIN West Africa, 1 January 1999.

[386] The number of IDPs in the District dropped from 63,319 at the end of October to 47,199 one month later. IRIN West Africa, 14 December 1999.

[387] The start of the DDR program as it was originally planned to take place within six weeks of the signing of the Lomé Peace Agreement on 7 July 1999.

[388] During this first phase of disarmament, DDR camps were also opened in Port Loko Town, Bo Town, Moyamba Town, and Daru (Kailahun District), the security situation in Bombali, Kono dugu, and Tonkolili remaining too unsettled.

turned out. The initial deadline of 15 December set for the completion of the program was not met and as of 23 January 2000, only 13,100 combatants had disarmed out of an estimated 45,000 total combatants.[889]

Nevertheless, after the DDR process began, the situation started to normalise in the District and in early January 2000, the roads linking Kenema Town to Kailahun Town in the east and Kenema Town to Koidu in the north were formally reopened by the RUF.[890] As part of their country campaign to sensitise members of the fighting factions on disarmament, the RUF leader, the Deputy Defence Minister, the CDF National Coordinator and some members of ECOMOG visited Kenema Town and Tongo Field (Lower Bambara Chiefdom) during the first week of January 2000.[891] In the same month, peacekeepers from the Ghanaian battalion attached to the United Nations Mission in Sierra Leone (UNAMSIL) were sent to Kenema Town. On 15 March 2000, around 3,500 CDF members arrived at the DDR centre at Kenema; this was surprising, as the RUF did not reciprocate in Kailahun District.[892]

However, the DDR process did not bring an end to the fighting in the District. On 28 March 2000, RUF forces numbering 3,500 returned to Fomaya (Gorama Mende Chiefdom),[893] all dressed in t-shirts with an "RUF" inscription on the back. They set the town on fire and killed over 300 civilians.

Thus by May 2000, RUF forces were still controlling some parts of the District, especially the mining areas and were engaged in mining activities in Tongo Field. In early June 2000, RUF troop movements were recorded in the area, as forces regrouped at Tongo Field, causing tension in the area.[894] By late July, between 3,000 and 3,500 civilians were reported fleeing the area, probably following the recent clashes between RUF and SLA forces[895] and the rescue operation to free over 200 UN peacekeepers confined to their compound in Kailahun Town by RUF forces since May 2000 carried out by UNAMSIL troops between Kailahun Town and Pendembu (Upper Bambara Chiefdom, Kailahun District).[896] In October 2000, around half of the RUF forces based in Tongo Field moved north and engaged in the cross-border attacks on Guinea that intensified in September 2000. A meeting between UNAMSIL personnel and the RUF based in Tongo took place on

---

[889] IRIN West Africa, 31 October 1999.
[890] IRIN West Africa, 5 January 2000.
[891] IRIN West Africa, 10 January 2000.
[892] IRIN West Africa, 15 March 2000.
[893] RUF/AFRC had already attacked this town in 1999.
[894] UNAMSIL press briefing, 1 June 2000. Furthermore, this event has to be read in conjunction with what happened in May in other parts of the country, where nearly 300 UN peacekeepers were captured by RUF/AFRC forces, thereby stalling the DDR process. In July, UNAMSIL called the Government of Sierra Leone and the RUF to sign a ceasefire: UNAMSIL press briefing, 7 July 2000.
[895] IRIN West Africa, 20 July 2001. No details could be obtained on the clashes between the RUF and the SLA in the Tongo field area. However, in the Sierra Leone Humanitarian Report 25 July – 07 August, it is reported that gunship attacks on the market place in Tongo killed 14 civilians, although the gunship responsible for this attack was not confirmed. An SLA gunship also targeted RUF forces at Torpombu (Lower Bambara Chiefdom), shelling and killing civilians.
[896] This rescue operation was designed.

29 January 2001 at Panguma (Lower Bambara Chiefdom) to discuss the opening of the road linking Kenema to Tongo,[897] although it is not clear whether the road was reopened after this meeting.

On 10 November 2000, the Government of Sierra Leone and the RUF signed a ceasefire at Abuja, Nigeria, reactivating the disarmament process, which had come to a halt since May 2000 and the capture of UN peacekeepers.[898] Its main provision was the disarmament of the RUF forces and the deployment of UNAMSIL troops in RUF-held areas. However, it would however take one more year for those provisions to be implemented, as the following events highlight.

At the end of 2000 and the beginning of 2001, Kamajors mounted checkpoints at Largo, at the border with Nongowa chiefdom, and harassed civilians travelling between Kenema Town and Tongo Field. Money and valuable items were taken away from civilians and alleged collaborators were detained and tied up with ropes.

Although six chiefdoms in the District were still considered to be unsafe for resettlement by the Government of Sierra Leone in March 2001,[899] about 100 UN peacekeepers from the Zambian battalion made a long range patrol in Tongo (Lower Bambara Chiefdom) on 10 April. These peacekeepers met with the RUF commander of the area, asking for their collaboration to allow UNAMSIL deployment in the area.[900] However, fighting between Kamajors and RUF forces resumed around 19 April, although fatalities – if any – could not be ascertained. This fighting, which once again prompted hundreds of civilians to flee the area[901] was seen as a step back in the ongoing disarmament process and UN deployment.

On 4 May 2001, a meeting between the RUF, the Government of Sierra Leone, UN representatives and the ECOWAS Mediation and Security Council to review the ceasefire signed on 10 November 2000 was convened, again in Abuja, Nigeria.[902] The main points of concern were, among others, related to the acceleration of the demobilisation, disarmament and reintegration of the remnants of the RUF forces, the release of child combatants and the freedom of movement of persons. Mention was also made of the violation of the ceasefire that took place the previous month in Tongo and Kono District. According to UNAMSIL investigations the fighting was provoked by movements of the Civil Defence Force (CDF) perceived as being menacing by the RUF forces.

As a proof of their commitment to the ceasefire, which was renewed in May, and to the provisions contained in the ceasefire agreement, RUF forces handed over 131 child combatants to UNAMSIL during a brief ceremony in Tongo on 22 June.[903] In mid September, 300 UN peacekeepers from the

---

[897] UNAMSIL press briefing, 31 January 2001.
[898] Sierra Leone Humanitarian Situation Report 28 October - 13 November 2000.
[899] Sierra Leone Humanitarian Situation Report 11 March - 31 March 2001.
[900] UNAMSIL press briefing, 10 April 2001.
[901] BBC Online News Archive, 21 April 2001; IRIN West Africa, 23 April 2001
[902] Further to this meeting, tripartite meetings of the Joint Committee on Disarmament, Demobilisation and Reintegration would be held every month and one would take place in Kenema Town on 10 August 2001.
[903] IRIN West Africa, 25 June 2001

Zambian contingent deployed in the area.[904] This first deployment was strengthened within a week, putting the number of UNAMSIL forces deployed in Tongo field to a battalion.

In October 2001, during a meeting of the Joint committee on Disarmament, Demobilisation and Reintegration (DDR), comprising of the Government of Sierra Leone, UNAMSIL and RUF, the Government of Sierra Leone and the RUF agreed on a schedule for the completion of the disarmament process and this accelerated disarmament was to take place in Kenema District between 15 and 30 November.[905] Since May 2001, 20,284 combatants from the various fighting forces had disarmed.[906] However, the deadline set in the agreement was not met as RUF forces showed unwillingness to disarm outside Tongo Field,[907] were unhappy with some issues of a political nature[908] and due to some logistical problems, which halted the process. Nevertheless, disarmament started early December at a low pace for RUF forces. This process was fostered by the visit on 14 December of the RUF Interim Leader and the Force Commander of the UNAMSIL in Tongo where they urged remaining RUF forces to complete disarmament.[909]

Disarmament was therefore complete early January; in Tongo, it was completed on 5 January, one day after the visit of the Acting Force Commander of the UNAMSIL and the Deputy Chief of Mission.[910] As part of the events that took place in various areas across the country to symbolically mark the end of the DDR process, a ceremony was held in Kenema Town on 21 January 2002 in the presence of the President of Sierra Leone, the Special Representative of the Secretary-General and Force Commander of UNAMSIL. This ceremony concluded by the burning of weapons.[911]

3. Conclusion

Although it shares a boundary with Liberia on its eastern edge, Kenema District was mainly affected by RUF/NPFL incursions coming from the neighbouring Districts of Pujehun, Kailahun and Kono during the first phase of the war, which spanned from 1991 to the end of 1993. This period was marked by the incursion of the RUF/NPFL forces in three different flanks (north-west, north-east and, mainly, south-east). As in Pujehun District, those forces were repelled out of the District in the middle of 1991 by the SLA, who were assisted by foreign troops. During the subsequent months of this first phase, RUF/NPFL forces launched only sporadic actions in the District. Youths and local hunters mobilised themselves and, armed with stick, cutlasses and some shotguns, assisted the SLA

---

[904] IRIN West Africa, 17 September 2001.

[905] The schedule for the completion of the disarmament was agreed as follows: Koinadugu and Moyamba Districts: by 22 October; Bo and Bombali Districts: by 31 October; Western Area: between 1-7 November; Pujehun and Tonkolili Districts: between 1-15 November and Kailahun District: between 15-30 November: IRIN West Africa, 12 October 2001.

[906] Sierra Leone Humanitarian Situation Report 01 - 15 October 2001.

[907] There was one DDR camp in Kenema District, one in Daru (Jawie Chiefdom, Kailahun District) and one in Kailahun Town.

[908] Those issues included the outcome of the National Consultative Conference, the continued detention of their leader and the time taken to complete registration of the RUF as a political party: IRIN West Africa, 7 December 2001.

[909] UNAMSIL press briefing, 14 December 2001.

[910] UNAMSIL press briefing, 7 January 2002.

[911] UNAMSIL press briefing, 21 January 2002.

in defending the boundaries of their chiefdoms, filling the role of vigilantes. Around this time, SLA forces were deeply engaged in repelling the RUF forces from Kailahun District and in late 1993, confined them to the extreme east of Kailahun District, which led the NPRC Chairman to declare a unilateral ceasefire on 1 December 1993.

Taking advantage of this ceasefire, RUF forces regrouped and launched a massive operation from Liberia in the south-east of Kenema District, using secondary roads and bush paths. This attack clearly marked the beginning of the second phase and by early 1994, RUF forces were scattered across all the chiefdoms of the District and were engaged in mining activities in the north of the District. Around the same time, RUF forces began regaining territory in Kailahun District and were also spreading through Pujehun District, making all the Districts adjoining Liberia under RUF control. This progression did not stop there, as RUF forces advanced further inland and by 1995, were present in all the Districts of the country. The SLA, whose number increased greatly in 1994, was not able to stop this rapid RUF progression, carried out using bush paths and guerrilla warfare tactics. RUF forces established important training camps in Kenema District and the main camp for the whole Southern Province and, to a limited extent, for the Eastern Province was established in the south-west of the District. From this camp, RUF forces attacked the neighbouring chiefdoms in Kenema and Bo Districts, staged ambushes on the Bo-Kenema highway and brought back hundreds of abducted civilians and stolen properties from these attacks.

These two phases were accompanied by great violence against civilians, carried out mainly by the RUF/NPFL and RUF forces but also by the SLA forces. The first acts of the RUF were to depose and replace local authorities. During their stay, they inflicted physical and mental violence, killed, sexually assaulted and abducted many civilians. Civilians' property was also widely taken away and houses were burnt down. In addition, the SLA forces also harassed civilians for food but above all chased "rebel" collaborators, whom they killed. Starting in 1994, their behaviour towards civilians deteriorated and civilians began to have doubts about their loyalty to the Government and their efficiency to fight the war, as they also engaged in killing, raping and stealing of property, although on a lower scale than the RUF forces.

However, starting in 1996, Kamajors began to fight alongside SLA forces and to occupy areas previously under RUF control, including the main camps of the District. In this regard, the pattern of actions in the District followed the patterns in the Southern Province, where Kamajors started imposing important defeats on the RUF, considerably minimising and reducing the RUF's strength and their control of the area.

However, following the Coup in May 1997 and the merging of the RUF with the AFRC regime, the RUF/AFRC forces began to push the Kamajors to withdraw from their positions. Nevertheless, the CDF regrouped, operating underground, and by September 1997 began defeating the RUF/AFRC, as was happening concurrently in the Districts of the Southern Province. During their stay in the District, RUF/AFRC forces imposed great harms on civilians, inflicting physical and mental violence, killing, raping and abducting, in particular to work in the mining areas. They also systematically stole civilians' property and burnt down many buildings. They also engaged in a

widespread hunt for Kamajors collaborators, killing anybody they found whom they suspected of being a collaborator or Kamajor member.

In early 1998, following the ECOMOG intervention in Freetown in January 1998, the Kamajors, assisted by ECOMOG forces deployed in Kenema Town and repelled most of the RUF/AFRC out of the District. Their stay in the District was accompanied by strict controls on the movement of the population through the establishment of checkpoints and the harassment of civilians, which ranged from requests for food and other items to more violent actions, including physical violence and killing, in particular of alleged RUF and "Junta" collaborators.

However, unlike what happened in the Southern Province, the Kamajors were unable to gain control of the whole District, as fighting for the control of the mining area of Tongo Field continued throughout 1998, 1999 and the first part of 2000. In this regard, the pattern of actions in the north of the District was more similar to the way Kailahun District and, in particular, the mining District of Kono were affected, despite the opening of disarmament centres in Kailahun Town and Daru (Kailahun District). Indeed, after the Lomé Peace Agreement in July 1999, RUF/AFRC forces clearly concentrated their attacks and offensives on the mining areas of the country and, later, on Guinean territory, giving a new dimension to the Sierra Leonean conflict.

Reactivated in November 2000, the disarmament process required one more year before being declared complete in January 2002. Kenema, and Kailahun Districts, were the two last Districts to be disarmed.

c. Kono District

1. Introduction

Kono District is located in the Eastern Province, together with Kailahun and Kenema Districts. It is bordered in the east by the Republic of Guinea and Koinadugu District, which also borders it in the north. In the south-east, the borders of Tonkolili District and Kono District meet for a few miles, with Kenema and Kailahun Districts forming its southern border.

Koidu, a diamond rich town, is Kono District's headquarter town. It is located almost in the centre of the District and is the starting and ending point of Sierra Leone's main highway, which links Koidu to Freetown, passing through Magburaka (headquarter town of Tonkolili District) and Makeni (headquarter town of Bombali District). Two other highways are of importance in the District, as they would allow the penetration of the District by the fighting forces from the southern Districts. One leaves Koidu, passing through Tankoro and Gbane Chiefdom before entering Kailahun District. The other one leaves Koidu, reaching Kenema Town through Nimikoro and Gorama Kono Chiefdoms in Kono District and Lower Bambara Chiefdom, a diamond mining area in Kenema District. An alternative to these two roads to reach the south-east is the road that leaves Koidu and goes through the east of the District.

There are 14 chiefdoms in the District:

Chiefdom	Headquarter
Fiama	Jagbwema
Gbane	Gandorhun
Gbane Kandor	Koardu
Gbense	Koidu
Gorama Kono	Kangama
Kamara	Tombodu
Lei	Saiama
Mafindor	Kamiendor
Nimikoro	Jaiama
Nimiyama	Jaiama Sewafe
Sandor	Kayima
Soa	Kainkordu
Tankoro	Baiama
Toli	Kondewakor

Kono District is the most diamond rich District of Sierra Leone and the wealth of its soil meant that the District was the stage of severe fighting and violations against civilians throughout the war, from its inception in 1991 until late 2001. The main mining areas[912] are to be found in the centre and west of the District, in Kamara (Tombodu area), Sandor (in the south of the chiefdom), Nimikoro, Nimiyama, Gbense and Tankoro Chiefdoms.

As in the other Districts of the Eastern Province, Kono District was affected by the conflict through three discernable phases. The first one encompassed 1991 to 1993. During these years, RUF/NPFL forces entered the District in the south-east through Kailahun District. Their first incursion in 1991 was limited to the two chiefdoms bordering Kailahun District and was rapidly halted by SLA forces deployed at Gbense, Sandor, Mafindor and Gbane Kandor Chiefdoms, the latter two of which share a border with Guinea. Local hunters known as Donsos began organising themselves in various chiefdoms, supported and encouraged by the local authorities. RUF/NPFL forces made successive attempts to re enter the District in 1992; by mid 1992, they had succeeded in establishing positions in Gbane Soa Chiefdom, from where they moved towards Koidu. By late 1992, Koidu was under RUF/NPFL control. SLA forces, assisted by local hunters coming from Koinadugu District, repelled the RUF/NPFL forces in early January and strengthened their bases in the east of the District. By mid 1993, the District was virtually free of any RUF/NPFL presence. This first phase was characterised by widespread violations committed primarily by RUF/NPFL forces, but also by SLA forces.

The second phase ran from 1994 to 1997. In 1994, RUF forces launched incursions in the south-east of the country and progressively advanced into the District. Koidu was attacked for the second time in April 1995, RUF forces taking advantage of the fact the SLA on the ground was more occupied in mining than in defending the District. This attack on Koidu led many civilians to leave the area, as the RUF forces began to span out in the surrounding chiefdoms. The District was recaptured

[912] Besides diamonds, kimberlite mineral and gold are also mined.

around May/June by SLA forces, newly trained by Executive Outcomes, the mercenary company in Sierra Leone under contract with the Government. The SLA, local hunters and Executive Outcomes dislodged the RUF forces from most of their positions and subsequent RUF attacks were carried out by remnants RUF members. The presence of Executive Outcomes in the District brought some relief to the population, as it also engaged in disciplining the SLA and prevented SLA members from undertaking illegal mining. During this period, RUF forces raided some villages in the south-east of the country.

As Executive Outcomes prevented the RUF from having access to Kono and, accordingly, to its diamonds, the RUF posed as condition for the signing of a peace agreement that Executive Outcomes leave the country. This condition was included into the text of the Abidjan Peace Agreement signed between the Government and the RUF on 30 November 1996. Two months later, Executive Outcomes pulled out of the District. After the military coup in May 1997, RUF forces came out of the bush and merged with the AFRC regime. Few incidents were reported for this period, as most of the RUF/AFRC activities were concentrated on mining. In fact, mining became more organised under the command of the RUF, who declared all mining areas to be their property. However, harassment of civilians increased and cases of physical violence, killing, rape and abductions were reported.

The third and final phase began in early 1998, following the ECOMOG intervention in Freetown and the retreat of RUF/AFRC forces and concluded in August 2001, when the disarmament was declared complete in the District. This period is characterised by a substantial increase of violations committed by RUF/AFRC forces. Repelled from Freetown, RUF/AFRC forces arrived in Koidu in late February/early March and rapidly spread across the whole District. ECOMOG forces assisted by CDF members recaptured Koidu and other main towns on the highway in April 1998, sending RUF/AFRC forces into the bush, from where they continued to carry out "Operation No Living Thing". Hundreds of civilians were wounded, mutilated, killed, raped and abducted as part of this operation between February and May/June. During the second half of the year, the level of violations decreased, as the RUF/AFRC forces were more occupied with building huts to withstand the rainy season. At that time, most of the civilians had fled to Guinea and of those who stayed in the District, a lot of them were abducted to be trained in the training base RUF/AFRC forces had opened in Lei Chiefdom in the east of the District or to be used as workers in the mining areas in the west of the District. In December 1998, RUF/AFRC forces launched a massive operation and recaptured Koidu from ECOMOG forces. Throughout 1999 and 2000 and despite the signing of the Lomé Peace Agreement on 7 July 1999, RUF/AFRC forces accelerated their mining activities in the west of the District, where every single parcel of land was mined. A training base known as "Camp Lion" was opened in Yengema (Nimikoro Chiefdom), where hundreds of abductees from the Northern Province were brought for training. RUF/AFRC forces also continued their operations in the east of the District, in preparation for attacks onto the Guinean territory. Most of the RUF/AFRC raids during this period were carried out to search for food and above all to get more manpower, i.e. to abduct more people. Violations on civilians were still reported, in particular on those who were abducted. During those years, CDF forces launched attacks on RUF/AFRC positions, mainly in Sandor Chiefdom, in the north of the District and in the east, at the border with

Guinea. These operations would continue until the completion of disarmament and the brokering of a deal to stop the illegal mining activities at the end of 2001.

2. Factual analysis

a) Events in 1991

As a result of the attack on Pendembu[913] (Lower Bambara Chiefdom, Kailahun District), security personnel and the chiefdom authorities in Gbane Chiefdom, in the south of Kono District, called a meeting in April to discuss preventive measures. It was agreed during this meeting that towns and villages from the chiefdom should provide local hunters, known as Donsos and energetic youths for training, following which 200 men were trained by the Sierra Leone Police and the Special Security Division (SSD) with the support of the Paramount Chief of Gbane. At around this time, people from Kailahun District fleeing from RUF attacks, especially from Yawei Chiefdom, moved to Gbane Chiefdom and settled in the villages around Gandorhun and Koidu Buma towards the south of the chiefdom near the boundary with Kenema District. Before the war began affecting Kono District, SLA forces were deployed in Mafindor Chiefdom, at the border with Guinea. However, shortly after the attack on Gandorhun, they went to Gbane Chiefdom to join the troops posted there. The few forces who stayed in Mafindor Chiefdom were withdrawn in 1992 to Manjama, the SLA base in Soa Chiefdom in the south-east of Kono District.

On 5 June 1991, Revolutionary United Front (RUF) forces wearing American flag bandanas on their heads and armed with AK47s entered Koidu Buma (Gbane Chiefdom) through Yawei Chiefdom (Kailahun District). Gbane Chiefdom was the main entry point into diamond-rich Kono District, due to the highway that links Koidu with Gandorhun and Bunumbu (Peje West Chiefdom, Kailahun District). At Koindu Buma, they shot and killed a man who was trying to escape and searched houses for any valuable items, including food. Civilians were asked whether there were any Sierra Leone Army (SLA) forces in the town[914] and the RUF forces promised they would kill any SLA member they came across.

They did not stay long in Koidu Buma, soon moving onto Gandorhun, their target being the SLA forces. At this time, Gandorhun was, after Koidu Town, the biggest SLA deployment in Kono District. They were led to Gandorhun by a civilian they had recently conscripted, who showed them a bypass route. The RUF forces entered the town around 03.00 a.m. with sporadic firing, armed with AK47s, RPGs, grenades and knifes. In Gandorhun, they killed three people (two shot and one burnt to death) and captured others, among them the brother of a prominent Lebanese businessman and his two daughters.[915] A van belonging to a civilian was taken away and used to carry property stolen from the town to Kailahun District. Most of the population fled to other chiefdoms.

A few days later, on 8 June, a combined force of Sierra Leone Police, SLA, SSD and Donsos forces repelled the RUF, who went back to Kailahun District. However, two of these RUF members got

---

[913] Pendembu is located on the road that enters Gbane chiefdom from Kailahun District.

[914] The RUF forces who entered the town referred to SLA forces as "Momoh's soldiers", from the name of the then Head of State.

[915] It is not clear from the records whether the two girls were the daughters of the prominent businessman or the daughters of his brother.

lost in the forest and, after going without food for a few days, went to a farm to ask for food; youths at the farm went to Gandorhun to tell the SLA about the two men. SLA forces then captured the two RUF members and brought them to Koidu, where they were publicly tortured before being killed. Shortly after the attack on Gandorhun, SLA forces were sent from Freetown to Koidu Town and were deployed in the area under attack. RUF forces launched another attack on 9 June, but were repelled by SLA, SSD and Donsos.

During their stay in the chiefdom, those forces (SLA, SSD and Donsos) inflicted violence on civilians they accused of collaborating with RUF forces. In one instance, some people accused of being collaborators had rags and rubber placed around their necks, which were then set on fire, killing those people. This served as a signal for the population that they should not cooperate with the RUF in any way.[916]

As early as 1991, local hunters[917] known as Donsos were to be found in Mafindor, Gbane, and Soa Chiefdoms in the south of the District, at the border with Guinea and Kailahun District. Those from Mafindor were often sent to Sukudu, in the south of Soa Chiefdom near the Guinean border. During the second half of 1991, Donsos started organising themselves in Sandor Chiefdom, in the north of Kono District at the boundary with Koinadugu District. In late 1991, some Donsos came to the chiefdom headquarters of Kayima (Sandor Chiefdom) to be trained by SLA forces on guerrilla tactics, military manoeuvres and staging ambushes. At that time, the SLA military headquarters were in Ngaya. As the war intensified at the boundary between Kono and Kailahun Districts, SLA forces together with Donsos or vigilantes were deployed in strategic towns such as Yormandu and Tefeya (Sandor Chiefdom), at the border with Gbense Chiefdom. Yormandu is a strategic town as it is located over the Bafi River and had one of the longest bridges in Kono District. It is worth noting that at this time, only a few SLA forces were deployed with many local hunters, also called vigilantes, more of whom were trained later on. However, at that time, SLA forces continually told civilians that they were neglected by the Government, whose support for the local hunters extended only to the supply of ammunition.

In late 1991, the Paramount Chief of Mafindor Chiefdom and "important"[918] Kono Authorities gathered the population in Kainkordu, the headquarter town of Soa Chiefdom. They asked for the youths and the local hunters, the Donsos, to organise themselves into a Civil Defence Unit (CDU). The youths and local hunters did so and began to organise the security of the town and the chiefdom, mainly by establishing checkpoints in the headquarter town. It is interesting to note that

[916] The date of this event cannot be determined with certainty and may have taken place in 1992.

[917] Different groups of traditional hunters organised themselves throughout Sierra Leone to fight the advancing RUF/NPFL and, later, RUF forces in the country. They were originally equipped solely with bladed weapons and long guns. Those local hunters had different names, according to the tribe to which they belonged: Donsos in Kono District; Tamaboros in Koinadugu District; Kapras in Tonkolili District; Gbethies in Port Loko District and, to a lesser extent, Kambia District; and Kamajors in the Southern and Eastern Province (Moyamba, Bonthe, Bo, Pujehun, Kenema and Kailahun Districts). In 1996, those local hunters would be organised under a national structure known as the Civil Defence Forces (CDF).

[918] This delegation consisted of the then Member of Parliament for Kono North East, Soa Chiefdom Paramount Chief, Kono Senior District Officer, All People's Congress (APC) Secretary General, the Overall commander of Tankoro Chiefdom Police Station and others.

this meeting and the formation of vigilantes and organisation of Donsos was directly encouraged by the State authorities and also took place in other villages and towns in Soa chiefdom. At this early stage of the existence of Donsos, an embryonic administrative structure was established to assist the hunters on the ground. Thus, the 14 chiefdoms of Kono District were taxed (Le 1,000 per house) and the money was sent to the CDU headquarters in Koidu. Donsos and youths then received this money to buy torches and other simple logistical equipment to assist with their function as watchmen. At this time also, the SLA deployed one Battalion at Manjama (Soa Chiefdom), which became a strong base. Youths, Donsos and SLA forces were working together, the youths and Donsos being of a great help to the SLA as they were more familiar with the local terrain.

On hearing of RUF attacks on Sukudu and Konjo (Soa Chiefdom) in December 1991, a convoy of nearly 150 SLA members together with 19 youths went there to retake the towns. However on their arrival, no RUF forces were to be found. In Sukudu, they found five dead civilians with bullet wounds and 27 houses totally burnt.[919] The fact that those youths joined the SLA forces to go and confront RUF forces was rather unusual at that time, as their main function was to operate checkpoints and to undertake patrols. Indeed, when they came back from this mission, their leader forwarded the information to their headquarters in Koidu. On receiving the information, CDU headquarters in Koidu sent two packets of shotgun cartridges. As cross-border raids were reported at the boundary with Kailahun District, the Paramount Chief of Soa exhorted the Donsos and vigilantes to advance towards the border to guard all the routes. The Youths' leader did not favour this, as they lacked weapons, and a meeting was convened in Koidu to decide on what action to take.[920] A few days later, other villages at the boundary with Kailahun District, including Maa and Workor, were also attacked, people were killed and houses burnt.[921] Civilians in these villages reported that the forces who attacked them were speaking Krio, Liberian and other languages; accordingly, they identified those forces as RUF from Sierra Leone, NPFL forces from Liberia and mercenaries from Burkina Faso. At around the same time, some youths based at Levuma (Soa Chiefdom, on the border with Kailahun District) captured a man they alleged to be a RUF collaborator. This man was brought to Manjama, where the SLA commander ordered him to be shot.

b) Events in 1992

In January 1992, RUF forces were to be found in the boundary villages between Yawei Chiefdom (Kailahun District) and Gbane Chiefdom, as well as in Gandorhun and its environs. After the attack on Gandorhun in 1991, the RUF forces had retreated to their base in Kailahun District.[922] This was the start of a series of battles between RUF forces and the combined forces of the SLA, SSD and Donsos. At that time, the combined forces killed some people suspected of being "rebel" collaborators, including by putting a tyre around the neck of suspects and setting fire to it.

---

[919] The reports make no mention of any casualties in Konjo or in any of villages that were attacked on the way.

[920] Although there were no details about this meeting, it can be inferred that it was convened at the CDU headquarters. The result of this meeting could be the reinforcement of SLA forces to Manjama and the registration of armed Donsos in early 1992.

[921] The vigilantes found three dead civilian males in Maa and two burnt houses in Workor.

[922] During this time, RUF/NPFL forces had different bases in Kailahun District, the main one being in Kailahun Town (Luawa Chiefdom, Kailahun District).

At this time, local hunters from Sandor Chiefdom were sent to the south of the District where the RUF/NPFL forces were advancing. In February 1992, a military base was set up in Mboama (Gbane Chiefdom) and 30 SLA members together with 47 Donsos were deployed there.

A meeting gathering the young men of Nimikoro Chiefdom was summoned by the Chiefdom Speaker and an SLA officer in April 1992 at the chiefdom headquarters of Jaiama. The purpose of this meeting was to organise the young men into vigilante groups that could assist the SLA in defending the chiefdom from RUF/NPFL attacks. A lot of young men volunteered and received some training from the SLA.

A fierce battle took place in May 1992 in Gandorhun (Gbane Chiefdom), where the RUF forces were repelled from the chiefdom. The fighting continued sporadically and, shortly after, the RUF/NPFL managed to overpower the combined forces and establish their first permanent base in Kono District, which was used to attack the surrounding villages. The RUF/NPFL forces attacked Sidu (Gbane Chiefdom), at the boundary with Tankoro Chiefdom, in May. Donsos from Baiama (Tankoro Chiefdom), eight miles from Sidu, informed the SLA forces deployed in Koidu of the advancing RUF/NPFL forces. The SLA therefore deployed in Baiama and Woama (Tankoro Chiefdom), where a battle took place between RUF/NPFL and SLA/Donsos. During these attacks, civilians were killed, property was taken and civilians were forced to carry the stolen property.[923] RUF/NPFL were bypassing the government forces in Woama to attack villages in Tankoro Chiefdom, up to nearby Koidu. During these attacks, captured SLA forces and Donsos were killed, often after physical violence was inflicted on them.[924]

In October 1992, the RUF/NPFL forces finally drove the SLA forces from their base in Woama and established a second RUF/NPFL base there. This opened access to Koidu for the RUF/NPFL forces, since Woama is located on the Gandorhun-Koidu highway. The attack on Woama created panic among civilians in Koidu, who started to leave the town. SLA forces mounted checkpoints in Koidu to search the fleeing population for arms and suspected "rebels". For example, a prominent Tankoro Chiefdom authority was arrested at one of these checkpoints, suspected of being a "rebel" because he had in his briefcase a traditional dress like the one worn by local hunters. He was publicly tortured and beheaded in the main central area of Koidu.

Advancing RUF/NPFL forces captured an armoured car on 22 October 1992 from the SLA forces at Wordu, three miles south of Koidu. The RUF/NPFL forces burnt the car and a lot of SLA forces were killed. Some of the civilians who were fleeing the RUF/NPFL advance on Koidu drowned in the surrounding rivers, which had swollen following heavy rains. On 23 October 1992, RUF/NPFL forces launched an attack on Koidu from Woama. The following day, SLA forces together with some local hunters launched a counter attack on the town and repelled the RUF/NPFL forces. After this battle, the bodies of many civilians were left lying on the streets of the town, apparently

[923] No more information was available on these events.

[924] During that time, it was alleged that SLA forces sometime abandoned their positions at the battlefront to go to Koidu (Gbense Chiefdom) to meet their relatives or to mine.

caught in the crossfire as they tried to escape the fighting.[925] Houses were burnt and many civilians were abducted by RUF/NPFL forces, among them a foreign worker. In early December, RUF/NPFL forces attacked the town for the second time from the same direction and repelled the SLA forces as far as Yormandu (Sandor Chiefdom).[926] The RUF/NPFL forces also repelled the SLA forces deployed at Bumpe (Nimikoro Chiefdom), located on the Kono-Makeni highway, up to Sewafe (Nimiyama Chiefdom), which is near the Sewa River. In Bumpe junction, one civilian, a Limba by tribe, was shot dead by the RUF/NPFL commander who also ordered that the wife of the man be killed.

The fall of Koidu to the RUF/NPFL forces was interpreted against the Kono tribe and especially against the Paramount Chiefs, who became the target of SLA forces. Shortly after the attack on the town, a car arrived in Koidu carrying the wife of the Fiama Paramount Chief, who was in the boot of the car with his hands tied behind his back, his eyes swollen. When they recognised the Paramount Chief, civilians fled the area, fearful of being recognised by the Paramount Chief, which they believed could cause problems for them with SLA forces. The Paramount Chief was then taken to Tekko Barracks in Makeni (Bombali District); his death was subsequently confirmed. The Tombodu SLA forces later released his wife, after she had been raped by an unspecified number of SLA members. Some reports mention that the Paramount Chief was arrested because he failed to cooperate with SLA forces while another mentions that the Paramount Chief might have been arrested on the allegation that he had been found performing some ritual after the successful advance of RUF forces. Other Paramount Chiefs and other authorities from the District were arrested and sent to Pademba Road prison in Freetown on the grounds they had aided and abetted the capture of Kono District by RUF forces.

By the end of 1992, RUF/NPFL forces were therefore controlling a vast area of Kono District, including the main roads leading to Koidu.[927] During their stay in Koidu, RUF/NPFL forces patrolled the surrounding villages in search of local hunters or pockets of SLA forces. During these patrols, the RUF/NPFL forces killed civilians, took property and abducted several civilians, taking them to Koidu to work for the RUF/NPFL forces. At Baiama, for example, about 60 men and women, including a prominent Kono authority, were taken away.

In a bid to repel the RUF/NPFL forces out of Koidu, an air campaign was undertaken, with the assistance of Nigerian Alpha Jets.[928]

When Koidu fell into the hands of the RUF/NPFL forces, most of its inhabitants left the town for Sandor Chiefdom, known to be an agricultural chiefdom full of hunters ready to defend their land. Those people coming to Sandor Chiefdom were searched at checkpoints by the SLA forces and the

[925] This was inferred from the belongings found lying next to the bodies and needs to be clarified.
[926] It cannot be determined with certainty whether the bodies of civilians were found on the streets after the first or the second attack.
[927] It is interesting to note that these attacks on Koidu went virtually unreported in the media.
[928] Inter Press Service, 18 December 1992. Since the middle of 1991, foreign troops, including Nigerians and Guineans forces were fighting alongside the SLA, further to bilateral agreements signed between Sierra Leone and Guinea and between Sierra Leone and Nigeria.

local hunters. During these searches, SLA forces or local hunters took whatever property they desired. Any civilians who resisted were molested and risked being termed as "rebel" collaborators, for which they could be killed. In addition, some civilians were killed for their money;[929] SLA forces and local hunters harassed businessmen in particular. At this time, Yormandu town, in the south of Sandor Chiefdom on the boundary with Kamara Chiefdom, was overcrowded with displaced people and many people were not able to sleep in houses, staying instead in the church, the mosque and the Court Barrie. Food, water and medical facilities rapidly became scarce and cholera broke out at Yormandu and Kayima, the chiefdom headquarter located in the north-west of the chiefdom, taking the lives of many people.

Another crowd of civilians left Koidu after it had been recaptured by RUF forces and headed through Nimikoro Chiefdom for Kangama (Gorama Kono Chiefdom in the south of the District). On their way to Kangama, they had to pass through many checkpoints controlled by local hunters. At Moinmadu (Nimikoro Chiefdom), they fell into an RUF/NPFL attack. In the early hours of the morning, a RUF member disguised as an Imam called the people for prayer.[930] Shortly after, the people who had gathered in the Mosque were surrounded by RUF/NPFL forces, who fired heavily in the air, capturing those in the mosque and other civilians in the town. Three civilians and a local hunter were killed in front of the Mosque and three men and a woman sustained serious injuries. Some young girls[931] were publicly raped. Two houses alleged to belong to the Kamajor commander of the area were burnt down. The people who had been captured were gathered in the Court Barrie and those who had food were forced to give it to the RUF/NPFL forces, who also accompanied other civilians to fetch water and food from elsewhere. During this, some civilians managed to escape, which led the commander to punish his forces who had gone to the bush with the civilians by lashing them and locking them in a veranda near the Court Barrie. After three days, the RUF/NPFL forces together with their captives took a bush path towards Gandorhun (Gbane Chiefdom, south east of Nimikoro Chiefdom), which at that time was one of their strongholds. On their way, local hunters attacked the convoy and successfully overran the RUF/NPFL forces. The civilians who had been with the RUF/NPFL forces were then brought to Tikonko in the north of Gorama Kono Chiefdom.

As Donsos from Sandor Chiefdom needed logistics, food, medicine and ammunition, a mass meeting was summoned at the chiefdom headquarters of Kayima probably in late October to provide assistance to the hunters. At the meeting, it was agreed that each taxpayer should contribute Le 500[932] and a few cups of rice every month.

---

[929] This information is reported in general terms and does not specify the exact location of every occurrence.

[930] Kono District is predominantly Muslim and according to the Islam, a Muslim is bound to pray five times a day. Each of the five periods for prayers is preceded by a call, known as adhaan. The early morning prayer may be offered any time within two hours after dawn.

[931] Although the exact age is not reported, it is mentioned that they were under age.

[932] This should be placed in the context of Sierra Leone's position at the bottom of the Human Development Index: between 1991 and 2000, 57% of the population lived on less than 1 USD (2.000 SLL) per day and 74.5% lived on less than 2 USD (4.000 SLL) per day: see UNDP Human Development Report 2003, http://www.undp.org/hdr2003/indicator/cty_f_SLE.html, last visited on 30 December 2003.

In November 1992, hunters from Tefeyah (Sandor Chiefdom) spread the news that a man was killed by uniformed men believed to be "rebels", who took his money and diamonds. It was, however, later said that these uniformed men were not "rebels" but SLA forces, who did this because they had heard a few days earlier that the man had diamonds. Supporting this theory, it was said that it was highly unlikely that RUF forces would come to a big town like Tefeyah to kill only one person.

A convoy of an unspecified number of armed and unarmed men, women and children – namely RUF/NPFL forces and their captives – coming from the direction of Koidu arrived in Kainkordu (Soa Chiefdom) in late November. They stayed in the town for only one hour, killing some people, breaking doors, gathering anything that was of interest for them and abducting some civilians before heading through Manjama (Soa Chiefdom) to Sandaru, the RUF/NPFL base in Penguia Chiefdom (Kailahun District). This road, which links Koidu with Kainkordu and Penguia Chiefdom (Kailahun District), was often used by RUF forces in search of food. Also in Soa chiefdom, on 8 December, an RUF commander escorted by some men arrived in the chiefdom headquarter of Kainkordu. On his arrival, he explained that his movement, the RUF, had come to put an end to the APC regime and that it now controlled the whole of Kailahun, Kono and Pujehun Districts, as well as part of Kenema District.[933] He further said that the people from Soa Chiefdom should join the movement and celebrate the presence of their "new government". He mounted green pieces of material on top of a high pole as a symbol that this was now RUF-controlled territory and appointed men and women as the new authorities of the chiefdom.

The mobilisation of youths and local hunters was reinforced and structured by the creation of Eastern Region Civil Defence Committee, aiming at mobilising "well-meaning Sierra Leoneans" to fight alongside the SLA. This committee was composed of representatives of Kenema, Kailahun and Kono Districts, with some from Freetown.[934]

c) Events in 1993

In January, SLA forces coming from Freetown were deployed at Sewafe Bridge (Nimiyama Chiefdom) and merged with another group who had retreated from Koidu. Those SLA forces recaptured Sewafe town and advanced further on the Koidu highway together with local hunters known as Tamaboros from Koinadugu, Guinean forces and ULIMO-K members. They launched different attacks in Nimikoro, Nimiyama and Tankoro Chiefdoms, successfully driving out RUF forces from the areas previously under their control. Koidu was retaken in the same wave of attacks, on 22 January.[935] SLA forces from the Moa Barracks in Daru (Jawie Chiefdom, Kailahun District) also took control of Gandorhun (Gbane Chiefdom).

Those combined forces were heavily armed with tanks, armoured personnel carriers, AA guns and AK47s. They made several deployments in the area, including Koidu, and started patrolling villages

[933] The loss of Kono and Kailahun Districts to the hands of the RUF/NPFL forces had a significant impact on the economy, as most of Sierra Leone's income came from the production of cash crops in Kailahun District and the mining activities in Kono District. Following the capture of Koidu by the RUF/NPFL forces, the National Diamond Mining Co. ceased its operations: Mining Annual Review, 1 July 1993.

[934] BBC Summary of World Broadcasts, 22 December 1992.

[935] No information was obtained on the casualties sustained during those attacks.

and towns around Koidu in search of "rebels" and "rebel" collaborators, which led to the killing of many civilians accused of being "rebel" collaborators or sympathisers. The commanding officer[936] ordered all the civilians living in the areas formerly under RUF/NPFL control to move to Ngor Town, which is located after the Sewa Bridge in Mimiyama Chiefdom, where the first displaced camp was opened for the people of Kono.[937] Shortly after, SLA forces engaged in massive looting, as civilians had left their homes.

After the first group of Tamaboros[938] arrived in January 1993, a second group came in July. The Donsos also stepped up their presence and were active in Yormandu (Sandor Chiefdom) and Koidu (Gbense Chiefdom) in January, in Tombodu (Kamara Chiefdom) between March and August and at the border between Soa Chiefdom and Kailahun District and in Kangama (Gorama Kono) in December.

In early 1993, Kono authorities complained to the Government about looting and harassment by SLA forces during the previous month, so the Government sent a new SLA commander to Kono District. Following his arrival, the SLA forces based in Koidu started issuing passes for civilians relocated in the IDP camp who wished to visit their homes to check their belongings. Nigerian forces arrived in Koidu, while some SLA and Guinean forces moved to attack RUF/NPFL positions in Kailahun District. The Nigerian forces encouraged civilians to return and resettle in their villages. SLA and Nigerian troops were based in different strategic towns like Yengema, near the Kono-Makeni highway in Nimikoro Chiefdom; Tombodu, a diamond-rich town in Kamara Chiefdom; and Koidu (Gbense Chiefdom), where they encouraged civilians to mine for diamonds.[939] Tombodu (Kamara Chiefdom) was a commercial centre and was the arrival and departure point for passenger helicopters flying to and from Freetown. Thus, by the end of 1993, most of the civilians who had earlier left the chiefdom came back to Kamara Chiefdom, as it was free of RUF presence.

However, those SLA forces killed an unspecified number of civilians suspecting of being RUF members or sympathisers. Those executions took place at Bendu II, where the bodies were dumped in a mass grave. In separate incident, another group of SLA members, who had replaced those who had arrested the Paramount Chief of Fiama, arrested a civilian and shot him twice without giving reasons. His body was left on the ground and a few civilians buried him afterwards. Also at Tombodu, Tamaboros coming from Kolnadugu District to help the SLA forces drive the RUF out of the country undertook massive screening of civilians. As part of this process, in March,[940] 2,000 civilians were gathered in the Court Barrie to be screened by the Tamaboros, headed by a woman dressed in traditional hunter attire. Some members of the SLA were also gathered at the Court

[936] It cannot be inferred from the information collected whether this commanding officer was controlling all the combined forces, or just the SLA forces or the Guinean troops.

[937] Around the same period, other camps for internally displaced persons (IDPs) were operational in the country, notably in Gondama (Kakua Chiefdom, Bo District), where thousands of civilians from Pujehun District found refuge.

[938] Local hunters from Kolnadugu.

[939] It cannot however be inferred from the records whether the civilians were mining for the Nigerian and SLA forces or for themselves, with the encouragement of those forces.

[940] This screening process probably continued in April and May and is also reported in Kolnadugu District.

Barrie. The woman conducted the screening through her mirror, which allegedly allowed her to assess whether a person was a "genuine civilian" or a "rebel". Those who were identified as "rebels" were either killed or sent to Pademba Road Prison in Freetown. After the screening process, civilians were given a pass that allowed them to move freely in the chiefdom and beyond without fearing of being molested or suspected of being a "rebel". People commonly gave the nickname "Unmolested" to this pass, which was issued by SLA officers.

Some Kono elites came together and formed an organisation called Koeyor, the primary objective of which was to restore dignity to the people of Kono. Together with the Kono Students Union, they pleaded for the release of the Kono Paramount Chiefs and other authorities who had been detained by the NPRC regime.

RUF forces were active in the eastern chiefdoms in the District during the first half of 1993, which was marked by incidents of killing and the destruction of property. For example, in Sukudu, at the beginning of the year, a prominent farmer had both of his arms chopped off. RUF forces tied a letter around his neck telling the then Head of State, Captain Strasser, that they were "still in control". In Kundima (Soa Chiefdom), five elderly people were killed in January by RUF forces. Their bodies showed machete wounds and one woman appeared to have had her head smashed on a rock. In February, RUF forces also attacked Kainkordu (Soa Chiefdom). Returning civilians later discovered 40 houses that had been completely burnt down and 27 bodies, which they buried in a dug out toilet in the southern part of the town. At that time, RUF forces also attacked Jagbwema (Fiama Chiefdom) for the second time, although there were no reported casualties.

SLA harassment of civilians was also reported in Mafindor and Gbane Kandor Chiefdoms. For example, cattle belonging to a civilian was taken and killed for food for the SLA forces. In Koardu (Gbane Kandor Chiefdom), civilians were locked up in the SLA guardroom and beaten if they complained about the behaviour of the SLA forces. Similar acts took place in Dunamaor (Gbane Kandor Chiefdom), where SLA forces entered the village, firing their weapons. As they began to take people's poultry, one SLA member asked a man to give them his torch as well, which he refused to do. This refusal was not taken well by the SLA forces, who chased the man into the bushes. As he was hiding in the bushes, they took property from his house and assembled all the women and men of the village to punish them in order to find out where the man was hiding.[941] The matter was later settled as the man's sister gave the SLA forces some money, some cups of rice and a chicken.

In addition, acts of physical violence, torture and killing of suspected "rebel" collaborators also took place. In May 1993, SLA forces were looking for two civilians whom they suspected of being "rebel" collaborators. As the nephew of one of those two wanted men was alleged to be on his way to warn his uncle, SLA forces arrested him in Gbamandufao (Gbane Kandor Chiefdom). His head was shaved with a piece of broken bottle and he was told to eat his hair, which had been mixed with sand. He then was hit with a bayonet before being brought to Koardu, where more violence was inflicted on him. He was then brought to Manjama (Soa Chiefdom) to ascertain whether he was a

[941] The type and duration of punishment they received were not specified.

"rebel", where he was eventually killed. Another suspected "rebel" collaborator in Koardu (Gbane Kandor Chiefdom) was tied up, made to lie down in the sun and was severely beaten. In Ndanbadu, in September, a man was severely beaten then brought to Koardu, where he was locked in a guardroom because he had asked why the SLA members were taking people's cattle.

In the meantime, the Donsos were trying to resist to RUF attacks. In June, they deployed alongside the border with Kailahun District. In mid 1993, SLA forces were deployed in Soa Chiefdom and for the rest of the year, the area was almost free of RUF attacks.

Following rumours of an approaching RUF attack on Kangama (Gorama Kono Chiefdom) and its environs in October 1993, a meeting was summoned in the town in early December. The purpose of this meeting was to motivate the youths of the chiefdom to be initiated into the Kamajors society and to take up arms.[942] After this meeting, between 100 and 200 youths registered to join the society. In mid December, 150 of these youths came back to the town with a gallon of palm oil and 10 cups of rice each for logistic support. They were then taken to a place called Jagbwema Kamba to be initiated into the Kamajors society. The initiator was also the initiator for Gorama Mende and Lower Bambara Chiefdoms (Kenema District). The initiates stayed in the bush for three weeks before returning to Kangama Town in early January 1994.

Following successful SLA attacks on RUF positions in Kailahun District in late 1993, Kono District was declared safe and IDPs from Ngor camp were repatriated to Koidu by the Government with the help of some Non-Governmental Organisations.[943]

Around the same period, the SLA had recaptured most of the RUF positions in Kailahun and Pujehun Districts, which led the NPRC Chairman to declare a unilateral ceasefire on 1 December 1993. This ceasefire was however largely violated, as RUF forces launched a massive operation in Kenema District in late December.

d) Events in 1994[944]

By the end of January and following the renewal of hostilities in the Eastern Province and in Pujehun District, the NPRC Chairman declared "total war" against the RUF.

In early 1994, returning chiefs created the Kono Council of Paramount Chiefs, chaired by the Paramount Chief of Mafindor Chiefdom, with the consent of the NPRC Commanding Officer Secretariat in Kono.[945]

---

[942] No Kamajor initiation had, however yet take place in the country, not even in the Southern Province, from where it originated. Accordingly, this information about the Kamajors may simply mean that youths and local hunters gathered, as they did in Kenema District, but were not initiated by an initiator as such.

[943] In September, the NPRC Secretary General announced that the situation in Kono was calm and civilians could go back to their villages without hindrance: BBC Summary of World Broadcasts, 9 September 1993.

[944] It should be noted that the information for 1994, 1995 and to a certain extent 1996 is sometimes confused and inconsistent. The information related in this report for this period was thoroughly crosschecked, notably in correlation with what happened in other places at the same time, but although there can be no doubt on the actual occurrence of the events, the exact date of those events cannot be ascertained with any certainty.

RUF forces were reported to be in Balama, in the south of Tankoro Chiefdom, in early 1994, where they burnt houses and raped girls. In March, they reached Levuma, a village of 70 houses south of Tankoro Chiefdom, near the border with Gorama Kono Chiefdom, where 70 people where shot and killed. This action was allegedly undertaken in reprisal for the local hunters attacking RUF positions and for the civilians' lack of support for the RUF movement. The Gorama Kono Kamajors subsequently launched an attack on Levuma and, after retaking control of the town, buried the corpses of the 70 victims in a mass grave in town, since burying them outside the town ran the risk of an encounter with RUF forces. During the RUF counter attack on Foindu (Gorama Kono Chiefdom, at the border with Tankoro Chiefdom), 10 houses were burnt, five people were killed, girls were raped and people were abducted. Others were wounded with cutlasses, including the Section Chief of Tankoro Chiefdom.

By April, the Tamaboros who had helped the SLA repelling the RUF/NPFL forces out of Koidu in January 1993 moved back to the Northern Province, their region of origin, to fight the RUF advance.[946]

In May, more local hunters were gathered in Gorama Kono Chiefdom,[947] thereby enabling them to retake Foindu from the RUF. Other towns in Gorama Kono were also the site of fighting between Kamajor and RUF forces. As rumours spread about an attack on Kangama, the main Kamajor base for the whole chiefdom, up to 124 more youths were initiated into the Kamajor society. The anticipated attack on Kangama took place in September 1994 and after the Kamajors succeeded in countering the RUF forces, the chiefdom was free from RUF incursions until 1995. In order to ensure security, the Kamajors laid constant ambushes on the four entry points from neighbouring chiefdoms, namely at Nimiyama, Nimikoro, Tankoro and Gbane Chiefdoms.

In 1994, the taking of property was common by all factions, including RUF forces, SLA forces and Donsos, and businessmen were common targets. For example, at Yormandu, on a Friday market day, an SLA member killed a businessman for his money, approximately 4,000 to 5,000 US dollars. At Mansundu, another businessman was killed and his money was taken.

The Donsos were active in Sandor Chiefdom and were sometimes attacked by RUF forces during small-scale operations. In mid 1994, RUF forces entered Yormandu, where they killed one police officer and abducted the Donsos deputy chief's daughter. By the end of the year, 2,000 hunters were registered in Sandor Chiefdom.[948]

---

[945] The main aim of the traditional authorities was to defend their District but no more information could be obtained on its precise role. It, however highlights how local authorities organised themselves to defend their land against RUF incursions.

[946] Inter Press Service, 21 April 1994.

[947] This gathering of local hunters at that time did not encompass initiation as such. Initiation ceremonies would not be performed in the Eastern Province before 1996.

[948] The reported information concerning Sandor Chiefdom was confused and did not allow us to expand our analysis on this chiefdom. Although it is likely that the information reported above did take place in 1994, it may have taken place at a different date and no more information was available on these events.

SLA forces were harsh with civilians they suspected of abiding or collaborating with the RUF, which led to disunity between civilians and the SLA. Civilians were also harassed without being suspected of being a RUF member and, in particular in diamond-rich Kamara Chiefdom, acts of violence and molestation were inflicted on civilians by SLA forces engaged in illegal mining, who used and took civilians' properties and abducted women to be their "wives". The smuggling of diamonds was at its peak during this period. At the same time, some civilian members of the NPRC regime organised themselves in a group called "Convoy" and engaged in mining activities, molesting any authority or landowner who stood in their way.[949] A lot of small mining companies sprang up in this way.

In addition, SLA forces sometimes disguised themselves as RUF forces and attacked villages. For example, in Yorkordu (Sandor Chiefdom), located near the Bafin River, seven SLA members took property from the village before falling into a hunters' ambush. These attacks suspected to be carried out by SLA members pretending to be RUF forces led to disunity between local hunters and SLA forces and at Bakidu, SLA forces pretending to be RUF and who came to attack towns along the river were drowned by Donsos. Around the same time, between Mansundu and Worko (Sandor Chiefdom), RUF forces killed four SLA members, cut off their heads and displayed them on sticks.

A fierce RUF attack took place during that year in Yatandoe (Fiama Chiefdom).[950] RUF forces, who were believed to have come from different directions, attacked the town with heavy firepower. During the course of their stay in the town, houses were burnt, people killed and women raped. A specific event was the chopping off of the two arms of one SLA member. Some civilians were abducted and taken to Kailahun. Civilians who sought refuge in the bush were chased by the RUF forces, who shot and killed some of them, looted and set on fire the huts built in the bush, known as "mansion". People from Fiama Chiefdom stayed in the bush until Executive Outcomes came to Kono District in 1995.

SLA forces remained in Mafindor and Gbane Kandor Chiefdoms, which were virtually free of RUF activity. However, SLA harassment of civilians, which was common during previous years, continued throughout 1994. In February, SLA forces requested the civilians from Sangema (Gbane Kandor Chiefdom) to come to Koardu to brush the roads. As they did not get the message early enough and accordingly did not show up on time for the work, the civilians were gathered in Sangema and made to sit on the ground. As one of the civilians tried to reach a compromise with the SLA forces, he was hit with a weapon on his head. The SLA forces present in the village also took goats and poultry. The matter was reported to the SLA officer in charge in Manjama, who ordered the arrest of the SLA members involved.[951] Another incident relates the fate of one woman in Marrah (Mafindor Chiefdom) in March, who was beaten and kicked by a member of the SLA, who accused her of having planned to sabotage the NPRC regime.

---

[949] These civilians were called the "blue eye boys" and the nature of their relations with the NPRC regime it is not clear from the records. These mining activities were also carried out in 1995.

[950] The date was not specified for this incident.

[951] The SLA members in question were not arrested.

From November 1994, SLA forces were no longer based in Mafindor Chiefdom, although they were still patrolling the chiefdom. In Soa Chiefdom, SLA forces were still deployed in Manjama. Also in Soa Chiefdom, a jet bombardment was heard between Kongomadu and Theyor, which was believed to have been ECOMOG forces missing an RUF position.

f. Events in 1995

During this year, SLA forces were occupied with mining activities, leaving the security of the District to the under-equipped Donsos. During the first months of the year, the RUF forces succeeded in capturing major towns, including Koidu, in the wealthy west of the District, before being repelled in May and June by the combined forces of SLA, Executive Outcomes and local hunters.

In early 1995, RUF forces attacked Gandorhun (Gbane Chiefdom), advancing within a week on Woama (Tankoro Chiefdom) and then on Motema (Nimikoro Chiefdom). In this way, they approached Koidu town, which created panic among the inhabitants. In Motema, six police officers were killed, as well as a prominent Chief. The retreating SLA forces settled in Kamara and Sandor Chiefdoms, harassing civilians and taking their property.

RUF forces took advantage of the fact that SLA forces were more occupied with mining activities than with protecting the District borders. It has been suggested that junior SLA forces embarked on mining because they were suffering in their areas of deployment, as they did not receive much support from the Government and their officers were enriching themselves by mining diamonds. Furthermore, the attack on Motema, which is located on the Koidu-Makeni highway, created an increase in prices and a shortage of essential items in Koidu town, as the highway was no longer accessible.

In late April 1995, RUF forces launched their attack on Koidu. At this time, confusion arose in the mind of civilians about the identity of the fighting forces in control of the town. The RUF forces successfully captured one part of the bridge but the identification of the forces occupying the other part was unclear. Civilians thought that they may either be "loyal soldiers", namely SLA members fighting for the Government, or they may be "sobels".[952] This attack is referred to as "the second attack", "phase II", or "5:05" by civilians from Koidu. Unlike the first attack, which took place in late 1992, RUF forces used heavy calibre weapons such as mortar bombs, RPGs and LMGs. During the attack, a lot of civilians were killed and RUF forces took property from hundreds of houses and abducted many people, either to work in the mines or to carry their loads. Shortly after, RUF forces took control of the whole town.

After the attack on Koidu, RUF forces fanned out and attacked many more places, which soon fell under their control. During these attacks, people were ill-treated and killed and property was taken or destroyed, including houses. For example, RUF forces who were on their way to Tombodu (Kamara Chiefdom) cut off a woman's nose. Shortly afterwards, RUF forces attacked Tombodu. After the attack, inhabitants who returned to pack some belongings saw three houses burnt down

[952] This term refers to either SLA members who joined the RUF movement but who still used their SLA uniforms, so people thought they were fighting for the Government, or SLA members who, although they did not join the RUF as such, were acting as if they were "rebels", adopting the same behaviours.

and two bodies, although the actual levels of destruction and killing were likely to be much higher. Baiama (Tankoro Chiefdom headquarter, in the south of the chiefdom) was attacked and all the houses were burnt down. Some young women and men were abducted and taken to Koidu, which was at this time under RUF control. The abducted men were forced to carry the stolen property. RUF forces also proceeded further north and attacked Yormandu, south of Sandor Chiefdom, following the local hunters up to Bandu, three miles south-east of Kayima (Sandor Chiefdom headquarters).[953]

The April attack on Koidu led to a massive exodus of the population towards Kamara Chiefdom and towards the villages of Jagbwema (Fiama Chiefdom) and Kainkordu (Soa Chiefdom). In Jagbwema, fleeing civilians met with armed men in new uniforms, which led them to think they were SLA forces coming to recapture Koidu. However, shortly after their arrival, one of these armed men shot a civilian in the chest for asking them who they were. These armed men took personal effects and money from the civilians and burnt down one prominent businessman's house. While in their hiding place in the bush, fleeing people in Soa Chiefdom heard on the BBC "Focus on Africa" Program that "white men had come to Koidu".[954] RUF forces used Jagbwema (Fiama Chiefdom) as their base to lead ambushes in the area, during which some civilians were tortured and raped.[955]

During the same period, people suspected of being "rebel collaborators" were arrested and imprisoned by SLA forces. The NPRC regime imprisoned a lot of authorities they accused of collaboration with RUF forces at Pademba Road Prison in Freetown. At this time, further doubts were raised about the identity of the fighting forces carrying out certain actions, because it was reported that some SLA members organised road ambushes, attacking vehicles for their merchandise and specifically targeting businessmen, taking their belongings and, sometimes, killing them.

Between May and June 1995, a combined force of SLA, ULIMO-K and the CDU advanced from Sewa Bridge (Nimiyama Chiefdom) to recapture Koidu. On their way, they stopped for one week in Bumpe (Nimikoro Chiefdom), waiting for reinforcements from Executive Outcomes.[956] Executive Outcomes arrived in the same month after having completed their first military encounter in Mile 38 (Koya Chiefdom, Port Loko District) and advanced from Bumpe junction to recapture Koidu. RUF forces attacked those forces at Bumpe but were defeated and 17 of them were killed.[957] By the end of June 1995, Executive Outcomes, together with SLA forces, had removed the RUF forces from Sewa Bridge, Yormandu, Tombodu Chiefdom, Koidu and villages surrounding Koidu.[958] They

[953] The casualties for all these attacks are however not reported.

[954] This refers to the coming of Executive Outcomes, a mercenary company from South Africa.

[955] This information was related in general terms and does not specify the precise location of the events nor the exact date.

[956] The precise dates of the coming of Executive Outcomes in the District could not be inferred from the records. However, it was crosschecked and corroborated with open sources that Koidu was recaptured by these combined forces in June.

[957] AFP, 28 June 1995.

[958] Officially, Executive Outcomes had been engaged solely to train the SLA on military tactics but many reports for Kono District recounted that they came to the District to help repelling the RUF forces.

moved towards Koidu from three different directions, encountering little resistance from RUF forces as they had superior firepower.
Executive Outcomes organised meetings in some chiefdom headquarters, encouraged hunters to organise themselves, gave them military training, especially on how to operate weapons, and supplied them with logistics,[959] shotguns and eight round automatic rifles, which did not please the SLA forces. Executive Outcomes went on patrol with Donsos, due to their knowledge of the territory, seldom taking SLA members with them. They also encouraged civilians to participate in their own security as watchmen, notably during a general meeting in Koidu that gathered thousands of civilians together. During a meeting at Tombodu, Executive Outcomes demonstrated to the people how they could participate in the security network, using a "Spider Web" diagram. The Kono District Defence Committee[960] was reorganised and, as the Executive Outcome commander wished to involve the Kono people in the maintenance of security in the District, the Kono Consultative Committee (KCC) was formed. The KCC, besides the Kono District Defence Committee, embraced all facets of the Kono community. The initial meeting of the KCC took place in August, in the presence of 12 Paramount Chiefs,[961] which was followed by regular meetings to discuss security questions.

Donsos, the local hunters, entered Yormandu in July and at this time, Sandor Chiefdom was divided into different zones, each of them placed under the command of a different hunter. Donsos, focused on liberating their chiefdoms, did not rely on SLA forces because of their impression that those SLA forces were quick to run away during RUF attacks.

People began returning to Koidu but due to the scarcity of food, they had to search for food in the surrounding villages. As they did so, they ran into pockets of RUF forces who, when driven out from Koidu, relocated mainly at Potema Camp, Baiama (Tankoro Chiefdom) and Bandafarda Camp, near Motema (Nimikoro Chiefdom). During these encounters, a large number of people were abducted and some were killed or mutilated.[962]

Probably in the middle of August, RUF forces coming from the Tongo route[963] attacked Njaiama, headquarter town of Nimikoro Chiefdom and burnt the residence of the Chiefdom Speaker and the Court Barrie. They were repelled by SLA forces, assisted by local hunters. The SLA commander advised the residents of the town to stay indoors whenever there was a RUF attack on the town. One week later, gunshots from the direction of Njala, a very big town a few miles away, were heard in Njaiama. Indeed, RUF forces, dressed in military uniforms, attacked Njala around 28 August. During this attack, over 50 people were killed and several houses burnt down. The RUF forces then moved on to Njaiama, where over 90 people where killed and houses were burnt. During these RUF attacks on Njala and Njaiama, many civilians were wounded and several more went missing, presumably captured by the RUF forces, although some were later discovered dead in the bushes.

---

959 This training took place at District Office Barracks at Koidu and, after their training, the Donsos returned to their chiefdoms.

960 See the developments on this point in the year 1994

961 Kono District has 14 chiefdoms.

962 No details could be obtained on this incident.

963 Tongo is located in Lower Bambara Chiefdom (Kenema District). The road leading Tongo to Koidu passes by Gorama Kono Chiefdom, south of Nimikoro Chiefdom.

SLA forces who had pulled out of the town at the time of the attack regrouped and assisted by local hunters and Executive Outcomes, recaptured the town. A house-to-house search was carried out to bury the dead, who numbered 97 in total, spread over six different locations in the town.[964]

SLA forces came from time to time to Mafindor Chiefdom during the first half of the year, often harassing civilians. For example, one group of SLA forces regularly carried out raids to confiscate civilian property, on one occasion beating the Chief of Sandia village. These actions ceased during the second half of the year, when the rainy season made the roads impassable. In Lei Chiefdom, which is a rich cattle-grazing area, SLA forces killed cattle belonging to civilians and forced the civilians to carry the meat to Koidu; similar events also took place in 1996. For example, in one incident which took place in the chiefdom headquarter of Saiama, some SLA members killed six cows in a pen and required the caretakers of the pen to bring the meat to Koidu. When two of them refused, they were severely beaten by the SLA forces and forced to take the meat to Koidu as previously requested. This incident was reported to the Paramount Chief of Lei, who explained to the owner of the cows that he was not the first to report such matters. As a result, the Paramount Chief had already complained to the Colonel in charge of the SLA in Koidu, who had assured him that he had taken all necessary steps to stop SLA members doing such things. The Colonel had also told the Paramount Chief that he would alert the Military Police around the chiefdom to arrest any SLA member coming to the chiefdom without an official reason.[965] Nevertheless, similar actions continued even after the complaints of the Paramount Chief and the reassurances from the SLA Colonel.

In Soa Chiefdom, during the months of July to September, RUF forces believed to come from Kailahun District attacked different villages, mainly on a "hit and run" basis, searching for food and targeting villages with master farms. At this time, Donsos were active in Kainkordu and along the border villages, so RUF forces came in small groups and did not undertake sustained attacks. Rather, they would enter a village, take property and leave straightaway, as they were afraid of the Donsos based in some villages. During these raids, people were wounded, killed and forced to carry stolen property. These types of attacks took place in Bongema, Kuandor and Kainkordu. In Kainkordu, for example, one house was burnt and men and women were abducted to carry the property stolen in the village. One of these abductees was later shot dead outside Kainkordu.

In late 1995, Executive Outcomes, SLA and local hunters launched a massive attack on RUF positions at Woama and Baiama (Tankoro Chiefdom), where the RUF forces had their main camp in Potema. Donsos were able to provide Executive Outcomes with information and directions on RUF positions, following which local hunters were deployed at Baiama and SLA forces at Woama. After a last unsuccessful RUF attempt[966] to attack Koidu where RUF forces bypassed SLA forces at Woama and were stopped at Woardu by Executive Outcomes, those chiefdoms located in the centre and the west of the District became relatively quiet. It is interesting to note that during some

[964] Some blamed the SLA for these attacks on Njala and Njaiama, as they were frustrated in their mining activities by Executive Outcomes: Inter Press Service, 6 September 1995.

[965] It cannot, however, be inferred from the reports whether Military Police did arrest any SLA member or took any other kind of action.

[966] This event took place between late December 1995 and early 1996.

encounters between Executive Outcomes and the RUF, some of the RUF members who were killed were identified as ex-SLA, through the SLA identity cards found on their bodies.

f. Events in 1996

Executive Outcome mercenaries controlled illicit mining in Kono District, their presence minimising the ill treatment of civilians by SLA forces. They reprimanded undisciplined SLA forces and in one incident, killed 72 SLA members, described as "sobels",[967] at Kaneya in the outskirts of Koidu. Executive Outcomes patrolled together with Donsos who also continued to man checkpoints. For these reasons, their presence contributed to the stability of the security situation in Kono District and, to an extent, offset the economic consequences for the District of the incessant RUF ambushes on the Kono–Makeni Highway.

Around this time, it was alleged that Executive Outcomes was given a concession on the Tankoro Kimberlite mining site. The mercenary company was brought to the area by Branch Energy Ltd, a British company that secured a mining lease in the area and said it would hire its own security force. It was therefore believed that Executive Outcomes was taking a cut in the mining activities.[968]

At the border with Guinea and Kailahun District, Sandor Chiefdom was mainly protected by the Donsos and not by Executive Outcomes. This chiefdom was free from RUF incursions throughout 1996.

In Lei Chiefdom, SLA harassment of civilians continued, including sexual assault. At one point in 1996, some civilians came to Senehun, located on the highway going to the chiefdom headquarters of Saiama, to mourn the death of the town chief. Some SLA members asked some of them for a goat and as they explained that they had already given their only goat to some other SLA forces the day before, they were told that they should replace the goat with a woman. The civilians explained that there was no unmarried woman in the town. However, the SLA forces came across a young woman who had also came to the village on hearing of the death of the town chief. They took her away and, as she told them she was not married, they threatened the civilians with beatings as they lied to them about there being no unmarried women in the town. The woman was raped by the four SLA members during the night and then released, so the SLA members could avoid being disciplined by their commander. The incident was reported to a senior SLA commander but no action was taken.[969]

In Gbane Chiefdom, RUF forces intimated voters on Election Day in an effort to prevent them from voting by sporadically firing their weapons. After the elections, some people fled the chiefdom, fearing the warning given by the RUF that they would amputate the hands of those who had voted for the newly-elected President, Alhaji Dr. Ahmed Tejan Kabbah.[970] Furthermore, people in Kono

[967] See earlier note 42 for an explanation of this term.

[968] See The Mining Journal, 8 March 1996 and Inter Press Service, 11 March 1996. Around September 1996, Executive Outcomes would also be contracted by Sieromco, a company mining Bauxite in Moyamba District.

[969] The month of the occurrence of the incident could not be ascertained.

[970] By the end of the year, Gbane Chiefdom was a "no-go" area, as the fighting factions were hunting each other across the chiefdom, leading civilians to flee the area.

heard that in some parts of the country under RUF control, especially in Kailahun District, people's hands were cut off and their mouths padlocked as a punishment for having voted.

After the elections, SLA forces were deployed all around the country in strategic positions, except some parts of Kailahun District. One battalion was deployed in Gbongbokoro (Soa Chiefdom), which is on the Guinean border and is a crossing point to one of Guinea's most prominent market centres called Gueckedou. However, dissent began to ferment within the SLA forces for not being treated by the Government with the respect and the honour they deserved, while hunters (Kamajors and Donsos) were respected by the Government. For example, in August 1996, armed men believed to be SLA forces attacked Kainkordu (Soa Chiefdom) and killed the treasury clerk, allegedly because the SLA forces held the treasury clerk responsible for bad reports against them being sent from the chiefdom authorities. Compounding their dissatisfaction, the President's address to the nation at the national Stadium in Freetown after the signing of the Abidjan Peace Agreement did not please the SLA forces, especially when he made particular mention of the Kamajors for the very outstanding job they did to put an end to the war.

RUF forces attacked Kangama (Gorama Kono) in October 1996, entering the town with heavy firing. They killed one woman and shot two other people in their hips, who were later taken for treatment to Tongo Field (Lower Bambara Chiefdom, Kenema District). The RUF forces took all the property they could find in the town and abducted two boys to carry the load for them to their base, allegedly at Peyama (Lower Bambara Chiefdom, Kenema District). One Friday in the same month, a meeting was summoned at the Court Barrie as information reached Kangama authorities about the Kamajor initiation that was taking place in Kenema District.[971] It was agreed that young men should be initiated to protect the chiefdom and a message was conveyed to the Paramount Chief of Gorama Kono Chiefdom, who was at that time in Koidu, to put in place modalities for the initiation. His chiefdom speaker made the shuttle between Koidu and Kangama to organise the initiation. Money was borrowed from a produce buying agent in Koidu for the initiation and 30 energetic men were selected by the elders. The 30 young newly initiated Kamajors were then provided with single and double barrel guns and deployed in different part of the town.

Also in October 1996, RUF forces attacked Bamba (Soa Chiefdom) and burnt down 32 houses. They then headed to Sukudu, south of Soa Chiefdom, where they captured people, including children, and forced them to carry heavy loads to an unknown location. SLA forces based at Yigbeda (Soa Chiefdom) advanced to Sukudu and some of their members deployed there. Two weeks later, still in October, RUF forces attacked the town of Kongonani, six miles from Sukudu, where they killed civilians, including men, women and children, before being repelled by SLA forces, who had came from Sukudu on hearing the sounds of gunfire. Before retreating, RUF forces abducted some civilians and brought them to Kailahun District. Stolen property was also transported to Liberia by boat, crossing the river bordering Sierra Leone and Liberia. While a meeting was in progress in Sukudu with SLA forces and local authorities in December, RUF forces again attacked Sukudu and killed the Section Chief of Sawa Fiama Section. SLA forces retreated to Yigbeda but later, still in December, they came back to Sukudu and warned civilians that they were

[971] This information backs up the previous assertions that no Kamajor initiations as such took place in Gorama Kono Chiefdom in late 1993 and early 1994.

planting mini-landmines along the road RUF forces were using to attack Soa Chiefdom, which caused the death of some of the RUF forces and allegedly led to the ceasing of attacks on villages in the chiefdom.

The Abidjan Peace Accord, signed on 30 November 1996, stated that the war was ended with immediate effect. It required that Executive Outcomes leave the country by early 1997, which they did,[972] and also required the disarmament of the fighting forces.[973] However, Kono people made a very strong appeal to the Government not to stop their contract with Executive Outcomes, as they ensured security for Kono District.

In the aftermath of the Abidjan Accord, the then Vice President conducted a confidence building tour in the provinces to disband the CDF. In late December,[974] the Vice President of Sierra Leone visited Kono District and held a meeting in Koidu with Kono stakeholders, where he officially disbanded the CDF and required the Donsos to lay down their arms and return to their farming activities, as the Government had entered into a ceasefire agreement with the RUF. Any Donsos who failed to disarm would be detained. Many people who attended the meeting left the hall before the closure of the meeting to show their disapproval with the Vice President's statement. On the evening of that same day, the Deputy Defence Minister came to Koidu and organised a meeting at the Donsos office to encourage the Donsos to stay intact as RUF forces could not be trusted, including giving money as his own contribution for the Christmas celebration. Nevertheless, the Vice President's visit had, to all intents and purposes, paralysed further Donsos' activities.

g) Events in 1997[975]

In March 1997 in Gorama Kono Chiefdom, RUF forces attacked Kangama, a CDF stronghold located at the border with Tankoro Chiefdom, but were repelled. The RUF apparently wanted to capture Kangama as a transit point to block the Kamajors in Tongo Field (Lower Bambara Chiefdom, Kenema District),[976] who had strong links with the Kamajors in Kangama.

In May 1997, news of the Coup reached Kono on its very first day through the BBC's "Focus on Africa" Program. After the Coup, the RUF came out of the bush, often looking malnourished, and together with AFRC mainly spent the year taking people's property, in particular making constant demands for livestock. Furthermore, shortly after the Coup, the individual plot system was

[972] AFP, 30 January 1997.

[973] Article 12 of the Agreement stated that the Government shall use all its endeavours, consistent with its treaty obligations, to repatriate other foreign troops (i.e., the Nigerians and the Guineans) no later than three months after the deployment of the Neutral Monitoring Group or six months after the signing of the Peace Agreement, whichever is earlier. Article 12 also stated that Executive Outcomes shall be withdrawn within five weeks of the deployment of the NMG. Sierra Leone Bi-Monthly Information Report No.11, 19 November - 16 December 1996.

[974] This visit could have taken place early January 1997.

[975] Little information was reported for 1997, as most of the RUF/AFRC activities were concentrated in Freetown and RUF activities now together with AFRC resumed progressively and were mainly focused on the mining areas.

[976] It has to be remembered that the control of Tongo Field was of the utmost importance for RUF forces as it is the most important diamond area in Kenema District.

abandoned and all mining areas were declared to belong to the RUF/AFRC forces, who appointed "Mines Monitoring Officials" to supervise their mining activities.[977]

Throughout 1997, RUF/AFRC forces undertook patrols in various places across the District. For example, Gbane Kandor Chiefdom was under the constant patrols of AFRC members. RUF/AFRC forces regularly patrolled Soa Chiefdom, except Kainkordu, which was a Kamajor stronghold.

RUF/AFRC forces established checkpoints in Koidu town[978] and also conducted raids at mining sites, beating and killing civilians and seizing gravel from civilians, looking for diamonds.[979] The SLPP Secretariat was occupied by the RUF/AFRC forces and used as their own administrative secretariat. A few weeks after the establishment of this secretariat, some RUF/AFRC forces arrested a man, brought him to the secretariat and shot him dead, accusing him of being a Kamajor because he was wearing country clothes, the traditional attire of the Kamajors. A member of the RUF/AFRC forces cut off both his hands. In Kamara Chiefdom, RUF/AFRC forces also established checkpoints at the entry and exit points of Tombodu. They confiscated any items of value or of interest to them from people passing through the checkpoints. Also at this time, alleged CDF collaborators were executed.[980]

In Fiama chiefdom, RUF/AFRC harassment of civilians was initially minimal, as they only took food and only miners were harassed by RUF/AFRC forces for their diamond-containing gravel. However, shortly after, civilians were arrested and forced to wash the gravel for the combined forces. Furthermore, RUF/AFRC started visiting towns and villages where they took away food and people's personal effects, including jewellery and money. In June, RUF/AFRC forces from Yegeda attacked Jagbwema (Fiama Chiefdom). No wounding or fatalities were reported, but property including livestock, food items, clothes and medicine were taken. One month later, RUF/AFRC forces came back to Jagbwema from Koidu with two jeeps, opened fire and took items of the same nature as the previous month.

RUF/AFRC forces harassed authorities throughout the District, because they were suspected of being sympathisers with the Kabbah Government. For example, when news reached the RUF/AFRC forces in Koidu that a Paramount Chief had encouraged the reactivation of the CDF in his chiefdom, some forces were sent to capture him. He was not there, but his compound was looted and the Town Chief and one other young man were arrested, beaten and taken to Manjama, the RUF/AFRC military base in Soa Chiefdom. After this, panicked civilians fled to Guinea. In November and December, property was taken from the remaining civilians on a full-scale basis. The taking of property by RUF/AFRC forces took place in other areas, including Gbane and Gbane

[977] See below in 1998 for details on the mining operations.

[978] Koidu town had previously been under the control of SLA forces and Executive Outcomes. However, by early 1997, Executive Outcomes had left and when the Coup happened, SLA positions turned into AFRC positions, which were then reinforced by RUF forces.

[979] This information was related in general terms and no further details were available.

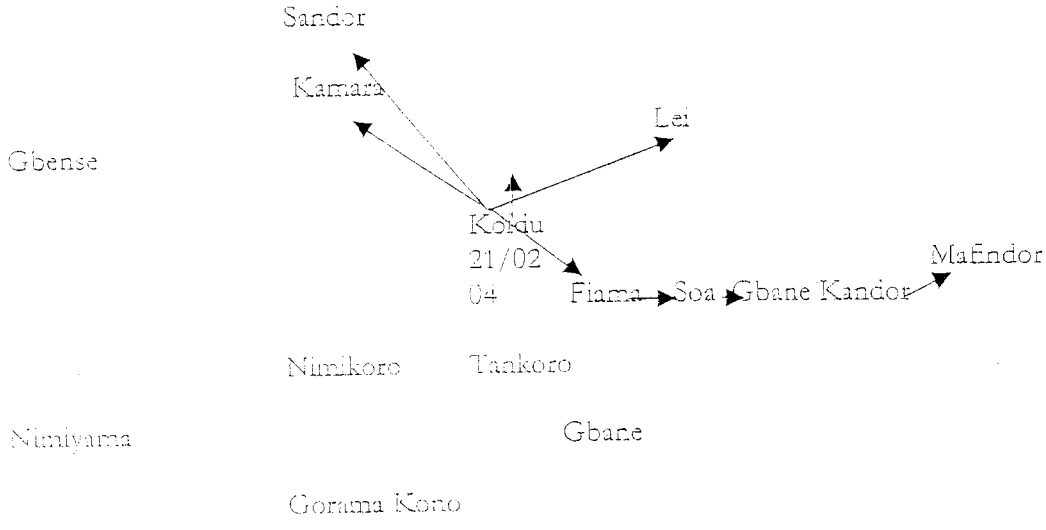
[980] This information was related in general terms and no further details were available.

Kandor Chiefdoms, where Koardu Town (Gbane Kandor Chiefdom) was visited many times, mainly for livestock.

RUF/AFRC forces came again to Kangama (Gorama Kono Chiefdom) in June, taking advantage of the fact that the Karnajors had deserted their checkpoints during the night. Many civilians were captured, massive looting was carried out, houses were set on fire and civilians were forced to carry the stolen property to the RUF/AFRC base in Senehun (Tankoro Chiefdom). In August, the CDF launched a successful offensive on the RUF base in Senehun, as a result of which Gorama Kono Chiefdom was free of attacks for the rest of the year.

In Lei Chiefdom, two civilians accused of sabotage in Kombayende were shot to death on the orders of a member of the RUF/AFRC. In the same town, a woman was beaten with a bayonet and killed by a member of the AFRC for refusing to give him palm oil. There were also two separate incidences of rape in Lei Chiefdom, one in October when a woman was raped by three RUF/AFRC members in Kenema and one in December, when four members of the RUF/AFRC went to Senehun, requested a house in which to sleep and raped a woman.

b) Events in February - June 1998



Legend:
ECOMOG deployment
——→ RUF/AFRC forces deployment

From January to February, violence against civilians and attacks on civilian property were rampant. An AFRC member shot and killed a young boy near the Koidu Central Mosque after the boy had helped him push his motorbike up the hill. Two days before ECOMOG drove the RUF/AFRC forces out of Freetown, a group of RUF/AFRC forces attacked the Branch Energy Lodge and Warehouse in Koidu and stole items valued at over hundreds of millions of Leones. On 12 February, "Operation pay yourself" was launched, according to which looting and confiscation of property were encouraged and almost all the shops in Koidu were looted. This operation lasted for a couple of days. Shortly after, the RUF/AFRC forces decided to undertake another looting operation, which they named "Operation House to House Search". In reaction to these operations, the youths mobilised and attacked the RUF/AFRC forces, succeeding in capturing some weapons. In addition, civilians launched their own operation, "Burn soldiers", where RUF/AFRC forces were chased in their hideouts and rubber tyres were placed around their necks and set on fire. All of these successive operations took place before retreating RUF/AFRC forces from Freetown arrived in Kono District.

CDF members from Gandorhun (Gbane Chiefdom) and Njaiama Sewafe (Nimiyama Chiefdom) came to help maintain the security of Koidu and its environs. Youths surrendered the weapons they had captured from the RUF/AFRC forces to the CDF. ECOMOG forces were expected to arrive on 21 February, through the Yengema heliport. In Koidu, suspected collaborators of the RUF/AFRC forces were summarily executed by the CDF.

However, on 21 February, an RUF/AFRC convoy of 150 vehicles, which had been repelled from Freetown and had regrouped in Makeni, launched an attack on Koidu Town, entering the town along the Makeni-Magburaka highway. Using light artillery as opposed to the poor logistics available to the Kamajors, the RUF/AFRC forces overpowered them during the day. The Kamajors had no choice but to retreat, mainly to Manjama and Kainkordu (Soa Chiefdom). Accordingly, Koidu Town and its environs fell under the total control of the RUF/AFRC forces. The burning of the town began. Abduction, rape and looting were rampant in Koidu and in all the surrounding villages. As a result of this, civilians fled the town and its environs, leaving Koidu and Woardu almost like ghost towns.[981]

When they pulled out of Freetown, the RUF indicated that it was again in charge of the operations. RUF forces began issuing orders to AFRC members and to arrest and kill those who refused to carry out the orders. In the Provinces, the AFRC forces were outnumbered and some of them surrendered to ECOMOG forces. A senior RUF officer, probably RUF Battle Group Commander at that time, was renown for killing many AFRC members when RUF/AFRC forces were in Koidu. On one occasion, he ordered 15 AFRC members to go and destroy a bridge on the highway. As one of them refused to go for he was unarmed, he was shot and killed by this senior officer.

The capture of Koidu town was the prelude to RUF/AFRC forces spreading all over the District. No chiefdom was left untouched after February and the violence intensified after the news that President Ahmed Tejan Kabbah had been restored to power on 10 March 1998, especially when Operation "Kill all living things" was declared. The scale of violations committed was in particular very high between February and May/June, reaching unprecedented levels. What happened during this period (February –May/June) will be outlined below according to the different areas in which things were happening, rather than chronologically, due to the high level of activity in all areas of the District, although it should be borne in mind that these events happened concurrently.

West (Kamara, Gbense, Nimiyama, Nimikoro and Tankoro Chiefdoms)

Villages in Gbense Chiefdom were attacked and in late February, many civilians fled the town of Yardu, to the north of Koidu, where a well-known Reverend was killed.

On 17 March, over 30 RUF/AFRC forces discovered some people in their hiding place near Kuandor (Kamara Chiefdom). The commander, a Liberian, asked the people to cook for them. Afterwards, he decided to go to another area but two of his men asked him if they could to take with them the girls who were among the civilians. The commander apparently gave permission, as the two girls, aged 13 and 14, were taken away by these forces. On 21 March, the National Chairman of the SLPP who was considered as a father for the whole District, relocated to a hiding place outside Wordu village a few miles from Koidu. He was later discovered, stripped, beaten and

[981] It is not totally clear when RUF/AFRC entered Koidu, as the attack may have taken place in early March 1998 (Chicago Tribune, 17 March 1998). Furthermore, information from Kolnadugu District tends to suggest that RUF/AFRC forces reached Koidu from Kolnadugu District. The poor conditions of the road network in Kolnadugu District, compared to the good quality of the highway, which leads Makeni (Bombali District) to Koidu, through Magburaka (Tonkolili District), however suggest that the bulk of the RUF/AFRC forces reached Koidu from Makeni.

tied up before being shot dead by six men belonging to the RUF/AFRC forces. A young girl who was under his guardianship was raped and taken to be the "wife" of their commander. Before leaving, the six men took one boy to carry the property they had just stolen. In Wordu, four young girls in their teens were captured by six RUF/AFRC men. After being ordered to cook, both the girls and some young men were severely beaten.

CDF members continued to confront RUF/AFRC forces and around 23 March, claimed to have recaptured Njalama Sewafe and the Sewa Bridge (Nimiyama Chiefdom). In addition, they claimed to have rescued hundreds of civilians caught behind RUF/AFRC lines.[982]

Killings, indiscriminate amputations, the gorging out of eyes, the dropping of burning plastic into the eyes and the disembowelling of pregnant women were common practice in Koidu at that time. In April, six civilians were captured by RUF/AFRC forces in Yardu village (Gbense Chiefdom) and were frog-marched to Koidu Town. One of the commanders shot one of the captives six times in the legs. As the captive could not walk any more, the commander ordered his men to execute him. When they reached Koidu Town, they met a group of ULIMO members[983] who demanded that the captured men be divided and one group be assigned to them (ULIMO). After a confrontation between the RUF/AFRC forces and the ULIMO forces, the captured men were finally taken to the RUF commander's residence. One of the captured men was suspected of being a Donsos and was severely beaten, had his hands braced and was locked up with other civilians in a toilet being used as a cell. All of the men were subsequently released.

In April, the rate of killing, rape and mutilation increased as the RUF/AFRC forces had launched "Operation No Living Thing". Kamara Chiefdom, a diamond-rich area northwest of Koidu, was particularly affected at this time.

AFRC/RUF forces were in the bush in Kamara and Tankoro Chiefdoms and the high number of reports for this area reveal the intensity of the violence inflicted on civilians. There were many instances of killing, acts of rape, amputation and burning of houses. One RUF commander was notorious for the amputation of several hands and legs. He ordered the abduction of a large number of people in a mining area, two to three miles away from Tombodu, and ordered the amputations according to description called 'long sleeve' or 'short sleeve'. In another encounter, the same commander and his men conducted an intense raid, during which they all raped one woman and lacerated her vagina. Other incidents include shooting civilians during raids or patrols. Another RUF commander in the area conducted a raid, which resulted in the abduction of several men, women and children, who were locked a house, which was then set on fire.

---

[982] BBC Online News Archive, 23 March 1998.

[983] Although ULIMO forces were officially disbanded in 1997, following the presidential elections in Liberia, it was alleged and stated by the ECOMOG commander in Sierra Leone that members of ULIMO-K were fighting alongside the RUF/AFRC forces: AFP, 21 April 1998. Some of these members would be arrested by ECOMOG forces and detained at the Pademba Road Prison in Freetown: Inter Press Service, 29 April 1998.

At Yardu (Gbense Chiefdom) in early April, the RUF/AFRC commander ordered that three people be killed. Among those killed was an ex-worker at the Koidu Electricity House. Civilians were ordered to bury the bodies on 10 April 1998.

As news arrived that ECOMOG troops were advancing in the District and were based near Koidu, at Koakuima, two convoys of civilians, including men, women and children, moved from Yardu to Motema town, eight miles south of Koidu Town on 22 and 24 April, arriving safely at their destination.

During this period, RUF/AFRC forces were continuously running from village to village, killing, raping and amputating people and burning villages, so that most of the civilians fled for the bush. One resident of Kuandor, who was returning to the town with some other people, ran into seven members of the RUF/AFRC forces, five of them carrying AK47s and two armed with cutlasses; one of them identified himself as trained fighter from Burkina Faso. The civilians were taken to Kuandor village and were asked to give the RUF/AFRC forces money and rice, which they did not have. The forces stripped one man to his underwear, laid him flat on the ground and beat him with a cutlass, which left marks on his back. They then poured some palm wine on his head and body, tied him up firmly and planned to take him out of the town later to kill him. Another civilian who was captured started crying and was hit hard on the head with a cutlass. One of the forces came back to the civilian who was tied up and told him since the civilians did not know his name, he would write it on his back with a razor blade, but was stopped from doing so by another member of the forces. All the RUF members and the civilians then moved on and RUF forces abducted more people in the nearby village. One of the RUF members suggested that they should leave the civilians behind, meaning they should be killed. However, the commander of the group allowed the two men from Kuandor to return to their town.[984]

In another incident that took place in April, 11 RUF/AFRC forces carrying guns and cutlasses captured three boys[985] who were going to Peyima (Kamara Chiefdom) to get salt and other items to bring back to their relatives, who were living in huts (also known as mansions) in the bush. The boys were forced to take the RUF/AFRC members to the mansions. The members covered the three boys with palm leaves, set fire to them and told the three boys to show them where all the property was kept, or they would stay in the fire until they were completely burnt. The boys showed them where the belongings were and the RUF/AFRC forces left the place taking with them the items they found. Before they left, they beat the three boys.

Also in April, in the village of Gbaima (Kamara Chiefdom), a group of RUF/AFRC members went to a farm near the village and asked the farmer to give them rice and palm oil. As the farmer only had rice to give, the RUF/AFRC members pierced his feet, passed a rope through the hole thus created and tied him up firmly. They then set fire to the palm fruits and threw the farmer into the fire. The man died nine days later. Violence was also inflicted on the other five inhabitants of the farm when the RUF/AFRC forces set fire to an empty five-gallon container and dropped the melting rubber on the five people until the container had burnt completely.

---

[984] What happened to the remaining abductees was not specified.

[985] The age of the three boys could not be ascertained from the records.

During the same month, two civilians who left Gbalma to go to Tombodu to check the condition of their houses ran into seven RUF/AFRC members, who tied their hands and told them to show them the way where they came from. As they approached Gbalma, the armed men opened fire on the civilians they met in the village, killing one old man, whose stomach was cut open and whose intestines were tied on a stick. Another boy whose age was not specified was also cut with a bladed weapon. The RUF/AFRC forces then conducted a house-to-house search and the two civilians they had previously arrested were ordered to gather all the food items they had taken. Before leaving for Tombodu, the RUF/AFRC forces set all the houses of the village on fire. On their way to Tombodu, the seven RUF/AFRC forces and two abducted civilians passed by the village of Wordu, where one of the armed men went to a house where a blind man was living. When he came back to his colleagues, he told them he had "finished" the man. Two boys they met on their way to Tombodu were also forced to join them. When they arrived at Tombodu, the civilians saw a body with its stomach cut open lying on the street that led the RUF/AFRC forces' headquarters. When they arrived at the headquarters, which was full of a variety of types of weapons including rifles, light artillery and bladed weapons, the commander ordered his men to tie the civilians (who were by then 14 in number), and lay them on the ground, one person on top of another. A mattress was then put on top of them and lit. One of the civilians, who kicked the mattress away as it started to burn him, was hit severely with a machete by the commander. The commander also accused him of being one of the youths who had burnt RUF/AFRC forces in February and hit his right hand with a machete, although it was not chopped off. When they saw this, the other civilians tried to escape and started running but were killed when the commander ordered his men to shoot them.

During this period, RUF/AFRC forces would burn part of the town of Tombodu (Kamara Chiefdom) each time an ECOMOG jet plane flew overhead. On one occasion, over 50 civilians, men, women and children were locked up in a house at Yusufuya Road and the house was set on fire. Cells in the headquarters were used to detain civilians, men and women, some of whom were later killed. The commander used a mined out crater near the lorry park in Tombodu to dump bodies of the people killed in the town.

In another incident, a man from Gbondu village (upper part of Kamara Chiefdom) was captured by some RUF/AFRC forces, who forced him to carry their load to a village in Sandor Chiefdom. Once the load was carried, the civilian was told to go back to his town. As he was returning, he met with another group of RUF/AFRC forces who cut off one of his hands. The man reached Gbondu and shortly after, the population decided to leave the village to go to Koakuima, where ECOMOG was stationed.

Around this period, a District Emergency Task Force was created by civilians who had returned to their villages. This Task Force was mandated to assess the destruction of their villages and to help the local population. Each chiefdom was represented in the Task Force.[986]

[986] AFP, 16 and 17 June 1998.



ECOMOG had arrived in Njaiama Sewafe (Nimiyama Chiefdom) in early April 1998.[987] While their arrival was characterised by tensions with members of the CDF from Kono District, since ECOMOG came with some members of the CDF from Punduru (Gorama Mende Chiefdom, in the north of Kenema District), the advancing ECOMOG troops were welcomed. While in Njaiama Sewafe, the ECOMOG Commander-in-Chief paid them a visit and gave the order to advance on Koidu Town. Thus, a combined troop of ECOMOG and Donsos moved to Koidu on 12 April on foot through the jungle, encountering an RUF/AFRC attack at Yigbeda, during which many ECOMOG members were killed. Nevertheless, they continued their journey and within one day, captured Yengema, Motema and Small Lebanon[988] (all located on the highway), after having battled for a few hours with some RUF/AFRC forces. The 5th Battalion was then deployed at Motema. The ECOMOG and CDF forces launched their first attack on Koidu Town but were repelled by RUF/AFRC forces and went back to Small Lebanon. However, ECOMOG and CDF forces launched a second attack and were able to overpower the RUF/AFRC forces, who fled the town.[989] ECOMOG forces also deployed at Koakuima where, as mentioned earlier, many civilians from the surrounding chiefdoms had come to find refuge, as the ECOMOG presence appeared to represent greater safety.[990]

RUF/AFRC forces continued to stage ambushes and around 14 April, three buses carrying ECOMOG reinforcements and CDF members fell in one of those ambushes near Yigbeda (Nimikoro Chiefdom). Some ECOMOG members were killed, others wounded and two BBC reporters were killed while trying to find refuge in the bush. The buses were later met by some of the ECOMOG forces of the 24th Brigade infantry en route to Makeni and from there to Freetown to brief the Task Force Commander. Those ECOMOG forces loaded their dead and the wounded colleagues onto the truck and continued their journey to Makeni. Shortly after, they fell in another RUF/AFRC ambush but managed to escape the ambush without any fatalities and made their way to Njaiama Sewafe (Nimiyama Chiefdom).[991]

---

[987] Following the intervention in Freetown, further inland operations were carried out by the specially designed 24th ECOMOG Brigade Infantry: Brig. Gen. R. A. Adeshina: *The Reversed Victory: Story of Nigerian Military Intervention in Sierra Leone*, Heinemann Educational Books (Nigeria) Plc., p 29. Members of this brigade deployed in the country and after capturing Makeni in March 1998, they proceeded further North to Kono District and arrived in Njaiama Sewafe around 11 April, where they met their colleagues already deployed since early April. It appears that the first batch of ECOMOG forces who deployed in Njaiama Sewafe waited for troops from the 24th Brigade Infantry before advancing further to Koidu.

[988] Small Lebanon is a town south of Koidu.

[989] It is not totally clear whether ECOMOG forces launched one or two attacks on Koidu before capturing it. In any case, these actions were carried out within a short period of time. RUF/AFRC forces, before retreating from the town, inflicting heavy casualties on civilians, killing some and burning houses. It was alleged that around 2,000 civilians were held hostages by the RUF/AFRC forces, in readiness for the expected ECOMOG attack. Inter Press Service, 16 April 1998.

[990] However, unlike the people who had escaped Gbense Chiefdom for Koakuima, those who had found refuge in Sandor Chiefdom and the CDF, who had also decided to move to Koakuima, fell into the hands of RUF/AFRC forces in Tombodu (Kumara Chiefdom) and a lot of them were killed while others had their limbs amputated.

[991] Adeshina, *op cit*, pp 62-3; see also Associated Press Worldstream, 18 April 1998.

CDF forces equipped with arms and ammunition given to them by ECOMOG troops stationed at Njalama Sewafe attacked Yardu (Gbense Chiefdom) in April and overcame the RUF/AFRC forces. Many RUF/AFRC members were killed during that attack, while two died by drowning into the river. In late April, ECOMOG forces in the District received reinforcements, who deployed along the Njalama Sewafe-Koidu highway, where they faced some ambushes staged by some RUF/AFRC forces. Assisted by an air campaign, they cleared the highway and reopened it in early May.[992]

A Nigerian contingent of ECOMOG was also sent to Torgbombu, an important town in Gorama Kono Chiefdom.[993] They came with heavy artillery including Alpha Jets, tanks, mortar bombs and helicopter gunships; shortly after their deployment at Torgbombu, they attacked RUF/AFRC positions and deployed in Jalama and Bumpe (Nimikoro Chiefdom) together with members of the CDF. The ECOMOG forces encouraged people to come out of their hiding places, so civilians started to come back to the headquarter town of Jalama.

RUF/AFRC forces attacked ECOMOG positions at Jalama (Nimikoro chiefdom), where they were repelled, and at Motema, where they were also repelled, but not before they had killed 24 civilians in a house situated near the national Petroleum Station at the Motema Junction along the main Freetown highway.[994] Those 24 civilians were later buried in one mass grave by the house of a retired senior superintendent of the Sierra Leone Police. Several attempts were also made by the combined RUF/AFRC forces to attack ECOMOG forces based at Koakuima but they all failed.

On 10 June, two days after the announcement over the radio of the death of the Nigerian President, RUF/AFRC forces made an attempt to attack Koidu, at that time under ECOMOG control. Although this attempt continued until the end of the month, the RUF/AFRC forces did not succeed in recapturing the town.[995]

North-west (Sandor Chiefdom)

After taking Koidu in late February 1998, RUF/AFRC forces arrived in Sandor Chiefdom and organised themselves into different groups, namely food finding groups and mining groups. A lot of stolen property came to Sandor from Koidu, as Sandor Chiefdom was a commercial centre. In this chiefdom, they were based in Yormandu, Tefeya and Kayima, from where they controlled various chiefdoms in Kobinadugu District.

AFRC/RUF forces were engaged in large-scale mining in the south of Sandor Chiefdom, in towns including Yormandu, Tefeya, Bakidu, Woidala and Bendu. The RUF/AFRC forces needed people to

---

[992] Former members of the AFRC regime who had surrendered were part of this deployment, re-trained and incorporated by ECOMOG: Adeshina, *op cit*, pp 66-7. This deployment of former AFRC members frightened the population, who suspected they may still be loyal to the ousted AFRC leader: AFP, 16 June 1998.

[993] It seems that this contingent of ECOMOG came from Kenema while the other one who deployed in towns alongside the highway that leads to Koidu came from Freetown. It is likely that those deployments took place at the same time.

[994] The attack on Jalama took place shortly after ECOMOG deployed whereas the one on Motema must have taken place weeks later.

[995] Adeshina, *op cit*, pp 89-93.

work in the mines and to find food, so a lot of civilians were abducted for these purposes. Many people who were captured were divided into groups, namely tripping, extraction and washing, and forced to work in the mines all day long. Mining workers were flogged, killed or burnt to death. Sick or tired workers were either killed or driven away after a severe beating or flogging. Mining workers caught stealing diamonds were burnt to death using a five-gallon container for carrying petrol or palm wine or oil. Physical violence, mutilation and killing were rampant. At Tefeya and Sandeya for example, RUF/AFRC forces killed civilians and amputated the ears and hands of others.[996] Promotion was given to RUF/AFRC members according to the results of their missions. As an example, when members, often child soldiers, were asked to burn houses and they burnt more than they had been told to, they were given rank promotion.

All over the chiefdom, RUF/AFRC forces began killing people in the bush, mainly for food as their stores began to run out in April. "Where is the salt, where is the Maggi, where is the pepper" were common questions asked of civilians, who would be killed if they were unable to provide the RUF/AFRC forces with those items. For example, in Kayima area at a place called Nakor, six people were killed for refusing to give food and other items. During the same period, in Kayima area, 13 people were put in a farm, which was then set on fire.[997]

In April, an internal dispute arose between RUF/AFRC forces at Yormandu and some went to Tegbadu, three miles east of Yormandu.[998]

As they needed civilians to undertake various activities, the RUF/AFRC forces devised different ways to bring civilians out of the bushes. On one occasion, RUF/AFRC forces sent the message to the bush, in particular nearby Yiffin (Koinadugu District) where civilians from Sandor Chiefdom had fled earlier, that a former NPRC Defence Minister and son of Kayima had come to Kayima and had called people to come out of the bushes.[999] On another occasion in May, one civilian leaving the bush around Masundu and heading for Guinea with his family fell into a RUF/AFRC ambush. The RUF/AFRC forces took them back to Masundu and the commander told him that if he would bring people out of the bushes, he would be appointed Town Chief or Town Commander. This man persuaded some other people to come out of the bushes and they started to brush the town and to repair damaged houses. A civilian was appointed at the G5 position. RUF/AFRC forces would then come regularly to the town to ask for food. Civilians were not killed but were forced to produce the requested items and to work for the RUF/AFRC forces. To refuse to work would lead to flogging. It appeared that Masundu was one of the first towns to be rebuilt in Sandor Chiefdom. This situation continued throughout 1998 and 1999 until Donsos came to fight the RUF/AFRC forces.[1000]

---

[996] AFP, 17 April 1998.

[997] The precise location of this event was not specified in the records.

[998] No further information on the reason of the dispute but also stated in general terms, it illustrates, as other similar incidents in Kono District and in other Districts that following the retreat from Freetown, internal fight appeared inside the combined RUF/AFRC forces.

[999] This information revealed to be false but anyway, did not have the expected results.

[1000] When they came to Masundu, probably in 2000, the hunters called together some civilians and molested a lot of them, accusing them of having collaborated with the RUF/AFRC forces.

However, this collaboration was not mirrored in other areas of the chiefdom, where women were raped and taken as RUF/AFRC "wives". Young girls were raped in front of their parents and were subsequently captured to carry loads. In April, one man was killed after he begged for mercy for his daughter, who was being raped in front of him.[1001]

At Yormandu, the burning of five-gallon containers to drip the melted plastic onto civilians was rampant. People were dogged up to 200, 300 and even 400 lashes all over their body, mainly when they refused to work, or said they were tired, or were caught stealing minor things. However, people caught stealing diamonds had a separate treatment and were burnt to death using a five-gallon container. In one specific incident that took place at Yormandu, one man who stole a diamond, called "Government property", was stripped naked and had melted rubber dropped on his body until he died.

As a result of these atrocities, civilians fled in large numbers to Yiffin (Koinadugu District), which saw a massive influx of people starting in late April. Indeed, throughout 1998, civilians were going on and off in the bush, to Guinea and to Koinadugu District.

Members of the CDF, together with a large number of SLA forces,[1002] equipped with arms and ammunition provided through the ECOMOG helicopter fought RUF/AFRC forces in Sandor Chiefdom. As a result, sometime in June, RUF/AFRC forces retreated to Koinadugu District. Other groups of hunters under the command of different commanders were active in the north and north-east of the chiefdom. RUF/AFRC forces, however, regularly attacked those SLA and CDF forces, often by using ambushes. In fact, ambushes were widely practiced by RUF/AFRC forces, particularly after SLA forces together with CDF members attacked them. In mid 1998, a group of between 30 to 35 civilians fell into an RUF/AFRC ambush three miles south of Kayima. Eighteen of them were beaten to death at the Yormandu Kayima and Tefeya Junction, as it was said that RUF/AFRC forces did not want to alert SLA forces by using their guns. The remaining civilians were taken to Baudu, the first town after Kayima on the road to Yormandu, where six of them were killed. The remaining people were taken away and their fate remains unknown.

Gbane Chiefdom

In Gbane Chiefdom, RUF/AFRC forces forced civilians to work for them, mining diamond and gold and harvesting cash crops like coffee and cocoa, which the RUF/AFRC forces were using to get arms and ammunitions.[1003] By the end of March, the chiefdom was virtually empty, as people fled the villages to go to the bush and to Guinea.

South-east (Fiama, Soa, Gbane Kandor and Mafindor Chiefdoms)

When RUF/AFRC forces dislodged CDF forces from Koidu in February 1998, these CDF forces retreated mainly to Kainkordu and Manjama in Soa Chiefdom. Shortly after, RUF/AFRC forces

[1001] No detail on the location of this incident could be obtained from the records.

[1002] The report mentions that the SLA forces were composed of 846 men.

[1003] The records talk about the cash crops being swapped for arms and ammunitions without giving details as to where this exchange was taking place, whether it was taking place at the Guinean border.

launched attacks on Fiama and Soa Chiefdoms, in particular in those areas where the CDF forces were concentrated. Indeed, in Soa Chiefdom, Donsos had six bases[1004] in the chiefdom, their headquarters being in Kainkordu.

On 11 March 1998, RUF/AFRC forces attacked the headquarter town of Jagbwema (Fiama Chiefdom). The RUF/AFRC forces, coming from Koidu in military and civilian jeeps, entered the town firing indiscriminately. More than 70 houses were burnt and the town was massively looted. During the night, the RUF/AFRC forces abducted three people, including the Town Chief, who were all later killed; on 12 March 1998, the same group also killed the Town Chief of Gberema. On 24 March 1998, RUF/AFRC forces coming from Jagbwema attacked Yeanoh, shooting and killing many people.

When they heard that the Kamajors and Donsos were in Soa Chiefdom, at Gbanmandu, north of the chiefdom headquarter of Kainkordu, the RUF/AFRC forces moved to Soa Chiefdom. On their way to Kainkordu, this group of RUF/AFRC forces fought with another group of RUF/AFRC forces, each of them thinking they were fighting with CDF forces. A number of the forces were killed during that encounter, but later, both groups[1005] joined forces to advance on Kainkordu. In Kainkordu, the RUF/AFRC forces fought with the CDF forces and both fighting factions suffered heavy fatalities, with no reported civilian fatalities. The RUF/AFRC forces then headed for Manjama, two miles from Kainkordu, where many civilians were killed. Those two attacks on Kainkordu and Manjama created panic among the civilians and a lot of them decided to flee for Guinea. This panic was intensified by the rumour that the route through Kainkordu was being used by some RUF/AFRC forces going to Liberia[1006] through Kailahun.

The same RUF/AFRC forces then proceeded further east towards Gbane Kandor Chiefdom and, on 27 March, launched simultaneous attacks on Bendu, Gbangbandor, Dugbor, Gbaidu, Dunamao and Koardu (all in Gbane Kandor Chiefdom). During this wave of attacks, several civilians, including men, women and children, were abducted, women were sexually abused and many houses were looted and burnt down. In Gbangbandor, for example, one woman was sexually assaulted and beaten to death. These attacks made the civilians leave the chiefdom for Guinea. However, in order to find food, civilians returned from time to time to the chiefdom and an unspecified number of civilians were abducted or killed. Donsos from Mafindor Chiefdom to the east of Gbane Kandor Chiefdom regrouped to try to stop the RUF/AFRC advance and agreed that the three sections of the chiefdom should each contribute one cow that would be sold in Guinea in order to buy ammunition there.[1007]

[1004] The Donsos had 100 men deployed at Kainkordu, 25 at Kuandor, 25 at Fuero, 25 at Sukudu, 50 at Manjama and 15 at Medu.

[1005] While one group was coming from Koidu Town (and then Jagbwema in Fiama Chiefdom), the other group came from Pendembu, Kailahun District.

[1006] It is reported that the rumour also said that Johnny Paul Koroma was among those forces. Other reports mention that as early as February, RUF/AFRC forces passed through Soa to reach Kailahun. Furthermore, this information has to be read in conjunction with the developments of Lei Chiefdom, where it was reported that Johnny Paul Koroma arrived in March and then left the Chiefdom, leaving behind him some troops.

[1007] It is not specified who these Donsos bought their cartridges from in Guinea.

RUF/AFRC forces continued further east and on 18 May 1998 attacked villages on the road leading to the headquarter town of Kamiendor (Mafindor Chiefdom). The RUF/AFRC forces burnt many houses at Densenbadu, Fandu, Gbenkoro, Kamiendor Kormadu, Sandia and Gbendema, where the CDF base was also burnt down. At Fandu and Gbendema, an unspecified number of civilians were abducted. Following these attacks, the RUF/AFRC forces returned towards Koidu and the dislodged Donsos from Soa and Mafindor Chiefdoms went to Guinea.

Lei Chiefdom (east of the District, at the border with Guinea)

In February 1998, a convoy of RUF/AFRC forces with 18 vehicles and three trucks full of arms and ammunition arrived in Lei Chiefdom, in the east of Kono District. The RUF/AFRC forces attacked towns including Yarawadu, Wanjama, Senehun and Kenema before some of the senior commanders departed, leaving the bulk of the forces stationed at Konbayendeh, in the centre of the chiefdom on the road that leads to the headquarter town of Saima. At Senehun, located in the same section as Kissitown, RUF/AFRC forces killed four civilians coming out of the bush, including two children. One of the adults was killed with a bayonet.

While in Konbayendeh, the RUF/AFRC forces started raiding surrounding villages, indiscriminately killing and mutilating people and burning houses, as a result of which people left their villages to go to the bush. However, the RUF/AFRC forces also started chasing the civilians in the bush. In one incident that took place in a bush around Kissitown, over 20 members of the RUF/AFRC, all in military uniforms, found around 70 civilians in their hiding place, gathered them all and started killing them, shooting some and mutilating others with machetes. Realising that those RUF/AFRC forces were going to kill them all, the remaining nine civilians decided to run away. The RUF/AFRC forces opened fire, killing five. Before leaving, the RUF/AFRC forces took 11 girls with them.

In Kissitown, RUF/AFRC forces established a training camp for abducted civilians, called "Superman Camp". Civilians were trained, given weapons and sent out to different parts of the chiefdom and the District. Some senior members of the RUF/AFRC forces had once earlier warned their forces in Lei Chiefdom not to kill civilians but once they are captured, to bring them to the camp for them to be trained so that the number of their forces would increase, in anticipation of their planned attack on Freetown. On one occasion, 30 civilians who were abducted and trained for one week in the camp were sent to Boroma town, north of Kombayende, with 15 "old" RUF/AFRC forces, for it was reported that civilians were in this area. One young boy who was hiding in a garden threw a grenade at the RUF/AFRC forces who had come to the town. However, the young boy was captured and cut into seven different pieces; 13 other people were also killed. On their way back to the camp, the RUF/AFRC forces captured 100 civilians who were on their way to Guinea. Eighty of them were sent to Koidu for mining, some who tried to escape were killed and two women were amputated when they refused to have sexual intercourse with two of the RUF/AFRC members.

In March, inhabitants of Kenema, a town located in the east of the chiefdom, shouted "welcome back to Sierra Leone", referring to the news of the restoration to power of the President, when they saw a plane flying over their town. A few hours later, they saw civilians coming in the village with

bundles on their heads, which led them to go in the bush. Shortly after, they heard gunshots from different directions in the village and saw the whole village being set on fire by RUF/AFRC forces. Other villages on the highway that leads to Siama, the headquarter town, were also set on fire. At Kombayende, five people were killed and two were amputated. On the same day, the RUF/AFRC forces proceeded further north to Kundundu in the north of the chiefdom, where eight people were shot dead and two had their legs amputated with an axe. Among the eight people who died, one had his tongue cut out with a knife. Another man was hit to death with a bayonet.

On 10 March, RUF/AFRC forces came back to Senehun, set fire to the houses that had not been burnt earlier and captured six people, one of them suspected of being a Kamajor commander. Three of those captives were killed with an AK47, one was beaten to death while another one had a blue rope tied around his neck and was dragged along the ground until he died. The sixth captive, who was suspected of being a Kamajor commander, was told by the RUF/AFRC commander that he was not yet dead because they did not know yet the kind of punishment they would give him. From Senehun, they went to Kenema, where they shot dead seven people before entering the town and captured a young man who tried to hide in a garden. One of the RUF/AFRC members was asked by the others to take a big stone and to smash the hands of the young captured man. Before leaving for another village called Samie, they burnt the remaining houses.[1008] At Samie, a man was shot three times in the head with an AK47 because he could not give the RUF/AFRC forces the location of the hiding place for the people of the village. The RUF/AFRC forces also poured petrol they found in the village on two thatch houses and set them on fire. The fire spread to other thatch houses and, eventually, 11 of them burnt down. As it was getting dark, the RUF/AFRC forces, together with the last captive they had, went back to Kombayende.[1009]

After President Kabbah's restoration to power in March 1998, two points for killing people called "commaflag" were established in Kombayende, a commercial town. One of these points was located at the centre of the town and the other one on Mambo Bridge, the last bridge leading to Kissitown in the west. On one occasion,[1010] the RUF/AFRC force commander who had established the commaflag system sent some members to arrest civilians in and around the town to check whether they were supporters of Tejan Kabbah Government. Thirty-one people were brought to the commaflag site. The commander addressed the captured people and told them that Lei Chiefdom was criticising their action, the proof being that people had fled to the bush. The commander called on one of his members, who had recently been promoted to Captain because he "knew how to kill people", to kill those who had been brought to the commaflag site. On that day, 10 of the captured people were shot before the operation was halted because it was getting dark. The remaining people were locked up in a room and brought back to the site the next morning. One of the captured men was given an AK47 and told to fire at one of the other captives. He did so and after one shot, the man died. Then, the commander gave the gun to another captive, but he needed three shots to kill another of the captives, so the commander told him that he had "failed the exam" and shot him.

[1008] It is highly likely that this event is related to the one described above when RUF/AFRC forces came to Kenema after people welcomed back the President.

[1009] On the way back, an unidentified fighting faction opened fire on them, which allowed the captive to escape.

[1010] Although the date was not specified, it can be inferred from the record that this event happened between March and June.

This operation continued until only eight of the captives had survived by "passing the test". They were then recognised as Junta II[1011] and were forced to kill people at the commaflag points. In another killing that took place at a commaflag point, three out of eight people who had been abducted and sent to the Superman Camp at Kissitown for training were arrested as they were trying to escape. The abductees were brought to Kombayende and killed at the Mambo Bridge commaflag, after which their bodies were thrown under the bridge.

When the commander in charge of Kombayende sent some of his men in search of food, those RUF/AFRC forces found nine people themselves were looking for food for their families. As the nine people did not answer the question of the commander of the group who asked them where he could find other civilians, the commander took the G3 rifle that was on his back and fired at two of the civilians, breaking their legs. As the people still refused to say anything, the commander killed the two wounded civilians. As the remaining seven civilians still refused to reveal where other people could be found, the commander amputated their hands with a rusty cutlass that the RUF/AFRC forces had found in the village. The RUF/AFRC forces then went to Soama, a few miles from the chiefdom headquarter of Siama, where they killed one man who refused to join them.

Rumours of imminent attacks in Guinea were rampant. However, no attack within the Guinean territory was reported for 1998 (nor 1999). It appeared that RUF/AFRC forces would have launched attacks on the Guinean territory earlier had they been larger in number, which they were unable to achieve since most of the civilians had already fled to refugee camps in Guinea.

On 8 April, RUF/AFRC forces moved from Kundundu and headed for Koidu Town. On their way, they passed by Kenema, where they hit an old man on his neck and his back with a bladed weapon for failing to take them to any civilian hiding places, as a result of which he died.[1012] Two other people were shot and killed at Kenema on that day. Before leaving for Koidu, the RUF/AFRC forces looted the village.

In April, seven men captured by RUF/AFRC forces in military uniforms in Sandor Chiefdom were taken to the Njai stream that separates Sandor and Lei Chiefdoms. Six of the men were tied with a blue plastic rope and were shot in the head. A heavy stone was then tied to each of them and they were thrown into the stream. The seventh person was not killed; the commander of the RUF/AFRC forces declared that he was not going to kill this person, because he was a Christian, as the commander himself was. Rather, the commander ordered one of his men to mutilate the man's 10 fingers, as a result of which his left hand was broken.

RUF/AFRC forces returned to Kundundu towards the end of the month in search of food and civilians. Some of the people they found in the bush were killed while others were taken away for manpower. On 1 May, in the bush around Kenema, RUF/AFRC forces captured civilians, killing

[1011] Junta II refers to these people who were enrolled in the RUF/AFRC forces following the retreat from Freetown.

[1012] This incident is reported in another record to have taken place when RUF/AFRC reached Lei in February. As this information could not be reconciled, it has to be assumed that this event took place between February and April.

two men with a bayonet, one of them being the Town Regent Chief. Those who were captured were told to form two lines, one for men and one for women and children. The commander told his men to choose a woman each for the night, himself selecting a girl who was 14 years old. Three women who refused to go with the armed men were stripped naked and sexually abused with gun barrels before being killed. RUF/AFRC forces settled temporarily in Kunchundu.

At Faokor in the south of the chiefdom during the same period, RUF/AFRC forces beat to death a blacksmith allegedly because he was a Kamajor, because they had found two empty cartridge shells in his forge. Twenty-one people were also killed that day, one of them being beaten unconscious and burnt to ashes.

RUF/AFRC forces attacked Gbonkongbor a few miles from the Guinean border in the northeast of the chiefdom with heavy firing in May, during which eight civilians were killed and many people fled. The RUF/AFRC forces then sent young men to bring back the cattle and ordered six women to cook for them. After eating, they left the village with the six women and able-bodied men. On 8 June, another village near the Guinean border was attacked. Some civilians, including men and women, were captured while others were put in a house and burnt.

i) Events in the second half of 1998

Between June and the end of the year, very few incidents are reported.[1013] At this time, most of the people of Kono District had fled to Guinea[1014] or into the bush and a lot of them were forced to work for the RUF/AFRC forces in the mining areas.

In September 1998, RUF/AFRC forces attacked Jagbwema (Fiama Chiefdom) and its environs. They raided the town and other villages, including civilian hiding places. Many civilians, including women and children, were killed and abducted during those attacks and Jagbwema was set on fire. As heavy bombardment could be heard, it was assumed that RPGs were used during those attacks, although it has since been revealed that RUF/AFRC forces had a tactic to produce sounds which are similar to those made by RPGs.[1015] The Donsos went moved to that area to fight the RUF/AFRC forces and after firing few gunshots to test the strength of the Donsos, the RUF/AFRC forces intensified the shooting. As a result of the heavy shelling from both parties, 32 houses were burnt down.

Around the end of October, RUF/AFRC forces attacked and killed civilians at Tombodu (Kamara Chiefdom) before being engaged by ECOMOG and CDF forces, which left 83 RUF/AFRC

[1013] This period corresponds to the rainy season, during which heavy rains often paralyse movement. In Sierra Leone, the rainy season runs mostly from May to August.

[1014] By April, around 90,000 civilians had crossed the border to Guinea since the start of the ECOMOG offensive against the RUF/AFRC in Kono and Kailahun Districts: Sierra Leone Humanitarian Situation Report, 16 - 30 April 1998.

[1015] RUF/AFRC forces used empty five-gallon containers, with their lids on, which they hit with a stick to emulate the sound of RPG fire.

members dead. This attack on Tombodu took place in the aftermath of the passing of a death sentence on the RUF leader for treason.[1016]

On 5 November, RUF/AFRC forces reached Hindimi (Lei Chiefdom), where they found 62 people who had returned from Guinea to harvest their crops. The civilians were separated by gender and told to give the RUF/AFRC forces the produce of the harvest. As they were reluctant, the two first people of the line were shot and killed, which prompted the civilians to give them the 216 bags of rice they had harvested. Women were forced to cook for the RUF/AFRC forces. The following day, the RUF/AFRC forces left the village together with captives who were forced to carry the bags of rice; those bags they were unable to take, as there were not sufficient people to carry them, were burnt. When they arrived in Kombayende, the men were separated from the women; this was the last time they saw each other. The men were later taken to Koidu for mining. After mining during the day, they were locked in a container at night.

On 20 December 1998, a fierce attack was launched on Koidu by RUF/AFRC forces, who were able to dislodge the ECOMOG forces based there. This attack came from the bush and was planned from different directions. Prior to this attack, RUF/AFRC forces had regrouped in Buedu (Kailahun District), which was an RUF stronghold throughout the war, and moved with three to four battalions to Kono. RUF/AFRC forces were already in Kono District and another group of RUF/AFRC forces were deployed at Njaiama Sewafe (Nimiyama Chiefdom) to set an ambush for the retreating ECOMOG forces. Four days prior to this attack, RUF/AFRC forces had attacked Small Lebanon and dislodged ECOMOG forces; ECOMOG troops based at Koakuima, Motema and Bumpe were also dislodged. In Koidu and Koakuima, RUF/AFRC forces killed many ECOMOG and CDF forces, as well as civilians.[1017] At Koakuima, the retreating ECOMOG forces left behind them a lot of arms and ammunition, which were captured by the RUF/AFRC forces. Retreating ECOMOG forces fell in the ambush staged by RUF/AFRC forces at Njaiama Sewafe and suffered heavy casualties.

RUF/AFRC forces then attacked the last ECOMOG battalion in the District, namely the 197th Battalion redeployed in Njaiama (Nimikoro Chiefdom).[1018] After a fierce battle, ECOMOG repelled the RUF/AFRC forces and asked for reinforcements from Bo. However, the ECOMOG commander was instead advised to withdraw his troops from Njaiama. On 30 December, the ECOMOG commander left Nimikoro Chiefdom with CDF members and thousands of civilians, as ECOMOG did not want to leave the civilians in the hands of the RUF/AFRC forces. They took the road to Tongo Field (Lower Bambara Chiefdom, Kenema District) in the south of Kono District. On their way, they fell into two ambushes laid by RUF/AFRC forces. After the first ambush,

---

[1016] AFP, 26 October 1998.

[1017] It cannot be inferred from the reports whether these forces were killed within the course of the battle or after being captured.

[1018] Prior to this wave of attacks, this battalion was deployed at Njaia and Wandama (Nimikoro Chiefdom). When the ECOMOG position at Bumpe fell into the hands of the RUF/AFRC forces, the decision was taken to establish a blocking position at Njaiama, on the highway that leaves Bumpe to the south of the District: Adeshina, *op. cit.*, p. 128.

ECOMOG forces led the convoy, which allowed the RUF/AFRC forces to abduct hundreds of civilians from the rear end of the convoy during the second ambush.

Prior to this attack on Koidu, a number of troop movements were noted in the surrounding areas in Sandor Chiefdom and in Koinadugu District. In fact, in late November, RUF/AFRC forces retook control of Sandor Chiefdom and civilians at Yiffin (Koinadugu District) observed many ECOMOG forces retreating from Kono District.

At Yormandu, some RUF/AFRC forces told the civilians that were their captives that they would continue the fight until Freetown and that they got the necessary logistics, arms and ammunition from Kailahun District. Indeed, this attack on Koidu was the catalyst for the RUF/AFRC forces to proceed further south, capturing more towns in the District and the country[1019] and to enter Freetown on 6 January 1999,[1020] using civilians from Gbane to carry their arms and ammunition.

Following the attack on Koidu, civilians and hunters decided to leave Kayima (Sandor Chiefdom) for Yiffin and Alikalia (Koinadugu District). However, they fell into an RUF/AFRC ambush on 28 December and a lot of them were captured. Over 170 of those captured were taken to Yiffin. One of the captured hunters was given a letter that requested the hunters to come out of the bush and join the RUF/AFRC forces. He was also told that if he did not convince the hunters to join them, he would be killed. The man saved his life by explaining that he only knew people in Kayima (Sandor Chiefdom). Some of the RUF/AFRC forces together with their captives thus headed for Kayima and on their way, four of the captives were killed for their belongings at Gbenekoro.[1021]

i) Events in 1999

On 1 January 1999, the RUF/AFRC forces that had killed four captives at Gbenekoro proceeded towards Kayima (Sandor Chiefdom), together with their remaining captives. On their way, the captives saw the body of somebody they knew and they learnt he was killed because he answered rudely to the RUF/AFRC forces. The captives were told to take orders from a child commander and were reminded that their lives were of no value for them. When they arrived at the RUF/AFRC forces' commander's compound, they saw one Fullah[1022] man being killed for refusing to give up his sheep. They were introduced to the RUF/AFRC commander as his "slaves and servants" and were forced to do petty jobs, mainly going on food finding missions for the commander. A man was appointed to the G5 position, to look after the civilians' affairs/interests. A Formation Assembly was set up where every morning, civilians were told to pray and announcements for the rest of the day were made. The establishment of these G5 committees not only took place in Kono, but also in other Districts, as a means of rationalising the use of civilians by making them participate in administrative matters. Civilians appointed to such positions could hardly refuse the appointment,

[1019] See the general overview and the analysis for Kailahun, Tonkolili, Bombali and Port Loko Districts and the Western Area.

[1020] See the factual analysis for Tonkolili, Makeni and Port Loko District and the Western Area.

[1021] It could not be ascertained whether this place is to be found in Koinadugu or in Kono District.

[1022] The Fullah are a tribe to be found in the north of the country and in Guinea. They would be particular targets of the RUF and, later, the RUF/AFRC during the war, as they were often healthy, earning money by raising and selling cattle.

because a refusal would soon be followed by a severe flogging. In Sandor Chiefdom, civilians were required to follow rules imposed on them by the RUF/AFRC forces, which included no raping, no taking of civilian's property and no stealing ("Jar Jar").[1023]

However, the establishment of such committees and the rationalisation of the use of civilians did not stop the harassment and violence continued to be committed against civilians. At Kayima, for example, sometime after the signing of the Lomé Peace Agreement, civilians presented complaints to the top commander in charge at Koakuima. When they came from this meeting, they were threatened and were punished with flogging and being forced to go on food finding missions. The commander at Koakuima sent some RUF/AFRC members to investigate the matter, although the results and consequences of this investigation are unknown. Furthermore, five civilians were killed and burnt to ashes in a bush near Neakor, west of Kayima. Following this incident and a complaint made by a relative of one of the civilians killed, the commander at Kayima recalled that no one should kill civilian and if such a crime was committed, it should be reported to the G5.

On 10 January 1999, RUF/AFRC forces attacked Pundura, a CDF stronghold in Nimiyama Chiefdom that was overcrowded with civilians. During this attack, both civilians and CDF were killed and their property was damaged.

From February 1999, hunters came in and out of Sandor Chiefdom from Guinea and made their permanent base in Fanema, near the border with Guinea, progressing towards the north of the chiefdom and retaking some areas from the RUF/AFRC forces. They were obtaining coffee and cocoa from the population in support for their activities, selling these items to the Guineans to buy ammunition or food. In one incident, RUF/AFRC forces came to Fanema looking for a famous hunter. They took all his belongings and brought his relatives back to Kayima, where they were molested, beaten and tied up before being released.

The abduction rate increased as people were used as diamond miners and were conscripted into the RUF/AFRC forces. At this time, Koakuima was the base for the RUF/AFRC 2nd Brigade and hosted the main office for the mining operations; it was also was the base for the Overall Mining Commander, who was assisted by a Deputy Mining Commander. Mining officers were appointed at the various mining sites. Every week, mining officers were to bring the diamonds collected at the sites to the Deputy Commander, who crosschecked them before handing them over to the Overall Mining Commander. However, diamonds over 5 carats were to be brought to the Overall Mining Commander at Koakuima as soon as they were discovered, without waiting for the weekly shipment. Every week, the diamonds were sent from Koakuima to Kailahun, from where they were sent to Liberia. Some private mining, mainly carried out for diamond dealers, was authorised by the Overall Mining Commander at the cost of Le 5,000 per week. However, diamonds over 5 carats were to be given to the Overall Mining Commander, as they were considered to be the property of the RUF.[1024]

[1023] More details are required from the records on the G5 committees.

[1024] These diamonds were considered as "government property" as the RUF was considering itself as a government.

At this time, the District was divided into operational areas under the command of a commanding officer. The training base established in Bunumbu (Luawa Chiefdom, Kailahun District) since 1998 and known as "Camp Lion" was transferred around January to Yengema (Nimikoro Chiefdom), as the centre of RUF/AFRC actions had moved to the north-west. On one occasion, six abductees, six adults and one child of a Small Boys Unit (SBU) escaped from the training base and tried to reach Koinadugu District but were caught and brought back to the base. The RUF Senior Officer in Charge of the Brigade Headquarters in Koakuima ordered these escapees to be killed. The six adults were shot and killed while the fate of the child soldier remains unknown. Hundreds of abductees from the Northern Province were sent to Yengema but as their number increased and as food supplies were not sufficient, the base was moved for three months to Gbendembu (Bombali District) before coming back to Yengema. Recruits were organised into platoons and young children as young as 10 were conscripted into Small Boy Units (SBUs).

A lot of beating, killing and rapes took place at the camp during the time of its operation. One practice carried out in the camp was called Halaka.[1025] A big circle, the size of a tennis court, was drawn on the ground with a smaller inner circle. The area between the two circles was full of obstacles such as barbed wires, drums and blocks. Recruits were to enter in this area and to find the exit located far from the entry, while the instructors located in the inner circle were beating them with sticks. Many civilians died from this practice.

In Lei Chiefdom, the rate of violations committed in 1998 continued and was very high after January 1999. Civilians were abducted to be trained as combatants, especially for the purpose of the upcoming attacks on Guinea. The commander in charge of Kombayende regularly sent his men to capture civilians to be trained as Junta II. A team went to Kissitown, where Superman Camp was located, but as they could not find anybody in the town, they went to the bush. There, they eventually found 160 people, who they brought to Kissitown for scrutiny.

Following those continuous developments, CDF members mobilised themselves; some of them were sent back to Guinea to bring back shotguns and they attacked the RUF/AFRC forces at Kissitown. After a three-hour battle, 15 civilians had lost their lives and the RUF/AFRC forces left the town with the civilians they had earlier abducted. Strengthened by this success, the CDF established a base at Gborgborma and successfully attacked the RUF/AFRC forces at Samie,[1026] where the RUF/AFRC forces fled the town leaving behind them most of their weapons. A few days after the CDF attack on Samie, RUF/AFRC forces attacked the chiefdom headquarter of Saiama, where they killed almost all the civilians they found in the town. After this attack on Saiama, the RUF/AFRC forces headed back for their base at Kombayende. On their way, they passed through a village called Kuima, where they found three bodies. As they continued their journey, they met three women who told them that men in military fatigues had attacked Kuima. The three women were then taken with the group, who used them as a shield anytime they entered a town. At Bomboro, some RUF/AFRC forces found one young woman with her baby. As she was caught trying to escape, they accused her of being a supporter of the President. They told her to throw her baby in a thatch house they had set on fire, warning her that she would be thrown in the fire as well

[1025] This term allegedly comes from Libya.

[1026] This village could also be Soama.

if she did not do what they asked her to do. After she had thrown her baby into the burning house and she was asked to join the RUF/AFRC forces, she tried to escape and was shot in the head. The RUF/AFRC forces also attacked the CDF base at Gborgboma and dislodged the CDF members who went back to Guinea.

Teams put together to search for civilians, also called "Safari team" by the RUF, continued to be sent. On one occasion, a team came back with only 15 civilians. Three of them were women and were allocated to the RUF/AFRC forces who did not have any woman. Among the 12 other captives, three who tried to escape were brought to the commadag located on the Mamba Bridge and were shot, their bodies thrown under the bridge. In another incident and after orders coming from Koidu told commanders in the different posts to conscript more civilians for planned attacks on Guinea, 152 civilians were captured in the bush and taken to Kombayende for scrutiny before being sent to Superman Camp. The able men and women were sent to Kissitown while the old people where brought to the commadag in the centre of the town, at Baova Road. All 21 of them were killed by the member of the RUF/AFRC who had been promoted to Captain because he knew how to kill. Their bodies were thrown in a very big hole previously dug by RUF/AFRC forces for this purpose. This was a common scenario, which was repeated many times.

In March 1999, an internal fight arose between RUF/AFRC forces as a group coming from Koidu entered Kombayende (Lei Chiefdom) with heavy firing. The members stationed in Kombayende fired in return. Sixteen civilians died during that fighting and 22 were seriously injured.[1027] Around this period, the identification of combatants was difficult but it is alleged that some AFRC members were integrated within the RUF movement and were briefed on the ideology of the movement. The senior officer in charge of the Brigade headquarters in Koakuma, who was also the Overall Mining Commander, was one of the most senior RUF members; most of the senior AFRC commanders were deployed in the Northern Province, in Kabala (Koinadugu District) and Mile 91 (Yoni Chiefdom, Tonkolili District).[1028]

On different occasions, civilians with amputated limbs arrived in refugee camps in Guinea and explained they had been attacked by RUF/AFRC forces in Lei Chiefdom. For example, one civilian had his left hand amputated when he was in Gbordu, a village nine miles from Siama. RUF/AFRC forces attacked the village and killed five people. The man who had his limb chopped off was accused of being a Kamajor and after he was amputated, he was given a message by the RUF/AFRC commander to deliver to the Kamajors and civilians living in Guinea that they should expect the coming of RUF/AFRC forces soon. On another occasion, one man was mutilated at Gborgboma;

[1027] It could not be ascertained what happened after this incident between the two RUF/AFRC groups.
[1028] Furthermore, unlike for Port Loko DDR, where ex-AFRC members disarmed as such, the DDR centre opened in Kono District received RUF and CDF members but no ex-AFRC members, which tend to reinforce our assumption that AFRC members who were in Kono District after the invasion of Freetown were incorporated within the RUF. However, as the distinction between the forces was difficult for civilians, we would continue referring to RUF/AFRC forces in the subsequent developments. Relations between RUF and AFRC forces were not totally sour, for in 1999, an AFRC member was appointed as personal bodyguard to the RUF leader when he was released from Prison.

the RUF/AFRC forces who had amputated his limb told him that whoever was captured in this village would be treated as a Kamajor because the village used to be a Kamajor base.

Sometime before the signing of the Lomé Peace Accord, RUF/AFRC forces attacked a number of towns and villages in Kamara Chiefdom, including Sukudu and Peyima, killing many civilians and burning many houses. Over 200 civilians, including men, women and children, were abducted and the strongest men were used for mining. There was a food shortage at that time and what little food was available was taken by the RUF/AFRC forces. Civilians were relying mainly on roots (gari) and boiled bananas to survive. Several civilians, particularly those working in the mines, died from starvation. The same working conditions described earlier in 1998 prevailed and the same kind of corporal punishments were applied. Among others, one practice, which caused the death of 10 men in Tomoodu (Tankoro Chiefdom), was called "hanging solar on the civilians", which meant beating someone to death. Civilians caught trying to smuggle or steal diamonds were tortured or killed. It is believed that hundreds of men, women and children were killed during this period.

RUF/AFRC were occupying Fiama Chiefdom, setting ambushes for Donsos and civilians. Towns in Fiama Chiefdom, including Sandekor, Koakor, Waima, Njardu, Darkadu and Gbematambadu, were attacked and burnt down during 1999. Sometimes, the burning of different villages took place on the same day and at other times, RUF/AFRC forces decided to burn a certain number of houses per day. Rice barns were also set on fire after being looted.

RUF/AFRC forces were in control of Gbane Kandor and Mafindor Chiefdoms, which were virtually empty, as civilians had fled to the bush or to Guinea. However, people who fled came back to their chiefdoms from time to time in search of food. Attacks on villages are reported occasionally. For example, in April, as civilians were moving regularly between the bush around Sindadu, in the northeast of Gbane Kandor Chiefdom, and Guinea for food, RUF/AFRC forces attacked the village and shot the hands of one civilian. In May, while searching food, RUF/AFRC forces from Mafindor Chiefdom shot a hunter who was captured in his house at Dengenyma. The hunter was caught by surprise in his house, his shotgun leaning on the wall.

During that period, Donsos forces reorganised in Guinea and launched an attack on the RUF/AFRC forces at Kamiendor (Mafindor Chiefdom). Both sides suffered fatalities, but the loss of men did not prevent the CDF from continuing to launch attacks, as a result of which they recaptured different villages in Gbane Kandor Chiefdom. Donsos freed some civilians that had been held captive by the RUF/AFRC forces and sent them to Guinea.

Following these attacks and the significant gains the Donsos were making, RUF/AFRC forces called for peace talks, which took place in July[1029] at Manjama (Soa Chiefdom). Over 3,000 civilians also attended the meeting. This meeting led to a ceasefire agreement, with the fighting factions agreeing that both civilians and combatants should move freely and that Manjama should serve as a buffer zone. For the purposes of freedom of movement, passes were issued to the civilians by the fighting forces. In August 1999, the RUF/AFRC forces even asked that joint security forces be formed to

[1029] This first meeting may have taken place in August, as reports mention both July and August for the date of this meeting

patrol the border area. It has been suggested that this system gave the RUF/AFRC forces the opportunity to bring their looted property to Manjama and to exchange it for other necessary items brought from Guinea by the Donsos. However in September, RUF/AFRC forces attacked Donsos positions, retaking all the areas the Donsos had held for the previous few months. The RUF/AFRC forces expanded their attacks beyond the borders of Sierra Leone, launching one attack at Gueckedou, one of the busiest commercial centres in Guinea.

After the signing of the Lomé Peace Agreement on 7 July 1999, the rate of violations decreased, even if molestation and other violations were still committed by RUF/AFRC forces, fearing that they would no longer be able to use civilians to carry out their mining activities and food finding operations. After July, it is reported that civilians were appointed to a G5 committee to look after civilian affairs in Kamara Chiefdom.[1030]

The fighting with the RUF/AFRC forces in Sandor Chiefdom continued until the signing of the Lomé Peace Accord in July 1999. However, the cessation of hostilities was only temporary and fighting resumed in 2000.

During the second half of the year, a mining area was opened by the RUF under the directive of the Overall Mining Commander near the bridge between Tombodu and Bundu II (Kamara Chiefdom). Many civilians were captured from across the whole District and forced to work in the mines. The captured civilians were working with barely any food or water and people were beaten or killed if they complained of hunger or thirst. On one occasion, three young men who defied instructions were killed, allegedly on the order of the Overall Mining Commander. On another occasion, 30 men were brought from Kunkordu (Soa Chiefdom) to mine and it is believed that almost all of them died during the course of the mining.[1031] Even foundations of houses were broken for the purposes of mining for diamonds.

In Sandor Chiefdom, different RUF/AFRC camps, known as Joe Bush, were operating and many violations were committed at those camps. At Tegbadu, four miles north of Yormandu where RUF/AFRC forces were still engaged mining, there was a "killing field". Nearby Tabema, on the Kayima Tefeyan highway, a camp also called "P.C. Ground" was infamous for the sexual violence inflicted on civilians. Many girls were raped and kept in the camp for sexual purposes. These women and girls were often sexually assaulted by more than one RUF/AFRC member at a time while some were taken and assigned to only one man.

On 20 October 1999, the Sierra Leone President officially launched the started of the Demobilisation, disarmament and reintegration (DDR) program during a ceremony at Wilberforce Barracks in Freetown.[1032]

[1030] Clarification is required from the records on the dates.

[1031] It is believed that 95% of them died.

[1032] The start of the DDR program was originally planned to take place within six weeks of the signing of the Lomé Peace Agreement on 7 July 1999.

In November 1999, near Jagbwema (Fiama chiefdom), RUF/AFRC forces, who already had over 130 abducted civilians with them, captured an unspecified number of people. Those abductees were told to fetch water, firewood and food; one of them was given the responsibility to settle minor disputes among civilians. After three weeks, all the abductees were taken to Kailahun District, passing through Gandorhun (Gbane Chiefdom). Most of the journey was undertaken at night and civilians were not allowed to rest on their own volition. In Kailahun, there were over 1,000 members of the RUF/AFRC forces and a lot of abductees. Some of them were required to farm for the RUF/AFRC forces while others became teachers.

In December 1999, hunters who had found refuge in Guinea tried another time to repel the RUF/AFRC forces from Lei Chiefdom. With the support of local authorities also living in the refugee camps, they crossed the river that separates Sierra Leone and Guinea on 18 December, launched different attacks on RUF/AFRC positions and at Kombayende, they managed to inflict heavy casualties on the RUF/AFRC side and to chase out the remaining forces. However, eight days later, RUF/AFRC forces came back and this time, the CDF members were not able to withstand the heavy firing and had to retreat to Guinea. The CDF members who were captured were either killed or mutilated and given letters promising that they (RUF/AFRC forces) would chase them into Guinea.

k) Events in 2000 to 2001

Throughout 2000 and the large part of 2001, mining activities were carried out in Koidu Town and in Plant No. 11, a mining area located between Koidu Town and Tombodu (Kamara Chiefdom). In Koidu Town, a place called Kaisambo was mined for the Overall Mining Commander. An unspecified number of houses in Koidu town had their foundations broken so that they could be mined. At Plant No. 11, more than 500 people were abducted and forced to mine and push caterpillars whenever they broke down.

On 14 January, the RUF leader, the Deputy Defence Minister and the ECOMOG Force Commander visited Koidu, as part of a country tour aiming at sensitising the combatants on the DDR process.[1033] Military Observers began conducting regular patrol missions in the District, although UN peacekeepers had not yet been able to deploy in the District.[1034]
However, the situation in the country worsened and United Nations peacekeepers captured in Makeni in early May 2000 were brought to Plant No. 11 (Kamara Chiefdom).[1035]

It was widely believed that the control by the Government of Kono District would mark the end of the conflict[1036] and talks were initiated between the President of Sierra Leone and the RUF to end

[1032] Sierra Leone Humanitarian Situation Report 5 - 16 January 2000.
[1034] IRIN West Africa, 12 April 2000. On 22 October 1999, the UN Security Council had adopted Resolution 1270 approving the deployment of 6,000 armed peacekeepers alongside the 260 unarmed military observers. Their number would increase over the subsequent months.
[1035] This group of UN peacekeepers was composed of 208 Zambians: IRIN West Africa, 8 May 2000. Around the same period, peacekeepers were also abducted in Kailahun District.
[1036] In early June, the Deputy Defence Minister called for an offensive military operation in the District: Sierra Leone Humanitarian Situation Report: 1-2 June 2000.

the conflict, which faced a new development in May with the abduction of the UN peacekeepers, as mentioned, and the arrest and detention of the RUF leader in Freetown.[1037]

Inhabitants of the District, however, began again crossing the Mellé River, which separates the District from Guinea, fleeing RUF harassment.[1038] Around the same period, RUF/AFRC forces began attacking the Guinean territory from different fronts.[1039]

The peace talks, which started in late May 2000 in order to reactivate the Lomé Peace Agreement found a conclusion in Abuja on 10 November with the signing of a ceasefire between the Government and the RUF forces. UNAMSIL was given the mission to monitor this ceasefire.[1040] However, in December 2000, civilians who had found refuge in a Guinean camp near the border with Lei Chiefdom saw thousands of civilians with bundles on their heads, who explained them that they had been attacked by "rebels" during their sleep.[1041] The following day, another group of refugees within the territory of Guinea confirmed that the "rebels" had come to Guinea. The next morning, trucks full of RUF/AFRC forces dressed in military uniforms arrived at the place where all these refugees were at this time and announced through a microphone that they had not come to kill them but to take them back to Sierra Leone. Their commander told the civilians that they wanted peace and as a proof of their commitment to the peace process, they have come to take Sierra Leoneans back to Sierra Leone. Over 20,000 refugees were thus taken back to Sierra Leone while the RUF forces continued their attacks in Guinea. The trip to Lei Chiefdom lasted roughly 10 days and when they arrived at Kombayende (Lei Chiefdom), the civilians were allocated to different towns within the chiefdom.

At Kundundu, the returnees were forced to work for the RUF/AFRC forces and were told to plant cannabis seeds. A woman accused of performing witchcraft was stripped naked and shot six times. In another incident that took place at Yawandor, 22 miles from the headquarter town of Saiama, following the killing of two RUF/AFRC members and the wife of another member by civilians, 17 civilians were killed on the order of the commander based at Kombayende, so that the RUF/AFRC forces based at Yawandor could restore their authority. At Kombayende, the commander in charge was the same person who had established the commaflags in 1998.

During this time, RUF/AFRC forces continued to commit acts of violence against civilians. On one occasion, four RUF members raped a 42-year-old woman until she died. When the civilians took the matter to the commander in charge, he replied to them that the RUF never made complaints about the men they had lost during the war so the civilians should not complain. Two days after that

---

[1037] The RUF leader was arrested in Freetown in May, after his bodyguards had shot and killed civilians gathered for a demonstration in front of his house in Freetown on 8 May 2000.

[1038] IRIN West Africa, 23 August 2000.

[1039] Attacks on the Guinean territory were also launched from Kambia and Kailahun Districts.

[1040] UNAMSIL press briefing, 27 November 2000. Paragraph 4 of this Ceasefire Agreement stated "both parties agree that UNAMSIL shall have full liberty to deploy its troops and other personnel throughout Sierra Leone including the diamond-producing areas in the discharge of its responsibilities, when UNAMSIL is satisfied that the ceasefire is observed by all the parties."

[1041] In addition, during this period, the training base at Yengema (Nimikoro Chiefdom) was still open.



incident, a suckling mother was raped and her child was taken away from her. A man accused of stealing was stripped naked and the commander ordered some of his men to set fire to an empty five gallon container and to drip the burning rubber onto the man. The man died three days later. Furthermore, some civilians were taken and sent to Koidu for mining.

In January 2001,[1042] fighting between RUF/AFRC forces and hunters intensified in the upper part of Sandor Chiefdom. However, UN personnel and commanders together with the Paramount Chief of Sandor arrived in Kayima by helicopter to exhort both factions to disarm. The RUF/AFRC forces who spoke with those authorities responded positively and stated they were ready to disarm.[1043] However, about one month after this visit, fighting intensified north of Kayima[1044] and as they were retreating south, RUF/AFRC forces burnt the remaining houses in the villages. After a battle at Yaryah, three miles north of Kayima, the RUF/AFRC forces decided to leave the chiefdom and headed for Koidu.

In Fiama Chiefdom, in March 2001, one man on his way to Jegbwema met civilians who told him that 50 men had been abducted and used to work for the RUF/AFRC forces at Jegbwema. Women were used to cook and for sexual purposes, as a result of which some of them became pregnant and had children. Sometimes, the captured civilians were beaten at night and put in containers used as cells by the RUF/AFRC forces. One man brought from the Guinean border was suspected of being a Kamajor and was beaten for three days by RUF/AFRC forces at Jagbwema before he died on the fourth day. At Gbekor, a man met more than 12 young girls below the age of 18 who were with the RUF/AFRC forces as their "wives". As he was wondering whether these girls were with the RUF/AFRC forces for their stolen property and money, he discovered that most of them had been abducted and were afraid to go back to their parents for fear of being called "rebels" or being maltreated.

Three days after they had arrived in Kombayende, 150 men who had just come back were taken by the commander to go to Guinea with some RUF members to carry the stolen property they had in Guinea. Shortly after, the Guinean Minister of Defence and some senior military officers came to the border with Sierra Leone to find members of the Kamajors to help Guinea repel the RUF beyond the Guinean border. The Kamajors told the Guinean authorities that they could not fight without the approval of the Sierra Leone Government, as they were under the control of the Sierra Leone Government. Two weeks later, the Guinean authorities came back, told the Kamajors that they had communicated with the Sierra Leone authorities, who approved their request. Kamajors were then equipped with arms and ammunition from the Guinean authorities.

Following this, on 23 March 2001, a group of 200 Donsos and Kamajors who had regrouped and were fully armed[1045] launched simultaneous attacks on RUF/AFRC positions in Kono District

---

[1042] Although this event was described as taking place in 2000, it probably took place in 2001.

[1043] This visit probably took place during the second half of 2000.

[1044] The CDF members fighting were those coming from the north of the Chiefdom.

[1045] Reports mention that these CDF forces had heavy artillery like tanks and that a ferry was built across the Meli River that separates Mafendor Chiefdom and Guinea to facilitate the movement of the CDF.

through three different flanks: Gbangbokoro[1046] in Soa Chiefdom (Kamajors/Donsos), Kamiendor in Mafindor Chiefdom (Donsos) and Kailahun District (Kamajors). Communication sets allowed the three groups to launch attacks simultaneously and to communicate any developments.

The group that headed to Kamiendor drove out the RUF/AFRC forces before separating into two groups, one going to Kombayende and the other using the Kondewakoro flank and working in concert. These two sub groups regrouped later on in Fiama Chiefdom. From Kamiendor, the group heading to Kombayende dislodged RUF/AFRC forces from Sindudu, which is located on the border between Gbane Kandor and Mafiendor Chiefdoms. As the commander in charge of the RUF forces in Kombayende noticed the advance of the CDF, he sent for reinforcements to Koidu, which was still under RUF/AFRC control. The reinforcement was composed of senior RUF commanders, who moved to Kombayende armed with anti-aircraft machine guns, RPGs, automatic rifles and other weapons seized from the UN peacekeepers. When they entered the town, the CDF forces opened fire and killed 32 of them. After a fierce battle, the RUF/AFRC retreated back to Koidu, as most of their senior commanders had been killed. The CDF chased them up to Jagbwema (Niama Chiefdom), where a battle took place. The RUF/AFRC then retreated to Maiyor, which is on the highway linking Jagbwema to Koidu.

In late April, the Acting Force Commander of UNAMSIL made a visit to Koidu to assess the situation on the ground, following RUF complaints about attacks carried out by CDF members backed up by Guineans.[1047] The CDF prepared themselves to go to Koidu, but in the meanwhile,[1048] in May, trucks full of UN peacekeepers came to the CDF deployment to advise them not to make any further assault on RUF/AFRC positions and to observe the cease-fire.[1049] The CDF told the peacekeepers that they would only observe the cease-fire after they had seen their Paramount Chiefs. About one week later, Paramount Chiefs and senior UN officials came by helicopter to meet the CDF and the Paramount Chiefs told the CDF that they did not want the Government to accuse the people of Kono of destroying the peace process. This meeting caused the CDF to desist from launching any more attacks and to stay in Maiyor until disarmament[1050] took place.

On 4 May 2001, a meeting was convened between the RUF and the Government of Sierra Leone[1051] to review the ceasefire signed in Abuja in November 2000 and which was violated, mainly in Kono

---

[1046] Gbangbokoro is on the border with Guinea.

[1047] UNAMSIL press briefing, 26 April 2001.

[1048] It is alleged that a member of the RUF General Staff went to Makeni to find the UN Bangladeshi contingent to ask them to come to Kono to resolve the situation.

[1049] UN peacekeepers from Tonkolili and Kailahun Districts carried out two-day patrol missions in early May prior to the establishment of a permanent patrol presence patrol in Koidu in late May: UNAMSIL press briefings, 6 May 2001, 11 May 2001 and 22 May 2001.

[1050] The other CDF group that entered Kono District through Soa Chiefdom met this group at Jagbwema.

[1051] This meeting was the second meeting of the Committee of Six of the ECOWAS Mediation and Security Council, the United Nations, the Government of Sierra Leone and the Revolutionary United Front: UNAMSIL press briefing, 3 May 2001.

District.[1052] Further to this meeting, it was decided to introduce phases of disarmament, in order to accelerate its process.

Also in May, UNAMSIL force Commander and Deputy Force Commander visited the RUF forces at Koidu and the CDF members at Kombayende (Lei Chiefdom) and Jagbwema (Fiama Chiefdom), to witness the implementation of the cessation of hostilities agreement, signed by the RUF and the CDF on 15 May.[1053] This cessation of hostilities and the start of the DDR program made the atmosphere extremely tense and many officials made visits in the District to ensure the process ran smoothly.[1054]

During the second meeting of the Joint Committee on DDR held at Magburaka on 2 June, the parties agreed to conduct the DDR process simultaneously in Bonthe and Kono Districts in July 2001, leaving time for the DDR facilities to be built in Yengema (Nimikoro Chiefdom). The estimated numbers of combatants to be disarmed were 1,500 combatants for the CDF and 2,500 for the RUF.[1055]

Disarmament started on 1 July at a very slow pace and was intermittently halted. Different reasons were put forward to explain the stalling of the process, including the suspicion of both the CDF and the RUF forces against each other, the UN travel ban on the RUF's Political and Peace Council Chairman and, above all, tensions resulting from the mining activities.[1056] To speed up the disarmament process, UN Officials met directly with the commanders of both fighting factions on the ground, rather than with the political leaders[1057] and during the third meeting of the Joint Committee on DDR on 17 July, the parties agreed that the checkpoints established by the RUF and CDF forces be dismantled and a moratorium on mining activities be implemented.[1058] Nevertheless, skirmishes between RUF and CDF were still reported for June and July.[1059] By the end of July, two companies of the UN Bangladeshi contingent were deployed at Koidu and 500 Pakistani UN peacekeepers were based at Yengema.[1060]

The initial target date of 28 July for the completion of the disarmament process was not met and the process was extended, as pockets of RUF forces were still not disarmed in the District. By 17 August, the disarmament for Kono District was complete and the figures of the combatants who

[1052] Further to the meeting in May 2001, those parties would hold monthly tripartite meetings under the Joint Committee on DDR.
[1053] UNAMSIL press briefings, 17 May 2001, 24 May 2001
[1054] On 25 and 26 May 2001, the Special Representative of the Secretary-General, accompanied by the UNAMSIL Force Commander and Deputy Force Commander and a Government delegation, including the Deputy Defence Minister met with representatives of the CDF and RUF in Koidu: UNAMSIL press briefing, 28 May 2001.
[1055] UNAMSIL press briefing, 5 June 2001.
[1056] UNAMSIL press briefing, 6 July 2001 and 13 July 2001.
[1057] IRIN West Africa, 12 July 2001.
[1058] IRIN West Africa, 20 July 2001; UNAMSIL press briefing, 20 July 2001.
[1059] IRIN West Africa, 24 July 2001.
[1060] UNAMSIL press briefing, 24 July 2001.

had gone through the process were higher than originally expected, mainly for RUF members came from Kailahun District to Kono District to disarm.[1061]

The completion of the disarmament in Kono District brought relief to the whole country, as it meant the war was really over. As a mark of the importance of this achievement for the country, the Sierra Leonean President, the Nigerian President and the Chairman of the ECOWAS went to Kono on 3 September, to witness the official end of the disarmament process.[1062]

RUF forces, however, continued to mine in the Koidu area, including indiscriminate mining carried out in the centre of the township. Some incidents of violence against civilians are reported during that period.[1063] In one incident, one civilian went back to Koidu from Freetown to assess the level of destruction of his property. As he reached his house, he met 20 people busy mining the soil underneath his house. When he asked them to stop, one commander at the site told his boys to arrest him and tie him up. He ordered four of his men to hang four solars on the man as he had interrupted the mining activities, which means that four people will beat the person. On another occasion, the Overall Mining Commander ordered civilians to be arrested, so that they could wash gravel at mining areas. One of these civilians was accused of stealing a diamond and when a young RUF member reported that the man had swallowed the diamond, the Overall Mining Commander ordered his men to hang ten solars on the man. After the beating, the man admitted he had taken a diamond but had swallowed it. The Overall Mining Commander ordered his men to kill the man and get the diamond out of the stomach. However, nothing was found in the stomach of the dead man, which made the Overall Mining Commander say that the boy who made the report let him kill a man for no just cause. As a result, the Overall Mining Commander shot the young member three times in the chest, killing him.

This situation of continuous mining activities angered the residents of Koidu. They reported the matter to UNAMSIL, who explained that it would be solved in due time. Nevertheless, on 18 December 2001, residents from Koidu took slings and machetes to fight the RUF/AFRC forces. A lot of the residents then left the District for other Districts (Bombali and Tonkolili) as they believed some of the RUF/AFRC forces would never give up the privileges they got from the mining areas, namely control on the mineral wealth and taxes levied on traders. Following this mass exodus of the population, a meeting took place[1064] in Makeni at the headquarters of the UN Nigerian contingent with leaders of the RUF forces and a delegation from Kono authorities. On 27 December, an important delegation composed of Northern Paramount Chiefs, the UNAMSIL Acting Force Commander, officers of the Sierra Leone Police and other people arrived in Koidu and summoned a

---

1061 UNAMSIL press briefing, 14 August 2001. As of 31 August 2001, 5,834 combatants had disarmed in the District, 3,623 being RUF members and 2,011 CDF members: UNAMSIL press briefing, 14 August 2001 and Sierra Leone Humanitarian Situation Report 09 - 31 August 2001.

1062 IRIN West Africa, 3 September 2001.

1063 In its Sierra Leone Humanitarian Situation Report 09 - 31 August 2001, the UN Office for the Coordination of Humanitarian Affairs (OCHA), based on information from Sierra Leone Web reports, reported on the ongoing use of child labour by the RUF for mining activities.

1064 It is alleged that this meeting took place to clear the rumour that the incident of the previous day was carried out on tribal lines on the pretext that Temnes, Limbas and Mendes were being killed in Kono.

meeting of stakeholders at the UNAMSIL headquarters. An agreement to put an end to the RUF mining activities in the District was signed and apparently implemented.

3. Conclusion

As with the two other Districts of the Eastern Province, Kono District was affected by the conflict since 1991 until the disarmament was declared complete in 2001. This 11-year conflict transformed the face of the District, which suffered heavily in terms of casualties, displacement of population and destruction of dwellings.

The District was first attacked in 1991 by RUF/NPFL forces coming from Kailahun District but those attacks were limited to the south-east, at the border with Kailahun District. During the following year, RUF/NPFL intensified their incursions into the District and progressively expanded their positions to attack Koidu, the headquarter town, by the end of 1992. SLA forces repelled the RUF/NPFL forces from Koidu at the beginning of 1993 and continued their "mopping up" operations throughout the year. By the middle of the year, they had dislodged the RUF/NPFL forces from their main positions in the District. Around the same period, SLA forces had confined the RUF/NPFL forces to the extreme east of Kailahun District, which led Sierra Leoneans to think the war was over and the NPRC Chairman to unilaterally declare a ceasefire.

In late December, however, RUF forces launched a massive operation in the south of Kenema District. This operation clearly marked a new phase of the conflict, during which RUF forces spread across the whole country, using guerrilla warfare tactics. RUF forces re-entered Kono District in 1994 and gradually gained territory on SLA forces, whose number had considerably increased over 1994 but whose actions aimed at repelling the RUF forces had proved wholly ineffective. By April 1995, RUF forces captured Koidu Town for the second time, inflicting high casualties on civilians and destroying and vandalising the town. From Koidu, RUF forces spanned out mainly in the diamond areas around Koidu. Their progression in the District and their mining activities were stalled around May/June by the SLA assisted by CDF forces and, above all, by Executive Outcomes, the South African mercenary company in Sierra Leone under contract with the Government. The RUF forces were rapidly driven out of their positions and throughout the rest of the year and 1996, were mainly confined to the south-east of the District, while Executive Outcomes controlled most of the remainder of the District.

Following the withdrawal of Executive Outcomes by the end of January 1997, the Kono population was left in the hands of the RUF forces, in particular following their merging with the AFRC forces. RUF/AFRC forces, although mainly concentrated around Koidu, patrolled the chiefdoms, harassing civilians for food items and abducting civilians who were then forced to work at the mine sites for the RUF/AFRC forces. As the harassment and physical violence against civilians increased, youths and CDF members fought the RUF/AFRC forces in Koidu and recaptured the town early 1998.

Following the ECOMOG intervention in Freetown, RUF/AFRC forces retreated into the Provinces and reached Kono District in late February 1998. They rapidly retook Kono and spread across the whole District, carrying out the "Operation No Living Thing". The rate of physical violence, mutilation, rape, killing, abductions for conscription, use as forced labour or for sexual purpose and

the destruction of property reached unprecedented levels. This period, running from February to May/June, was characterised as the "reign of terror". Although RUF/AFRC forces were also deployed across the Northern Province, where they carried out the same actions, Kono District suffered the most from this "Operation No Living Thing", as RUF/AFRC forces clearly concentrated their operations on the main mining area. ECOMOG operations continued in the Provinces and by April 1998, ECOMOG forces had reached Kono District and recaptured the towns previously under RUF/AFRC control. RUF/AFRC forces continued their actions from the bush and abducted more civilians to conscript and train them in the new camp they had opened in the east of the District or to use them in the mining sites.

Violence began decreasing by June 1998. Around this period, hundreds of thousands of civilians had fled the District and RUF/AFRC forces were mainly engaged in large-scale mining operations. In late December, however, the RUF/AFRC regrouped and launched a massive operation on Koidu and other main towns in the west of the District, dislodging the ECOMOG forces from all their positions. The capture of Kono was the first step of a wider action, which reached its conclusion in the invasion of Freetown in January 1999.

Following the invasion of Freetown in January 1999, negotiations started between the Sierra Leonean President and the RUF leader in order to put an end to the conflict. A ceasefire was signed in May and a Peace Agreement on 7 July 1999. This agreement did not end the conflict, as RUF/AFRC expanded their positions in the Northern Province and continued to be present in Kono District. RUF/AFRC forces pursued their mining activities in the District and violence was still inflicted on civilians. Local hunters in the north and the east of the District increased their attacks on RUF/AFRC forces but were often defeated. From 1999, however, the conflict got a new face, as it appeared RUF/AFRC forces planned to launch attacks onto the Guinean territory.

The number of civilians abducted and trained, in particular in "superman camp" in the east of the District clearly indicated that RUF/AFRC forces were preparing attacks onto the Guinean territory. Attacks on Guinea were launched in May 2000 and reached their peak in September. These attacks onto the Guinean territory were not isolated, for Guinea was also attacked from Kailahun and Kambia Districts.

In 2001, the CDF, backed up by Guinean authorities, engaged and defeated the RUF forces in the east of the country. They were halted in their progression through the intervention of Kono authorities and UN officials, in a bid to enforce the ceasefire renewed in Abuja. The disarmament process began shortly afterwards, an agreement to end illegal mining was reached and the war was officially over in the District by the end of 2001.

E. Southern Province

a. Bo District

1. Introduction

Bo District is one of the four Districts composing the Southern Province together with Pujehun, Bonthe and Moyamba Districts. Its headquarter town, Bo Town, lies in its centre in Kakua Chiefdom. It is strategically located at a nodal crossroad, from which roads extend into the District in four directions.

Bordered on the east by Kenema District and in the south by Pujehun District, almost all the incursions would come from this direction following an east-west pattern. Its northern chiefdom, Valunia, shares a boundary with the central District of Tonkolili. Moyamba District on the north and Bonthe District on the south constitute its western edge.

There are 15 chiefdoms in the District:

Chiefdom	Headquarter
Badjia	Ngelehun
Bagbe	Ngarlu
Bagbo	Jimi
Baoma	Baoma
Bumpeh	Bumpeh
Gbo	Gbo
Jiama Bongor	Telu
Kakua	Bo
Komboya	Njala
Lugbu	Sumbuya
Niawa Lenga	Nengbema
Selenga	Dambala
Tikonko	Tikonko
Valunia	Mongere
Wunde	Gboyama

Two roads leading to Bo Town allow its penetration from Pujehun Town, the principal road passing by Wunde Chiefdom and the secondary road passing by Bagbo Chiefdom. It was the secondary road that would find favour with the RUF/NPFL forces, who entered the District from Pujehun District in 1991. The main road in the District is the highway that links Freetown with Kenema Town. This feature would influence the conduct of the conflict, as it would be the setting of many ambushes and checkpoints. The relatively large number of roads accessible by vehicle would allow further RUF advances inland towards the Districts of Moyamba and Bonthe, even if the headquarter town, Bo Town on the Freetown-Kenema highway, would not be captured by RUF forces.

The Sewa River that flows from the south-west to the east, following one-third of the border with Kenema District, divides the District in two and would be the natural separation between the chiefdoms affected by the conflict during its first years.

As Bo Town is the second largest city in Sierra Leone, trading and business are among the main activities of the District, as well as mining, particularly diamond mining in Jiama Bongor, Baoma, Tikonko and Lugbu Chiefdoms and cash crops such as rice, cocoa, coffee and palm oil. The mining production has however to be considered in the context of the whole country and in this regard, the production of the District comes rather far behind Kono District and the North of Kenema District.

The absence of external borders would make the District a safer haven for the inhabitants of Pujehun District, at least during the first years of the conflict, and different camps, often made of bush sticks and mud and hosting thousands of internally displaced persons (IDPs) from others Districts, would be built in Bo District. Gondama (in the south of Kakua Chiefdom), at the junction between different chiefdoms, would host such a camp and would be severely affected during the conflict. Koribondo would be a strategic town during the conflict, due to its location at a crossroad between two strategic roads, the first running west-east and linking Bonthe District to Kenema District and the second running south-north and linking Pujehun District to Bo Town.

The main ethnic group is the Mende, renowned, among other things, for the importance of the traditional hunters in the society. Accordingly, the initiation of Kamajors, which had started in the Southern District of Bonthe, soon spread throughout Bo District, which would become a Kamajor stronghold.

Three different phases of the conflict can be clearly identified in Bo District. The first phase encompassed 1991 to 1993 and was characterised by the spreading of the RUF/NPFL forces from Pujehun District. However, only a few chiefdoms closest to Pujehun District were affected at this time, namely Bagbo, Lugbu, Jiama Bongor and Tikonko Chiefdoms. RUF/NPFL forces followed the same pattern when entering a village: they would gather people in the centre of the village, introduce themselves as "freedom fighters" coming to redeem them from the APC regime; some members would stay in the villages while others would proceed further. Physical violence, killing, abductions, the taking of property - especially food - and the burning of houses were reported from the very first incursion. Starting in June 1991, the SLA forces based in Koribondo (Jiama Bongor Chiefdom) and assisted by foreign troops contained these first attacks, repelled the RUF/NPFL forces from the District and patrolled in the areas previously under RUF/NPFL control, chasing "rebel" collaborators and encouraging the formation of vigilante groups. RUF/NPFL forces would later make sporadic raids in the District but did not settle in the District during this first stage.

The second phase spanned from 1994 to 1995, during which time the RUF had spread throughout the entire District. This phase saw the beginning of the organisation of youths and local hunters fighting alongside the SLA, although no formal initiations took place at this time. By the middle of 1995, SLA forces had retaken control of a large area south of Bo Town, although RUF forces still made repeated incursions and attacks, mainly in the chiefdoms on the east bank of the Sewa River and along the border with Kenema District. During this second phase, a lot of civilians were maltreated, killed, raped and abducted, a lot of houses were burnt, especially along the Kenema border, and property was taken away. These incidents were carried out mostly by RUF forces but by

SLA forces as well. During this stage, the Freetown-Bo-Kenema highway was the setting of many ambushes, though the precise identity of the faction responsible could not always be ascertained.

The final phase ran from late 1995 to the end of the war, during which time the Kamajors were formally initiated and spread across the District. Although they initially fought alongside the SLA, their collaboration soon deteriorated and was almost nonexistent by the time of the Coup in May 1997. Fighting between those forces were reported and some SLA forces were suspected of collaborating with the RUF. The Kamajors nonetheless gained control of almost all the previous RUF strongholds in the District and during the AFRC regime, RUF/AFRC forces were only based in Konbondo and Bo Town. Following the ECOMOG deployment in the District in late February-early March 1998, no further RUF/AFRC incursion were reported, the District remaining under the Kamajors control who however harassed civilians, chasing, inflicting physical violence and killing people they suspected of being "Junta" and RUF collaborators.

2. Factual Analysis

a) Phase I: 1991 – 1993

RUF/NPFL forces entered the District in April 1991 through Malen Chiefdom (Pujehun District) in the south-west of Bo District. These forces arrived first in Bagbo Chiefdom, where they scattered throughout April, May and June. They reached Lugbu Chiefdom in June, where they stayed for some months before being repelled by SLA forces.

On or around 24 April 1991, RUF/NPFL forces coming from the RUF base in Malen Chiefdom (Pujehun District) known as "Kuwait" arrived in the headquarter town of Jimi (in the east of Bagbo Chiefdom), 42 miles south-west of Bo. The RUF/NPFL forces fired their weapons[1065] and gathered the people of the town for a meeting in the Court Barrie. At this meeting, they identified themselves as fighters from Liberia, trained in Burkina Faso and fighting for their leader to liberate the people of Sierra Leone. The RUF/NPFL forces gave the people of the village palm fronds as symbols of the revolution[1066] and warned them that if they ran, they would be deemed an "enemy" and shot. They took all the Paramount Chief's belongings, including his car, claiming he was an "APC chief". While there are no reported fatalities, they abducted the Paramount Chief's staff and recruited some 82 people, including young children.[1067]

The RUF/NPFL forces remained in Jimi for approximately one week, after which the forces split into three groups. One group remained in Jimi and the second group headed north west towards Sumbuya (Lugbu Chiefdom). On the way, at Mani Junction (Bagbo Chiefdom), this group split into two, with one group continuing on their way to Sumbuya and another group heading south for Bum Chiefdom in Bonthe District. The third group headed north-east in a push towards Niagorihun, passing successively through Limba and Levuma. Niagorihun occupies the strategic position of

---

[1065] The RUF/NPFL forces were armed with mortar bombs, AK47 rifles, Berettas, LMG, GPMG and grenades.

[1066] Palm fronds and leaves were considered to be a symbol of the SLPP (Sierra Leone People' Party), the opponent to the then APC regime of J.S. Momoh. Reports from Kenema also mentioned RUF/NPFL forces coming to the District with palm leaves round their wrists.

[1067] No mention is made of what happened to the staff of the Chief nor whether they were included in the 82 people abducted at this time.

junction town on the road leading to Sumbuya, the commercial centre and headquarter town of Lugbu Chiefdom, and the road coming from Jimi, from where movement between the north-east to the south-west could be controlled.

The second group, who went to Sumbuya (Lugbu Chiefdom), stopped at Mani Junction in Momajoe on the way, where they encamped all the civilians at Lavekee compound and conscripted 85 boys and girls. In their address to the people, they made it clear that nobody should run in their presence or they would be classed as an "enemy" and would be shot on sight. Furthermore, the RUF/NPFL stated that they came more for the Fullahs and the Lebanese, who - according to them - contributed to the suffering of the masses.[1068] Thus, one Fullah businessman was tied to a stick and people were told to guard him until their return, under threat of indiscriminate killing in the area if anyone let him go.

Before leaving, they warned the population to have livestock ready for them when they passed through on their way back. They then split into two groups and left, one group going towards Bonthe District and the other continuing on their way to Sumbuya. Near Sumbuya, one young man was shot because he started running away when he saw the forces coming. One Lebanese businessman was killed at the wharf, another one was shot dead for refusing to open his store and four Lebanese people were abducted. The RUF/NPFL commander ordered his forces to take property from the town, including hundreds of bags of rice, many bags of onions, sugar and other items, including vehicles. All the property was taken back to Jimi by the young boys and girls who had been abducted when they had first arrived, some of whom were taken for training.

On their way back, the RUF/NPFL forces stopped in Momajoe and brought the man who had been tied up since they left before the assembled town, at which time the commander of the RUF/NPFL forces shot and killed him. They forced some of the townspeople to bury the body, which had started to cause panic among the inhabitants. While in Momajoe, the group that had gone to Bonthe District returned with property, including motorbikes, they had taken from the rice mill at Torma (Bum Chiefdom). They then left Momajoe and went back to Jimi with the property they had taken from Sumbuya and from Torma, some of which was then taken to the RUF base called "Nuwair" in Malen Chiefdom (Pujehun District).

The third group, who were heading north-east, continued along the road to Limba, passing through Manjama on the way, where they burnt down a number of houses. On their arrival in Limba, the RUF/NPFL forces gathered the people of the town for a meeting, in which they introduced themselves as trained Liberian mercenaries who had come to put down the APC regime. After this brief meeting, they continued on to Levuma, north of Limba, and later to Niagorihun Gateway, 7 miles north of Jimi, the meeting point of the main road to Sahn Malen and Sumbuya Lugbu Chiefdoms.

On 12 May 1991, SLA and the United Liberation Movement for Liberia (ULIMO) forces stationed in Koribondo (in the south of Jiama Bongor Chiefdom) were deployed to Niagorihun to prevent the

[1068] The Fullah are one of the ethnic groups from Sierra Leone and were a particular target, as its members were known to be wealthy businessmen.

RUF/NPFL forces from taking control of the town, which was successful. The RUF/NPFL forces made approximately four other attempts to take the town, returning each time to Jimi and passing through Limba on the way to Niagorihun, but each time they were repelled by the combined SLA and ULIMO forces. During the successive battles, both sides suffered heavy fatalities, including one of the RUF/NPFL commanders,[1069] and houses were burnt down as a result of the shelling.[1070] After their final attempt, they went back to Jimi and went on raiding missions in different towns in the chiefdom, taking what food they could find.

As a result of these battles, SLA and ULIMO forces based in Niagorihun began to move down the road towards Jimi, first taking control of Levuma and then moving on to Limba, where they established a base. The SLA and ULIMO forces, who were under SLA command, held a town meeting in the Court Barrie at which they established a curfew, set restrictions on people's movements and seized all the weapons in the town. During the following month, the SLA and ULIMO forces remained in Limba, from where they undertook covert reconnaissance missions to establish the extent of the RUF/NPFL strength in Jimi. They also went on food finding missions in nearby towns, which resulted in some skirmishes between SLA/ULIMO forces and RUF/NPFL forces.

On or around 16 June 1991, SLA and ULIMO forces launched a successful offensive with up to 250 troops to retake control of Jimi. During the battle in Jimi, the SLA and ULIMO forces killed six civilians who they believed to be "rebel" collaborators. RUF/NPFL forces coming from the direction of Pujehun District attempted several times to recapture Jimi but were unsuccessful. During these attempts, at least one house was burnt down as a result of the shelling, but no fatalities are reported. After they had recaptured Jimi, SLA forces maltreated civilians and hunted RUF collaborators. A number of people were killed because they were suspected of being "rebel" collaborators or because they came from "rebel-held" villages, although no investigations appear to have been held. Civilians who dealt with or hosted any RUF/NPFL forces, whether willingly or unwillingly, were tied up, beaten, made to look at the sun and, in some instances, killed.

In late June 1991, SLA forces launched a counter-attack to take control of Mano (Bagbo Chiefdom), which resulted in half of the town being occupied by the SLA forces and the other half of the town being occupied by the RUF/NPFL forces, although the exact dividing lines are not clear. Civilians in the town became the victims of both sides as each of the fighting factions accused them of aiding and abetting the other faction. Thus the SLA forces killed one boy, beat up the Town Chief and burnt down up to 45 houses. In return, the RUF/NPFL forces burnt down the remaining houses, killed 15 people and mutilated others.[1071] Around this time, RUF/NPFL forces also attacked Sonehun Gola and Mano, west of Jimi on the way to Momajoe/Mani Junction. In Sonehun Golan, RUF/NPFL forces killed 10 people and in Mano, they killed two people and burnt down four houses.

[1069] It is reported that there were no civilian fatalities at this time.

[1070] It appears that the houses were not deliberately targeted, but were burnt down as an indirect result of the shelling.

[1071] The records report that the people who were mutilated were "taken to Mattru Jong or Bo for treatment", although it is not clear what this means.

At the same time, SLA forces passed through Momajoe on the way to Sumbuya (Lugbu Chiefdom), where they remained for around two weeks, trying to assess the extent of territory controlled by the RUF/NPFL. At the beginning of July 1991, SLA forces regained control of Momajoe/Mani Junction, and were also established in Kasseh and Sumbuya. Sumbuya was an economic and trading centre and people were moving south of Sumbuya to buy food and other items, bringing them back to Sumbuya to trade. However, the SLA commander was uncomfortable with this movement of people, so people coming to Sumbuya from the south were considered to be "enemies" and were molested or put in cells for some days. This may in part be due to an incident that occurred on or around 10 July 1991: a military truck had an accident, which resulted in one SLA member falling off the truck and accidentally discharging his weapon. This led his companions to think they were under attack and they fired in the direction the shooting had come from, accidentally killing the soldier on the ground. The soldiers then fired at the vehicle to make their commander believe they had fallen into an ambush. Based on this report, the commander declared the zone north of Momajoe an "enemy zone" and ordered preparations for a full-scale invasion, including the order to shoot anybody they saw on sight. The following day, the invasion occurred from Golawoma to Tawamahenu, during which a lot of civilians were wounded, some of whom died in the bush due to lack of medical care.

One week later, the SLA commander required young men[1072] in the surroundings of Momajoe[1073] to register for a vigilante group. After registration, they formed vigilante groups in the various towns and were assigned tasks by the SLA, including building huts, hunting and general cleaning tasks. Punishments for coming late or failing to do assigned duties included frog jump,[1074] rolling, being forced to lie down and look at the sun and imprisonment for a number of days.

In mid July 1991 SLA forces required civilians to lead them to Golapo Junction[1075] following a RUF/NPFL incursion in Kasseh, south of Momajoe, from Malen Chiefdom (Pujehun District), during which two people were killed. They met stiff resistance from the RUF/NPFL forces and one of the SLA soldiers was killed. However, all the civilians escaped safely, as a result of which the SLA commander imposed more stringent rules on how to deal with civilians. Civilians who had any connection with RUF/NPFL forces, including mothers of people abducted by the RUF, were all classed as "rebels" and were treated accordingly. For example, in Mogbon, five miles east of Momajoe, two women were killed by gunshot wound to the vagina because they cooked food for their children who had returned from the RUF/NPFL base and failed to surrender to the SLA. One

---

[1072] The ages of these people are not clear; they are variously described as "young men" and "youths", which in the Sierra Leone context could be anywhere up to mid to late thirties, but probably does not include people under 14.

[1073] The towns are reported as being Momajoe, Golawoma, Mowei, Mossamgbahndo, Nyahgonihun (all north of Mamojoe); Temgbeleh, Largo, Maniwa, Mani, Bo, Tissana, Yegelleh, Fala (all south Momajoe); and Mojemai Kpongbalia and Golapo, east of Momajoe.

[1074] To "frog jump" or to "pump" is done by first holding on to the earlobes with two hands – the left hand holding the right ear lobe and vice versa– after which the person is required to jump up and down continuously on their haunches. This form of punishment was both physically and psychologically painful, because it is a punishment meted out mostly to children and it is considered shameful for an adult to be made to "pump".

[1075] While not explicitly stated, it appears that the civilians were used to guide the SLA forces through the area rather than provide them with any sort of protection.

man was killed because he said that the RUF/NPFL were planning to attack Momajoe. Two boys who came to Momajoe from Malen Chiefdom (Pujehun District) to buy salt were suspected of being "rebel" collaborators and were forced to chew their own penises before they were shot and killed. It is estimated that during this period, up to 48 people were killed by SLA forces because they arrived in Momajoe from a direction in which RUF/NPFL forces were believed to have bases.

The District remained under the control of the SLA/ULIMO forces, who engaged the RUF/NPFL forces from all flanks, pushing them north-easterly from Sumbuya and south from Jimi through Pujehun District back into Liberia. At this time, the main SLA base was still in Koribondo (Jiama Bongor Chiefdom) and others had been established in Jimi, Sumbuya and Momajoe. Initially, SLA forces provided food and medicine to the civilian population, which led to good relations between them. Over time, however, civilians were forced to build camps for the SLA, were molested and flogged in public for failing to carry out the cleaning exercise and young girls were sexually harassed. A court structure was set up by the SLA and civilians were heavily fined for breaches, although it is not clear what law (if any) was applied in these courts. In November 1991, SLA forces started using civilians to mine diamonds in Niagorihun, where unidentified armed men killed 20 civilians.[1076] These events led to confusion within the population and to distrust of the SLA. At that time, civilians began to suspect that SLA soldiers were disguising themselves as RUF fighters and attacking villages.

During this time, from late 1991 to the end of 1992, the RUF/NPFL made sporadic incursions in Jimi and Limba (Bagbo Chiefdom) from Malen Chiefdom (Pujehun District). They burnt seven houses in Limba and took away all the cattle in the town. One man was killed by his son in law, a member of the RUF, and his head was displayed along the road leading to Jimi. In addition, they launched some attacks in the area around Mano, in which some people were killed. However, RUF/NPFL forces did not manage to make any significant advances into Bo District and did not retake control of any territory.[1077]

Foreign troops[1078] were based in Gondama (south of Kakua Chiefdom, at the border with Tikonko and Jiama Bongor Chiefdoms) and in early 1993, an influx of civilians from Pujehun District fleeing RUF forces came to Gondama through Koribondo on the advice of SLA forces in the District. Gondama would remain safe until November 1994, when RUF forces launched a major attack on the town.

In April 1993, RUF forces entered Sembehun, a mining area in Tikonko Chiefdom. The RUF forces were not wearing combat uniforms and many people did not realise they were RUF until they begin firing their weapons. The RUF forces went through houses looking for gold and diamonds and took many goods from the market place, including clothes and shoes. They then abducted a number of people to carry the stolen property, although they were not detained and were returned to Sembehun the same evening.

[1076] No further information is available on this attack or who the attackers were.

[1077] No news was made available on these attacks in the chiefdom (Bagbo) and people soon forgot about them.

[1078] These troops were either Guinean or Nigerian troops, posted in Sierra Leone in furtherance to bilateral treaties with Sierra Leone.

In 1993, RUF forces embarked on road ambushes in Bagbo Chiefdom around Jimi, during which SLA forces and civilians suffered heavy casualties. In December 1993, during a meeting called by the SLA commander in Jimi to discuss the situation with chiefdom authorities, news broke out that a commercial vehicle had been attacked at Basaleh junction in Malen Chiefdom (Pujehun District) between Jimmi Bagbo and Sahn Malen Chiefdoms.

B) Phase II: Late 1993 to 1995

From February 1994, the Freetown – Bo – Kenema highway was constantly ambushed by RUF and SLA forces, cutting off food supplies for towns like Bo and Kenema whose population was swollen by thousands of civilians seeking refuge. Convoy of trucks[1079] leaving Freetown were often ambushed.

Towards the end of 1993, RUF/NPFL forces regrouped in Malen Chiefdom (Pujehun District) and started launching heavy attacks on Bagbo Chiefdom, starting in Jimi. In addition, in October 1993, Kombondo was attacked and many civilians moved to Bo Town. As a result of this attack, the Director of the Gendama camp initiated a self-defence program, selecting youths as vigilantes to run checkpoints both day and night. By late 1993 or early 1994,[1080] SLA forces were to a large extent dislodged from Jimi, Sumbuya and Momaroe and re-established themselves in Kombondo. This SLA withdrawal gave room to the RUF/NPFL forces to go through Bagbo Chiefdom into Bonthe District, where they also pushed out the SLA forces present in Bum Chiefdom and gained access to Mattru Jong and from there the Sierra Rutile mining areas.

Most likely in early 1994,[1081] upon receiving news that the war was approaching his chiefdom, the Regent Chief of Jiama Bongor Chiefdom decided that all the towns and villages of his chiefdom should mobilise their youths to guard their villages against the assailants. The old hunters were asked to give their guns to the youths and the youths and local hunters were trained, after permission was granted from the Resident Minister of Bo. Youths and local hunters from Boama and Bagbe Chiefdoms also organised themselves in a similar fashion. By June 1994, the training was complete and 2,800 men composed of youths and local hunters were issued with arms and ammunition.[1082]

The RUF forces attacked Kombondo in March 1994, as a result of which troops on both sides were killed and one civilian was caught in the crossfire. At the time of the attack, the SLA had been sent to the town. Following the attack, a troop of Guinean soldiers came as reinforcements for the SLA forces.

1079 These convoys could be very big, comprising up to 70 vehicles.

1080 This information has to be read in conjunction with the attacks that started in December 1993 in Kenema District.

1081 No date is given for this meeting, but training took place in April 1994 as a result of this meeting, so it is likely these events took place in early 1994.

1082 This gathering of youths did not entail, at this time, the process of initiation within the Kamajor society. This initiation would begin in Bo District in 1995.



In the early months of 1994, villages in different chiefdoms along the border with Kenema District were attacked by a small number of RUF forces, mainly for food finding purposes. For example, RUF forces entered Komboya Chiefdom in the north of Bo District by crossing the Sewa River from Kenema District. They arrived in a small village near the town of Gumahun, where the Trade Fair was situated. The RUF forces then entered Gumahun, apparently with the main intention of obtaining food, as they only took food items, palm oil, cattle and money. Before leaving, on the same night they entered, the RUF forces also burnt down three dwelling houses. SLA forces were stationed at that time at Njala (Komboya Chiefdom), but the RUF made their incursions before there was time to deploy those forces and, in addition, it is reported that the SLA forces there were themselves harassing civilians and taking away their food and property.

In 1994, most of the road ambushes were carried out by SLA forces, especially between Niagorihun and Grima (Tikonko Chiefdom), during which civilians were killed and their property stolen. These forces were referred to as "sobels", meaning members of the SLA who had joined forces with the RUF. The loss of confidence in the SLA, which had begun towards the end of 1991, thus continued to grow stronger in 1994. People relate that wherever SLA forces deployed to protect a town or a village, that town or village would be attacked by RUF forces shortly after their arrival.[1083] In April 1994, inhabitants of Lugbu Chiefdom who no longer felt safe moved to Kombondo (Jiama Bongor Chiefdom) and Bo Town (Kakua Chiefdom). Thus, the population of Bo Town swelled in 1994 and food became scarce.[1084]

At some time in 1993,[1085] vigilante groups were established in Wunde Chiefdom (south-east of the District, at the border with Pujehun District), led by the former Regent Chief. In April 1994, RUF forces attacked Juhun (Wunde Chiefdom) twice and each time, people were killed, some houses were burnt and people were forced to carry the stolen property to Zimmi, near the border with Liberia in Pujehun District. Local hunters from Jiama Bongor Chiefdom sent to the border between Wunde and Jiama Bongor Chiefdoms fought with RUF forces. Four civilians are reported to have been killed in that fight and two houses were burnt down.

Many villages were attacked in 1994 in Wunde Chiefdom, property was taken, houses burnt, people killed and women raped. For example, in early 1994, RUF forces attacked Kambawana, a section headquarter town with 58 dwelling houses, causing many of the inhabitants to flee into the nearby bush. RUF forces set fire to the town, completely destroying 30 houses and damaging the remaining buildings, including by shooting at them. RUF forces killed or abducted most of the people who had remained in the village, including young children, and raped the women.[1086]

In Boama Chiefdom, the youths and local hunters were mobilised in 1994 and established as a Territorial Defence Force (TDF) under the command of the chiefdom authorities in the town of

---

[1083] Cross reference to Bombali District, where people said the same thing.

[1084] It appeared that its population doubled in 1994, rising sharply from 450,000 inhabitants to roughly one million.

[1085] No month is given for the formation of the vigilante groups.

[1086] The bodies were left on the ground for some time, as a person who visited the village some time after this attack saw a number of skeletons lying on the streets. It is not clear when or where these skeletal remains were finally buried.

Gerihun. The TDF was divided into two groups, one of which was sent to Jomu village and the other of which was sent to Kpatbu, both of which are on the border with Jaima Bongor Chiefdom. These towns were considered strategic points in the defence of Boama Chiefdom from the RUF forces fighting in Jiama Bongor Chiefdom.

Nevertheless, in May 1994, RUF forces coming from Kenema District, most likely from their base of Camp Zogoda,[1087] continuously attacked villages behind the Sewa River in Boama Chiefdom. In all these attacks, civilians were killed, women raped, houses burnt, property stolen and people abducted, including underage children. For example, in Tugbedu, two civilians were killed and four houses were burnt; in Sandia, one pregnant woman was killed; and in Kpatobu, three young men were killed, five houses burnt and a lot of property taken. In Kaigbai village, one civilian was killed, women raped, three houses burnt down, property was taken and over 200 people abducted. Also in May 1994, RUF forces coming from the direction of Mile 30 on the old Kombondo-Blama (Small Bo Chiefdom, Kenema District) highway attacked Gordi (Jiama Bongor Chiefdom), burnt five buildings, including the school, and took sheep and goats away with them. No fatalities were reported at this time.

On hearing that the chiefdom headquarter of Telu (Jiama Bongor Chiefdom) had come under heavy attack in June 1994, local hunters and youths from Gbaama mobilised themselves and went to Telu. On their arrival in Telu, they discovered the 70 bodies of local hunters and youths in front of the Regent Chief's residence, which was damaged.[1088] Twenty civilians were found dead from bullet wounds. The survivors of the attack on Telu, including the Regent Chief, fled to Bo, Gerihun and other places for safety.

Similarly to the other chiefdoms at the border with Kenema District, RUF forces first entered Badjia Chiefdom in mid 1994 mainly to find food. However, these food-finding missions were also accompanied by the burning of houses and huts and the killing of civilians. In Pendebu, one old man was shot dead and one hut was set on fire. Each time they came to find food, the RUF forces were very small in number.

In August 1994, the Town Chief of Geima[1089] (Jiama Bongor Chiefdom) arrived in Koribondo with two youths whose hands had been cut off. He reported that RUF forces had attacked Geima, dumped 40 civilians in wells, killed nine men, three children and eight women, burnt down 30 houses and forced people to carry their stolen property to Zimmi, which is on the border with Liberia in Pujehun District.

That same month, RUF forces again attacked Jimi and over 20 civilians were killed and up to 50 were abducted, allegedly being taken away to "Kuwait", the RUF base in Pujehun District. Another attack took place in September, during which an SLA officer was killed. After this incident, the SLA

[1087] Camp Zogoda was located in Kova Chiefdom (Kenema District) and was operational throughout 1994-95 before being overrun by SLA and Kamajors in 1996. For further information, see Kenema District.

[1088] It is not clear how the Regent Chief's house was damaged or how the local hunters were killed.

[1089] Geima is on the Kombondo–Sumbuya Highway, the main route from Kenema District to Bonthe District through Bo District.

intensified their search for RUF collaborators and many civilians were killed by SLA forces on this basis, including the Town Chief. During this period, up to 190 houses in Jimi were burnt down, with the exception of the Primary and Secondary Schools; civilians were killed and many young people were abducted. Cases of rapes are mentioned and it is reported that three girls were raped on the road between Jimi and Kanga, west of Jimi. Houses were looted and people were injured with machetes in Mano; there are also reports of amputations at this time.

At the same time, the RUF forces began attacking the towns that had been left by the SLA, particularly in Niagorehun, Sumbuya, Towamaheahun and Lower and Upper Saama in the west of Lugbu Chiefdom on the road between Sumbuya and Niagorehun. During these attacks, many civilians were killed and raped and houses were burnt down. In Sumbuya, over 100 houses were burnt, including the residence of the Paramount Chief, and over 150 houses were burnt in Niagorehun.

In September 1994, RUF forces attacked Momajoe and its environs (Bagbo Chiefdom), meeting little resistance from the SLA forces based at Mani Junction. During this attack, one boy and one local hunter, who had been pointing his gun at the RUF forces, were killed in separate incidents. Property was taken away from people and around 20 young men were forced to carry that property to RUF bases in Malen Chiefdom.

Njala (Komboya Chiefdom in the north of Bo District), which is a hub for the flow of produce such as palm oil, rice, groundnuts, kola nuts, coffee and cacao during marketing seasons, was attacked in September 1994.[1090] Five civilians were killed and houses were looted and then burnt down. The RUF forces attacking the town came from the east, most likely along the road from Kenema District through Gumahun and Naigoiehun. The RUF forces left the town the same day as they had arrived.[1091]

Also in September[1092] 1994, a large number of RUF forces, most of them dressed in plain clothes with red headbands and commanders in uniforms with steel helmets, entered the chiefdom headquarter town of Ngelehun (Badjia Chiefdom),[1093] firing heavily. Although no deaths were reported, many women and children were abducted and forced to carry stolen property. RUF forces came back later and abducted many more people. In Badjia Chiefdom, few people were killed but thousands were abducted and forced to join the RUF movement, whereupon many people fled to Gerihun (Boama Chiefdom). Progressively, the villages and towns of Badjia Chiefdom became

[1090] Njala is at the foot of a steep mountain on top of which there was rumoured to be a RUF establishment called Bokum, which was a large training camp and the sometime residence of the RUF leader. Sounds of helicopters were heard over the mountain every two days during 1995, although the duration when the helicopters were flying was unspecified

[1091] Indeed, at the same period, RUF forces had reached Windor Chiefdom (Kenema District) that lies at the east of Komboya Chiefdom.

[1092] Reports mention two different dates for this attack, September and December. Although open sources could not confirm the date, it is likely that this attack took place in the aftermath of the one at Njala (Komboya Chiefdom) in September.

[1093] The land of Badjia and Komboya Chiefdoms was rich in food and the place was ideal as it is a hilly area, far from the main road.

empty, as RUF forces made various incursions and attacks throughout the chiefdom and people sought refuge in larger towns like Kenema or Bo or in the bush.

The chiefdom headquarter of Ngaiu (Bagbe Chiefdom) was also attacked by RUF forces,[1094] using a method worth describing in more detail. The RUF assailants gathered the inhabitants in the Court Barrie and asked the Town Chief to send messages around the farms calling all the people to come at once. People were forced to sit on the floor with their legs stretched out in front of them. The RUF members explained to the people that those among them who were in uniforms with helmets on were Burkina Faso fighters while those in other clothes and red headbands were RUF members. Under heavy guard, some of them took young women and girls into a house and raped them. As these rapes were going on, the old people were separated from the youths and other RUF members searched the houses. After collecting items from the houses, they set the town on fire. One hundred and fifty youths were told to carry the things they had collected from the houses for the RUF forces. As it was time for the third Muslim prayer, they fired shots above the heads of the gathered civilians, dropped young babies and trampled on them and hit screaming children on their heads. Many young people, including children and teenagers, were abducted during this attack, most likely for recruitment purposes although their fate remains unknown. People who had escaped to the bush and returned the following morning discovered burnt houses, property missing and 25 bodies in the town and others in the nearby bushes, including adults, children and babies, whose heads had been crushed. Ten of the bodies were buried in one grave in the centre of the town, three in another one and four in a third grave.

Valunia, the northernmost chiefdom in Bo District, was first touched by the conflict in late 1994. In October, November and December, RUF forces and SLA forces were present for the first time in the three biggest towns. In early October 1994, SLA forces came by truck to the town of Baomahun, towards the north in the centre of the chiefdom, from Tekoh Barracks in Makeni (Bombali District). The SLA forces explained to the population that they had come to search for RUF forces based in Kangari Hills[1095] in Tonkolili District, from where they believed RUF forces would make an attack on Valunia Chiefdom. However on their return, very few soldiers were to be seen on the trucks. At around that time, foreigners who were operating the gold mines left the town, allegedly poisoning the food and drink in their quarters as they believed the SLA forces would be back to steal their property. Later in October 1994, SLA forces attacked Baomahun, taking a lot of property from the gold mining quarters and the town in general. The SLA forces spent some time in the quarters, drinking what was left by the expatriates who had fled earlier. Trucks loaded with food and other items were brought to Tekoh Barracks. A few days later, information reached the civilians that SLA soldiers were found dead in the forest and that wives and children of those SLA members at Tekoh Barracks were also dead, as a result of the poison the expatriates put in their food and drinks before leaving.

[1094] This event was described as happening in June 1994 but also as taking place after Njala (Komboya Chiefdom) and Ngelehun (Badjia Chiefdom) had been attacked, which took place probably in September. Accordingly, this attack was probably carried out around September.

[1095] The Kangari Hills are to be found mainly in Tonkolili District but also lie in Valunia Chiefdom. The RUF base, however, was located in Tonkolili District.

Due to the persistent attacks on Bagbe Chiefdom, up to 600 villagers came and settled in Gerihun (Boama Chiefdom), which also hosted displaced people from Komboya and Badjia Chiefdoms after the attacks on the headquarters towns of Njala and Ngelehun respectively. Following this influx of civilians, UNHCR established a displaced camp in Gerihun, under the protection of SLA forces and Special Security Division Police.

In November 1994, RUF forces coming from Camp Zogoda[1096] in Kenema District attacked Gerihun twice. Both times, they were repelled but promised that they would not be satisfied until Gerihun was captured. In June 1995, the RUF forces returned in large numbers, attacking the town on three sides and retaking control of both the town and the IDP camp. Over 100 displaced people were killed in the camp either by shooting or by being drowned in the Belbel River. Property was taken from booths, namely huts made from bushsticks and covered with greenery for shelter, which were then set on fire. At that time, the SLA forces asked the fleeing civilians to come to their base for protection as they had sent someone to Bo Town (Kakua Chiefdom) to ask for reinforcements, although it is not clear whether reinforcements were on the way.

While up to 1,000 civilians went to the base, the whole town including the military base was soon taken over.[1097] The SLA forces withdrew to an unknown destination and more people were killed, some as a result of RPG firing by RUF forces as they entered the town. Every house in the town was searched and looted. Over 200 civilians were told to carry the stolen property to the RUF base at Camp Zogoda in Kenema District. Before leaving the town, the RUF forces set the IDP camp on fire. Among those people who had to carry the property, few came back and the rest have not been seen since. Shortly after the RUF forces left, SLA forces returned with reinforcements, firing indiscriminately. After they arrived, they made the population bury the people who had been killed by the RUF forces when they had attacked the town.

During the same period, women and children who had left Bagbe, Komboya and Badjia Chiefdoms were killed on their way to Kenema District. When they had stopped at the chiefdom headquarter of Boajibu (Simbaru Chiefdom, Kenema District) and sought shelter in a large house, RUF forces set the house on fire.[1098]

Monghere (Valunia Chiefdom), south-west of Baomahun at the junction between the road from Moamahun and the road from Bare in the north-west of the chiefdom, was attacked in November 1994. RUF forces believed to come from their base in Bokurr raided the town. They took people's property, in particular domesticated animals such as goats and sheep, before burning down nearly all the houses in the town. They abducted some people, forcing them to carry the stolen property. These people later escaped. While there were no reported fatalities, a number of people suffered gunshot wounds.

[1096] The camp was mentioned on the ID card found on a dead RUF member.

[1097] One key person said that an RUF member advised them to move from the SLA base to a safer place because the SLA forces were "fooling" people and were fighting together with the RUF.

[1098] No further information could be obtained on this event, which was not mentioned in relation to Kenema District.



In December 1994, RUF forces attacked the town of Mandu, towards the south of Valunia Chiefdom along the road from Monghere. RUF forces set fire to all the houses in the town, took property, including food and valuables, and forced civilians to carry the property they had taken. The civilians were later released after the RUF forces had reached villages allegedly near their bases. SLA forces based at Grima junction,[1099] north of Mandu along the road to Monhere, arrived in the town after the RUF forces had left the town and some of them also took property belonging to civilians, although others assisted in putting out the fires in the town.

Another example of the attacks on Wunde Chiefdom in 1994 is the assault on Niagorehun in the south of the chiefdom, which was attacked by RUF forces in December 1994. Windows and doors of the houses were broken, houses ransacked and people forced to carry their property; people who refused were shot on the spot. Young girls were raped and young boys, most of them below 10 years old, were abducted. Many civilians were killed, such as one pregnant woman who refused to have sex with one of the fighters.

Later, towards the end of 1994 and the beginning of 1995, RUF forces came back to Bagbe Chiefdom, this time arriving from the south. Given the location of Ngaflu at a junction, RUF forces planned to establish a base there. They drove the people out of the chiefdom by burning the main towns like Madina, Gibina, Blama, Kpetewoma, Kpakoh and Mano. Prominent people were also killed, including a schoolteacher of Blama who refused to be a teacher for their forces. Some people went into hiding and others went to Bo Town or Kenema Town (Nongowa Chiefdom, Kenema District). Their arrival in Bo corresponded with the initiation of Kamajors starting in 1995.

Benduma (in the south of Bagbe Chiefdom) was overcrowded with civilians fleeing from the Sewa River, where RUF forces were settled; from the headquarter town of Ngaflu; and from Komboya Chiefdom. Villages in the area were surrounded by RUF forces and attacks were always imminent. In December 1994, five people were instantly shot dead by RUF forces arriving in Benduma. During the same visit, they raped women, stole property and forced young men to carry that property to the RUF base in Ngaflu. Benduma was of interest as it was rich in food and animals. Benduma was also the largest town in the chiefdom, where the Paramount Chief lived.

However, the most striking wave of attacks that affected Bo District as a whole is the one that took place in December 1994 with the attack on the Gondama IDP camp, followed by attacks on the main towns in the centre of the District during the Christmas week.

In December 1994, RUF forces attacked Gondama camp, south of Kakua Chiefdom.[1100] The attack on Gondama Camp, where thousands of people from Pujehun and Bo Districts had found refuge,

[1099] Note that while the records refer to it as "Grima junction" and "Grima town", the UNHCR maps have it named "Geima".

[1100] It has to be noted that there is little information for Kakua, Tikonko and Bumpe Chiefdoms from 1993 to 1995, as almost all the civilians at that time were living either in the bushes or in displaced camps, such as Gondama camp. For example, the only information about Kakua Chiefdom, during this time, besides the December 1994 attacks, is that in July 1995, SLA forces and local hunters launched successful attacks on RUF forces in Kakua Chiefdom, resulting in the death of many RUF fighters.

was a shock for the population. At the time of the attack, on 24 December 1994, only a few ECOMOG troops were posted at Gondama,[1101] where an estimated 80,000 people had sought refuge. Between 200 and 400 civilians were killed, either by drowning in the Sewa River or as a result of bullet wounds. ECOMOG troops repelled the RUF forces about one week later and the camp was transferred temporarily to Bo Town. During this time, both RUF and SLA forces raided the camp, taking property that had been left behind. In January 1995, the camp was declared safe[1102] and people were asked to come back, which they did. Nevertheless, throughout 1995 the situation was difficult, as RUF forces had blocked the main highway between Bo and Freetown, thereby cutting off a main route for the supply of food. People died on a daily basis from malnutrition and cholera broke out; some relief was provided when the route was reopened in October 1995.

After their attack on Gondama, RUF forces then moved on to make their first attack on Tikonko Town (Tikonko Chiefdom), on 25 December 1994, arriving at around 3.00 pm, killing many civilians and burning and looting many houses. At the same time, other villages in the chiefdom were also attacked. At Sengema riverside, one young man was killed and another was shot in the leg. Civilians fled in large number to Mattru on the Rail (Tikonko Chiefdom),[1103] intensifying the panic in the town.

On 26 December 1994, RUF forces attacked Mattru on the Rail (Tikonko Chiefdom) in the afternoon, mutilating civilians' arms and legs. The RUF then opened sporadic gunfire on the civilians, killing many people, looting their property and burning down their houses. They also abducted civilian youths who they conscripted into the RUF forces. In the morning before this attack, 40 fully armed men wearing military uniforms entered the town, claiming to be Government forces coming to protect Mattru on the Rail. However, when RUF forces who identified themselves to the civilians as such attacked the town, these Government forces were nowhere to be found.

Bo Town was attacked on 27 December 1994 for the first time by RUF forces passing through the New London quarter. Prior to this attack, fleeing civilians from Mattru on the Rail and Tikonko Town had told residents of Bo Town that the RUF were bent on attacking Bo Town. The authorities of the town organised youths to erect checkpoints, which were controlled by these youths as a precautionary move in the event of an RUF attack. Thus, the youths who had mobilised themselves repelled the RUF forces out of the town. Few civilians were killed, few houses burnt and few youths abducted during this attack.

Bumpeh Town (Bumpeh Chiefdom), in the far west of Bo District, was attacked three times between December 1994 and June 1995. RUF forces coming from the north of Bumpeh attacked the town for the first time in December 1994, probably during the same wave of attacks against Bo Town, Tikonko Town and Mattru on the Rail. During this attack, few houses were burnt and some property was taken. Some girls were raped and people were abducted. The Regent Chief from

[1101] It appears that on 22 December, the ECOMOG troops were ordered to go to Bo to provide security for a carnival that was planned, leaving only 11 soldiers in the camp.

[1102] It is not clear who declared the camp to be safe, but ECOMOG continued to provide protection at the camp, so it is possible it was ECOMOG.

[1103] As opposed to Mattru on the Jong, which is in Bonthe District.

Mattru Jong tried to hide from the RUF forces in the Tabal River, but accidentally drowned. As had happened in Mattru on the Rail prior to the RUF attack, forces claimed to be SLA forces had come to the town, asserting they were waiting for reinforcements following the previous attacks on Tikonko, Mattru on the Rail and Bo Town. However, when the RUF forces entered the town, those forces were nowhere to be found.

The attack on these major towns in the District was perceived by the population as an indication that the RUF were now a strong force not only in the eastern and northern parts of the country but also in the Southern Province of Sierra Leone.[1104]

Gbo, Selenga and Niawa Lenga Chiefdoms, north of Kakua Chiefdom, were not affected by the war before 1995, following the wave of attacks on Gondama, Bo and Tikonko Town in December 1994.

In January 1995, RUF forces reached Gbo Chiefdom through Bumpeh Chiefdom. The first village they attacked was Nagbana, on 3 January, killing people, raping women and taking away cattle. On hearing that they were approaching the headquarter town of Baiama, the Paramount Chief reported the threat to the SLA's Bo Brigade Headquarter. However, no action was taken by the SLA to prevent the attack on Baiama, which took place on 4 January 1995. People were gathered in the Court Barrie, beaten and kicked by the RUF forces. Six people were killed, houses looted, cattle taken and over 20 houses were burnt. On the same day, Mokellendeh was also attacked. Confusion arose in the mind of the civilians since uniformed men came to Baiama on 6 January 1995 telling people they were Government forces but, shortly after, left the town. People did not know to which government they were belonging, particularly because the RUF was now calling itself a "Government".

RUF forces attacked Baiama a second time on 8 January 1995, killed people, burnt some houses and abducted some people who were released shortly after. After the attack, SLA forces came from Bo to Baiama, after the Paramount Chief made another appeal to the SLA Brigade Commander. However, these SLA forces, who did not stay long, took all the cattle of the town.

The headquarter town of Dambala (Selenga Chiefdom), about 12 miles north of Bo Town, was also attacked in January 1995 by RUF forces coming from the direction of Negbenah, which is four miles east of Dambala. This time as well, SLA forces who were based in the town were nowhere to be found at the time of the attack. During the attack, RUF forces killed approximately three people and burnt down up to 110 houses.

In January 1995, RUF forces attacked the SLA forces based in Gtima (Valunia Chiefdom) and overpowered them. Attacks on SLA positions were frequent, including on their bases in Mandu and Monghere (Valunia Chiefdom). Throughout 1995, civilians hiding in the bush were tracked down either by RUF or SLA forces. RUF forces were raiding villages and hunting civilians in the bush, mainly for food. Civilians were maltreated as RUF forces beat them, dripped melted plastic on them, raped women and, frequently, young girls, and forced people to have sexual intercourse with

[1104] Also during the Christmas week, Kenema Town and Magburaka (Tonkolili District headquarter) were attacked.

members of their own family. Young people were taken away and some people were killed, such as one man who was killed so the RUF forces could take his animals. Another incident concerns a young farmer who had his fingers cut off when the RUF forces discovered he had set traps to get meat.

Negbema, 16 miles from Bo Town in Niawa Lenga Chiefdom, which adjoins Selenga Chiefdom to the north-east, was also attacked in January 1995. At the time of the attack, no SLA forces or local militia were based in the town. RUF forces, as they identified themselves to the civilians,[1105] burnt down houses and abducted young boys. Another attack took place later during the year, probably in May 1995, during which the RUF forces burnt down more houses, killed some people and abducted some young girls. In August 1995, SLA forces came to protect the town. However, according to civilians, they were more thieves than liberators as they were taking away all the food from civilians.

The SLA forces took property from civilians in Valunia Chiefdom, including food items and livestock, claiming it was on orders. They also forced civilians to work for them, including requiring drivers to carry items for them. Anyone who refused would be punished, often by being verbally abused or beaten. The only secondary school, in Koyeima, was completely vandalised; the furniture, steel windows and doors were removed and, for the most part, taken to Bo Town, either to be sold or to be used by the SLA forces based there. In addition, checkpoints were set up in the town and operated both by SLA soldiers and by civilians. People were stopped at checkpoints and faced being "booked", i.e. fined, for failure to carry the correct identity cards, among other things.

Momajoe and its environs (Bagbo Chiefdom) were again attacked in January 1995 but no mention is made of casualties at this time. RUF forces deposed all the chiefs and elected new ones, although it is not clear how these elections took place. The area was divided into two operational zones, with one command post at Sumbuya (Lugbu Chiefdom) and another post in Momajoe (Bagbo Chiefdom). Soon after their arrival, RUF forces made civilians work for them, in particular to carry property taken from one town to another town and to carry wounded RUF members back to their bases. In addition, RUF forces threw civilians out of their houses so that the forces could occupy them and forced civilians to feed them. Salt was the most expensive condiment, for which people were killed. No civilian was allowed to eat proper food, which led to the death of children from malnutrition. Any civilian refusing to obey orders from the RUF forces was killed and it is suggested that rapes also occurred around this time.[1106] RUF forces remained in control of Momajoe and its environs for around 9 months, up to the end of 1995.

In 1995, "loyal"[1107] SLA forces began attempting to dislodge RUF forces from Bagbo Chiefdom but harassed civilians, taking away all the property that was hidden in the bush.

[1105] It is reported that the commander of the RUF forces who identified them to the civilians was approximately 15 years old.

[1106] Key persons talk about marital homes being "broken up".

[1107] At this time, the key persons speak of "loyal SLA forces", who were believed to be loyal to the Government and "sobels", who were SLA forces believed to be in collusion with the RUF.

In February 1995, Njala (Komboya Chiefdom) was attacked for the second time by RUF forces using a bypass route through Kundorma and Pelewahun rather than the route through Gumahun and Naiagolehun. SLA forces were based in Njala but were overpowered. Some civilians were killed and others were forced to carry property that was taken from the town. Those who were abducted travelled to Kpelewama (Valunia Chiefdom), where the RUF had a settlement and then moved to Kpetema, which is located near their main base, Bokurr, in Valunia Chiefdom. On their way to the base, civilians who were unable to keep up were shot dead and some women were raped. In Kpelewama, the RUF forces opened fire, killing one woman and her child before cutting her head off. After they arrived in Kpetema, all the remaining civilians were released, allegedly because RUF forces did not authorise civilians to come to their base.

During the RUF attack on Njala, the commander in charge of the SLA forces was killed by one of his subordinates, allegedly because he was a "loyal" SLA member. After the death of this commander, SLA forces relocated to Mendewa, three miles outside of Njala. From there, they occasionally returned to Njala, stealing property from the people of Njala and surrounding areas. In one incident, SLA forces came to Njala with a truck, opened fire as they entered and loaded their truck with food and non-food items. The SLA forces were at this time using the word "clearing" to refer to the taking of property in the town.

Since the SLA forces had completely left Njala, the RUF forces used this road to travel from the East to the West up to Gbaama and back. On their way, they were harassing civilians, taking food and forcing them to carry it for the RUF forces to their base at Bokurr, on top of the mountain near Njala.

Thus, starting in 1994 up to 1995, the whole of Komboya Chiefdom was affected by both RUF and SLA activities. Civilians living in the bushes in sorkolhun[1108] were chased by RUF forces for food. Civilians were also killed for various reasons during this period, including for failing to show the RUF forces where other civilians were hiding. In other incidents, a man was amputated between Bauya and Tibor, seven houses were burnt down in Tibor and four civilians were killed at Talia II.[1109]

In 1995, RUF forces coming mainly from Bumpeh and Lugbu Chiefdoms were attacking villages and sorkolhun in Tikonko Chiefdom. Property was taken, houses burnt, civilians killed and young people abducted. At Wotebehun, north of Baoma in the south-west of Tikonko Chiefdom, three men and two women were shot and killed, sheep belonging to a chief were taken away and some houses were burnt. At Yegensa, one man was killed and his body tied to a tree. At Buewama, people were killed and houses and a mosque were burnt. At Kassama, two and a half miles from Baoma, RUF forces killed two people, which the SLA forces based there made no attempt to stop. In June 1995 at Baoma, which is on the Sewa River in the south-west of Tikonko chiefdom, RUF forces entered the town from the direction of Kassama (to the north of Baoma) and stayed there for two days. RUF forces threw some people into the Sewa River, where some drowned, and killed many others.

[1108] This refers to hiding places in the bushes, also spelled "sorquenun".
[1109] No further details are available on any of these incidents.

The same scenario was repeated in many places in 1995, including Buewama, Kassama, Sembehun Tabema, Benehun, Shengema and Mano Bembehteh, which are all in the south of the chiefdom, and Dodo, Faikundor, Foidu, Samie Tabaima, which are all around Tikonko Town. In all of these attacks, many young men and women were abducted, including people who were underage. Civilians identified the assailants as RUF forces, dressed in jeans and t-shirts and some having red pieces of cloth tied around their heads.

From March to June 1995, SLA forces were deployed in Dodo (Tikonko Chiefdom). However, these forces harassed civilians, molested them, took their property and killed alleged "rebel" collaborators. On one occasion, they cut off the head of a suspected collaborator, put it on a stick and went to every house asking for some money as a sign of appreciation for their job. Tikonko Town itself was attacked for the second time in June 1995 but civilians had already fled the town. Dodo was also attacked by RUF forces in June 1995. People were shot and killed, among them the Town Chief's son, and some were seriously wounded with knives. All of Dodo, except the mosque and a few houses, was burnt.

The second attack on Bumpeh Town (Bumpeh Chiefdom) took place between March and April 1995, with the third one occurring in June. The March attack on Bumpeh was part of a massive RUF operation in the chiefdom allegedly in retaliation for the killing of RUF members by SLA forces in the Sierra Rutile Mining area in nearby Moyamba District. The attacks on different villages in the chiefdom left over 100 civilians dead within a few days.[110] During the third attack on Bumpeh Town, many people were abducted, at which time civilians were told that the RUF needed more people to be trained. In addition, a lot of people were killed, more people were tortured, some had their hands amputated and young girls and women were raped. Some people were burnt alive in a house.[111]

Starting in July 1995, SLA forces regained control over the area and the surrounding chiefdom of Tikonko during a massive "mopping up" operation.[112] During their operation in Bumpeh Town in early July 1995, SLA forces claimed to have killed a lot of RUF members but no other source of information could confirm the fatalities. However, it is clear[113] that from July 1995, SLA forces retook control of a large area south of Bo Town, inflicting serious defeats on the RUF for the first time since the start of the second phase of the conflict.[114]

However, SLA control over an area never guaranteed the absence of RUF attacks, which were often carried out by pockets of forces disseminated in various areas. For example, Yengema was attacked

---

[110] AFP, 26 April 1995.

[111] The precise figures of the casualties could not be obtained.

[112] It was not, however, totally clear when those SLA forces first arrived in the town as there are suggestions that some SLA members were already deployed at the time of the third attack.

[113] Amnesty International Report, "Sierra Leone – Human Rights abuses in a war against civilians – 13 September 1995".

[114] This military victory has to be read in conjunction with the recent military training the SLA received from the Executive Outcomes, the South African mercenary company contracted by the Sierra Leonean Government. Similar "mopping up" operations were carried out in Moyamba District and, shortly after, in Bonthe District.

in September and 60 civilians were put in five houses that were set on fire; in addition, RUF forces killed a lot of civilians at Serabu. However, after these last attacks, Bumpeh Town and the entire chiefdom were free from an RUF presence. That same month, SLA forces who had gone to repel RUF forces in other town in the chiefdom, namely Kpakema and Serabel, returned with seven captured RUF members.[1115] These RUF members were paraded in Bo Town before they were killed and burnt in front of the NPRC Secretariat, which was witnessed by a large crowd. The bridge in Bumpeh Town divided the town in two distinct living areas, one being for the civilians and the other one for the SLA forces. Shortly after, the SLA commander exhorted civilians to come out of the bushes.

In July 1995, RUF forces coming from Simbaru Chiefdom (Kenema District) launched attacks on Badia, Bagbe and Komboya Chiefdoms, where over 40 towns and villages were destroyed and, in total, 50 civilians were killed. The armed men who carried out the attacks were dressed in full military uniforms.

The following month, panic broke out in Gondama IDP camp (Kakua Chiefdom) as people feared another RUF attack was taking place. People were running around the camp and during the confusion, ECOMOG forces fired a heavy weapon, which resulted in the death of eight civilians. ULIMO soldiers came as reinforcements from Bo Town and on their way to Gondama, arrested two boys who they believed were former RUF members. The two boys were killed immediately, one of them having his genital organ cut off before being killed and the other one being beaten and tied up. Both were thrown into the Sewa River.

A second attack on Dambala (Selenga Chiefdom) took place in August 1995 but unlike the first one, SLA forces fought the RUF forces and repelled them. Up to 30 people, identified as "strangers" passing through the village on their way to Bo, were killed during this attack, possibly by SLA forces at checkpoints, and were buried in a mass grave. Another attack took place in the nearby village of Jorn, four miles from Dambala, but this time, RUF forces did not use their weapons. Rather, they hit people on their heads with stones until they died, claiming they were doing it to save their ammunition. RUF forces also burnt down up to 20 houses during this attack.

By the middle of 1995, the situation in Bo District was divided in two: while SLA forces had retaken control of a large area in the west of the District, minimising RUF activities in that area, the large eastern area was still severely affected by RUF incursions carried out mainly from other Districts.

d. Phase III: Late 1995 to 1997 and beyond[1116]

The initiation of Kamajors began in mid to late 1995; rapidly, all the chiefdoms had their own Kamajors. They were initially armed with single barrel guns, sticks and spears.[1117] Furthermore,

[1115] It seems that the SLA forces recaptured those towns.

[1116] Little information was available on events in 1998 to 2001, because the District was under Kamajor control and no further RUF/AFRC attacks were reported.

[1117] It should be noted that compared to other Districts in the South, the records reveal little information on CDF activities, in particular on atrocities they may have committed. It is unclear whether this meant that fewer violations

except in Bagbo and Lugbu Chiefdoms and a camp in Valunia Chiefdom, it should be noted that RUF forces did not have bases in Bo District where, unlike other Districts in the south, they were entering sporadically from other Districts.

In mid to late 1995, the idea of initiation came up in Bumpeh Chiefdom[1118] and people were sent to Bo Town for that purpose. After their initiation, Kamajors went back to Bumpeh Chiefdom, in the far west of Bo District, where they worked for some time hand-in-hand with SLA forces based in Bumpeh Town. While sent by the SLA commander to get some food in Nyayahun, north of Bumpeh Town, Kamajors came under fire. The identity of the men attacking the Kamajors proved to be SLA forces who had started developing a camp called "Bulkoh" with RUF forces near Nyayahun. Kamajors examining the bodies found the ID card, boots and uniform of an SLA commander who had sent them. On their return to Bumpeh, the SLA commander denied that the armed men were his men, which led the Kamajors to decide to join with more Kamajors to attack the camp.

During the second half of 1995, at the time the Kamajor initiation ceremonies were introduced in the District, towns and villages in Tikonko Chiefdom sent men to be initiated.[1119] During the first round of initiations in 1995, only people above 15 were initiated, but this changed later, although no date is specified. Tikonko Chiefdom soon came under the control of the Kamajors.

In late 1995, as the RUF forces were spreading throughout Jiama Bongor Chiefdom, the elders of the chiefdom sought the Regent Chief's permission to initiate people into the Kamajor society. After permission and full support was granted by the Regent Chief, one person was sent to the village of Tihun (Bonthe District) to contact the Kamajor's High Priest Initiator. On arriving in the headquarters of Tellu, the High Priest Initiator requested that the Gondama – Tellu road be brushed for security, to prevent any RUF incursion. However, one young man who had returned to his village to look for food had his left hand cut off when he came across some RUF forces at Nagbena, two miles from Tellu.

In late 1995, RUF forces left Njala Town (Komboya Chiefdom) for their main base on the mountain near Njala. Knowing that there were no SLA forces stationed in Njala at that time, RUF forces regularly used the road to travel from the east end through Gumahu and Korkorne to the west end at Gbaama and back.

As Kamajor operations were spreading in Bonthe and Pujehun Districts, dislodged RUF forces from those Districts joined their companions in Bagbo Chiefdom, primarily in Momajoe, Sumbuya and Kissahoi, 4 miles from Momajoe. In December 1995 in Kissahoi, RUF forces brought with them over 300 civilians, who had been forced to carry property for the RUF. The regrouped forces launched a massive attack on civilians in December and over 700 civilians were captured in different villages, including Momajoe, Maniva, Mani-Bo and Tissana. All those abductees were taken to

---

were committed or whether violations were committed and we lack information, as people are reluctant to talk on this.

[1118] The initiation ceremonies started in Bonthe District.

[1119] No more details could be obtained on the place where this initiation took place.

Madoko (Bagbo Chiefdom) before being divided into groups and taken to different locations in Bo and Pujehun Districts, depending on their origin. The fate of these people is as yet unknown.

Events in 1996

After 1995, most of the population had fled Bagbe Chiefdom, which is north-east of Bo Town. There were instances of RUF incursions, such as one in early 1996, when RUF forces attacked Benduma (Bagbe Chiefdom), one of the largest towns in the chiefdom where the Paramount Chief resides. The young RUF forces, who were described as "uncontrollable", started firing indiscriminately, killing a member of their own forces, whose body they cut into pieces and ate, while some drank the blood.

As in other chiefdoms, Valunia Chiefdom had its own Kamajors initiated in Bo Town by the Deputy Initiator sometime before 1996.[120] When they returned to their chiefdom in 1996, the Kamajors successfully repelled RUF forces from their Camp Kokahun, which was near the towns of Sengina and Yamandu, close to the border with Moyamba District. The Kamajors seized arms and ammunition, including machine guns, and freed some civilians who were being held captive at the base. At that time, SLA forces were removed from the chiefdom allegedly because of controversy surrounding the fact that their attire and weapons were similar to those of the RUF forces.

In early 1996, young men of Komboya Chiefdom were initiated in Bo-Messima and came back to settle in Njala. They successfully repelled the RUF forces from the chiefdom.[121] At this time, the hunting of alleged RUF collaborators began and those suspected were seriously beaten, tied up and forced to sit under the sun. Anybody who had stayed in the towns during RUF attacks was suspected of being a collaborator. One person, who the RUF forces had appointed Town Commander, was undressed, tied up and severely beaten before being released. Freedom of movement was restricted and passes were required from civilians before they were allowed to move from one place to another. Any civilian failing to show such a pass at checkpoints could be suspected of being a "rebel" or a "rebel" collaborator and be treated accordingly.

Kamajors from Bonthe District entered Bagbo Chiefdom through Fola, south of Momajoe, in early 1996, where they established their first base. In order to repel RUF forces still based in Momajoe, it was decided that every town should nominate four "gallant" men to be initiated. Those men, numbering up to 200 from the entire chiefdom, were taken to Kpanda-Kemo Chiefdom (Bonthe District), where the Kamajor's High Priest Initiator initiated them in February 1996.

However, RUF forces were still active in the area and in April 1996, they launched attacks on a number of towns in the environs of Momajoe that the Kamajors were unable to withstand. A number of civilians were killed and others were wounded during these attacks. In a separate incident, RUF forces killed three men accused of collaboration with Kamajors in Momajoe and displayed their heads at checkpoints. Civilians continued to suffer from the RUF presence in this area by

[120] No further information is available on the exact dates.

[121] There is little information available on how the Kamajors managed to fight off the RUF forces, including information relating to the number of battles, casualties, damage to property and so on.

having their property taken away, being denied food, being thrown out of their houses and married women were not allowed to sleep with their husbands.

Later, but probably still in April 1996, the newly initiated Kamajors took control of Momajoe and its environs.[1122] As a result of this, RUF forces moved to Bendu (Malen Chiefdom, Pujehun District), taking a large number of civilians with them. It appears that these civilians were later rescued sometime in April 1996 by Kamajors from Pujehun District and taken to a town near Momajoe.

The Kamajors brought a large amount of stolen property they had found during their attack in Bendu with them to Sumbuya (Lugbu Chiefdom). Probably as a result of this, RUF forces attacked Sumbuya for the third time towards the end of April 1996. It was during this attack that Sumbuya was destroyed and many houses were burnt down.

The last attacks by RUF forces on Bagbo Chiefdom took place in May 1996, in the area surrounding Momajoe, during which houses were burnt down and two people were killed in Yegelleh. After this, the Kamajors controlled Lugbu Chiefdom, in particular the Sumbuya axis, from where the roads lead up to Bumpeh Chiefdom, to Jiama Bongor Chiefdom and on to Kenema District and down through Bagbo Chiefdom to Pujehun District.

After the attack on Gerihun in 1995 in Baoma Chiefdom, adjoining Badija and Bagbe Chiefdoms to the south, RUF forces were still occupying some villages across the Sewa River from Gerihun. In some of these villages, people had to live with those forces, working for them and women were forcefully taken. As a result of this, in April 1996, 200 men were initiated into the CDF. However, their relationship with SLA forces still based in Gerihun was not friendly and problems began to arise between the two forces.[1123]

In April 1996, a group of well-armed people coming from the direction of Kori Chiefdom (Moyamba District) arrived in Baiama (Gbo Chiefdom). These men, whose identity is unknown, introduced themselves as SLA forces, but left the town in the evening to an unknown destination. After this, the Paramount Chief called a meeting to ask the townspeople to provide young men for initiation into the Kamajor society, which they did. A couple of weeks later, in late April 1996, the senior officer in charge of the SLA Brigade in Bo came to Baiama with 90 men, of whom 20 remained in the town and the other 70 went out on patrol. In early May 1996, unidentified uniformed men attacked Baiama and a number of houses were set on fire. The Kamajors stationed in Baiama believed the attack was perpetrated by SLA forces so there was no SLA presence in town until later in the month, when another SLA battalion was established in Baiama and began working together with the Kamajors.

Probably in early 1996,[1124] the Kamajors from Bumpeh Chiefdom attacked the RUF/SLA[1125] camp called "Bulkoh". They killed up to 200 men, presumed to be both SLA and RUF forces. Some men

[1122] No further information is available.
[1123] No further information is available.
[1124] The exact date is unclear and could not be confirmed by open sources.
[1125] As mentioned earlier, this camp was reportedly composed of both RUF and SLA forces.



were shot on the ground and others were hiding in the trees, where they were shot, fell into the Tarba River and drowned. The female commander was killed, her body cut into pieces by the Kamajors and cooked in a large pot for the whole day. This was apparently done for retaliatory or revenge purposes and the woman was not subsequently eaten. Following this, Kamajors leaving the area of Bumpeh for Bo Town (Kakua Chiefdom) were often caught by SLA forces and killed.

Following the attack on "Bulkoh" camp, Kamajors from Bumpeh Chiefdom moved from Bumpeh to Tikonko, where they established their base. Following an attack by the SLA forces, they went back to Bumpeh. On their way back to Bumpeh, they discovered villages that had been looted and burnt by SLA and RUF forces. In these villages, bodies were found with plastic in their eyes and some people had been amputated. At Serabu, for example, up to 300 buildings were burnt, including the hospital, and the convent and the Archbishop's compound appeared to have been looted.

The main Kamajor base in Valunia Chiefdom at that time was in Mandu, which is on the road leading from Tonkolili District south towards Selenga Chiefdom. After they successfully repelled the RUF forces from Kokahun, the Kamajor commander decided to initiate more men. To do so, he asked the seven Section Chiefs to give as many men as they could. It was at this stage that young boys, described as school-going boys under the age of 18, were also initiated. As their number increased, they planned to attack Bokurr, the main RUF base in the chiefdom. It is reported that they undertook this operation together with SLA forces. The Kamajors came back with a quantity of arms and ammunition and some property previously stolen by RUF forces. After this attack, RUF forces attacked the Kamajors in all the sections of the chiefdom; anytime there was any threat in one of the sections, Kamajors from the other sections would come to provide support.

On or around 20 June 1996 at Tellu (Jiama Bongor Chiefdom), the High Priest Initiator initiated up to 800 local hunters and youths into the Kamajor society. After the initiation, the new initiates were asked to return to their towns and villages to work for the protection of their towns and villages and for the chiefdom as a whole.

In July 1996, armed men attacked Tellu in large numbers, some dressed in complete military uniform and fully armed, while some were carrying two rifles, one in their hands and the other one slung across their backs. Some Kamajors were killed, as was the Fullah headman of Jiama Bongor Chiefdom. The Kamajor initiation site and some houses were burnt. Some Kamajors went to meet the advancing "rebels" - as described by civilians - and fought them near Gordie. The armed men were overpowered and the Kamajors came back with three heads, weapons and military uniforms. From what was found on the bodies, it appeared that most of them were military officers from the SLA Battalion deployed in Koribondo. The CDF National Coordinator was reported to have come to Gbaama the day after and to have left with some weapons and the military uniforms.

Thus, by the end of 1996, the whole District except Bo and Koribondo, which were controlled by SLA forces, was under CDF control. Clashes occurred many times between Kamajors and SLA forces at Koribondo and Bo Town. For example, towards the end of October 1996, fighting

between those two forces took place in Bo Town and lasted several hours, leaving members of both sides and civilians dead.[1126]

Events in 1997

RUF forces launched subsequent attacks in Selenga Chiefdom in 1997 but each time, the Kamajors were successful in repelling those forces, with little killing of civilians or destruction of civilian property or houses.

In 1997, the Paramount Chief of Kombova Chiefdom, who had played an important role in bringing peace between the Kamajors and SLA forces in Bo, was invited together with some Kamajors to the Headquarter at Reservation Quarters, Bo Town. On his arrival, SLA forces opened fire, killing the Paramount Chief, some Kamajors and some civilians.

Kamajors controlled Bagbo and Lugbu Chiefdoms until the arrival of United Nations peacekeepers, during which time the Kamajors established a court system and assumed the mantle of authority from chiefs. At the same time, they were harassing the civilian population for food and suspected "rebel" collaborators were chased and killed. In addition, around this time,[1127] the Commanders told the people in Limba (Bagbo Chiefdom) that the CDF National Coordinator had told them that every town under Kamajor control should contribute three stones of diamond not less than three carats each to buy weapons.

In Lugbu Chiefdom, about 85% of the male were initiated, some of them becoming initiates to avoid harassment. It is worth noting that after the Kamajors had taken control of an area, some people were initiated without the intention that they would become a fighter, in which case the initiation period was shorter. The general perception of the population and people who were initiated in this manner was that becoming a member was a protective measure, since people who were not members of the Kamajors could be suspected of being a "rebel" collaborator.

By 1997, Kamajors cleared Bagbe Chiefdom of an RUF presence and it appears that the AFRC regime did not affect Bagbe Chiefdom. In Badjia[1128] and Boama Chiefdoms, the attitude of the Kamajors is described as having changed to become arrogant and disrespectful towards civilians.

[1126] AFP, 31 October 1996. According to the Sierra Leone Bi-Monthly Information Report No.9, "the fighting in Bo town on 30 October, 1996 erupted following the acrimonious break-up of a meeting between the Kamajors and the military at Brigade Headquarters, the purpose of which was to enable the Kamajors and the military to resolve their differences over Talama", a village west of Bo. Two days earlier, "[…] it was reported that Kamajors in Talama village tried to prevent members of the military from looting zinc roofing sheets from Njala University College, 7 miles outside Talama. In response, the military in Talama detained the Kamajors involved at the local barracks. On hearing this news other Kamajors in the area decided to converge on the barracks with a view to resolving the situation. En route, these Kamajors were ambushed by soldiers using RPG launchers and suffered casualties […]."

[1127] This date is not clear.

[1128] RUF forces left Badjia Chiefdom, in the north-east of Bo District, in 1996, which then remained under the control of patrolling Kamajors. No further details are available as to under what circumstances the RUF forces departed or any acts committed by the Kamajors in the chiefdom at this time.

The Kamajors deposed the Chiefs, established their own courts and required people to give them food and money and to work in the Kamajors' farms.[1129]

Once the Kamajors obtained control of Valunia Chiefdom, they operated checkpoints, where they issued travelling passes for Le 500 per day per traveller, described by the Kamajors as a war effort for their sustenance. Anybody wanting to move within this area had to purchase and, when required, produce such a pass. People who were suspected of being a member of the SLA were subject to interrogation, in some cases brief, and were punished and sometimes killed. Non-initiated civilians were required to provide them with food, which led many young adults to join the society. The Kamajors also took property from people passing through checkpoints. In one instance, one car that was seized was handed over to the Deputy Initiator, who was residing in Kongombahun in Niawa Langa village after she had fled Bo Town.

As mentioned, most of the Chiefs were deposed and the Kamajors took over their responsibilities. Civilians disobeying their orders or complaining about their authority would be punished. People were put in cages called a "'kuliehun", which was so small that it would not reach the height of a person's knee. A common punishment inflicted was the use of FM rope, namely a nylon rope tied on two edges of a small stick around a person's hands and tightened.[1130] Thus, in December 2000, while in Bo, a man who declared on the radio that the nomination of the new Regent Chief for Wunde was not endorsed by the population was arrested by Kamajors, severely beaten for six days and threatened to be killed before being released following pressure from a human rights activist. Other opponents to this nomination were also arrested and taken to CDF headquarters in Bo, although no further information is available on what happened to them.

Fighting between the Kamajors and SLA forces began spreading from Libi Junction in Malen Chiefdom to Barhurst, south of Kombondo, in April-May 1997. In one incident, SLA soldiers were captured, although no further information is available on what happened to them after their capture.

During the AFRC regime, RUF/AFRC forces were mainly concentrated in Bo Town (Kakua Chiefdom) and Kombondo (Jama Bongor Chiefdom) and on the highway between Bo and Kombondo. During this period, Kamajors attacked Kombondo on several occasions[1131] and RUF/AFRC forces were driven out during the beginning of 1998.

Shortly after the Coup in May 1997, the Kamajors drove the AFRC out of Gerihun (Boama Chiefdom) and back to Bo Town. However, in June 1997, when Gerihun was attacked by RUF/AFRC forces, the Kamajors were unable to defend the town as they ran out of ammunition and up to six civilians were killed, including the Paramount Chief. Many houses were burnt down, including that of the former Vice President of Sierra Leone.

[1129] In addition, they tied people up and sometimes killed them, although no further details are available.

[1130] This rope was called "FM", meaning "frequency modulation", because once tied with this rope, civilians spoke or confessed.

[1131] During an attack that took place in June, eight civilians were killed. However, it could not be ascertained how those civilians were killed: http://www.focus-on-sierra-leone.co.uk.

In June 1997, RUF/AFRC forces attacked ECOMOG troops based at Gondama twice. The first time, the combined forces were not able to challenge the heavy firepower of the ECOMOG forces. However, some refugees were killed, some by drowning in the river. During the second attack, running out of ammunition, ECOMOG forces found refuge at the Mil Camp at Gbaama. As RUF/AFRC forces were controlling all the access roads to Gbaama, the welfare of these ECOMOG members were at stake, so 11 days after the attack, the local Kamajor commander took the decision to rescue them using a helicopter. The sounds of helicopter and jet fighters were heard flying towards Gbaama and Kamajors arriving by helicopter landed on the field of the Roman Catholic School. It took them several trips to rescue all the ECOMOG forces and by the end, the school was completely damaged, apparently by the constant landing and taking off of the helicopter. In November 1997, RUF/AFRC forces attacked the township of Mamboma, to the north of Jaiama Bongor Chiefdom along the road from Telu, but were driven out by Kamajors coming from Gbaama.

RUF/AFRC forces based at Konbondo[1132] (Jiama Bongor Chiefdom) patrolled the area and attacked Kamajor positions, killing both civilians and Kamajors. In June 1997, they attacked Bendu (Jiama Bongor Chiefdom), a Kamajor base, again killing both Kamajors and civilians and burning some houses.[1133] The practice of looting by RUF/AFRC forces was also widespread at this time. As the RUF/AFRC attacks intensified, the Kamajors of Gbaama, Tikonko and Lugbu Chiefdoms attacked the RUF/AFRC base at Konbondo but were unsuccessful.

After May 1997, the Kamajors of Gbo Chiefdom started hunting what they called "Junta collaborators" and killed some people, although it was more common for them just to punish people they suspected of having any contact with the AFRC forces, for example by tying people up and making them stay out under the sun. The Kamajors also took food from civilians. It was useless to report these incidents, in particular the taking of food, to the CDF commander, who would reply by saying that his men were in the right, because they came to protect people.[1134]

A major incident took place in Tikonko Town (Tikonko Chiefdom) at this time. On 10 June 1997, the Kamajor's Chiefdom Ground Commander received a letter from the High Priest Initiator with the order to gather all Kamajors in Tikonko Chiefdom at Tikonko Town for the purpose of participating in an attack on RUF/AFRC positions at Bo Town. Approximately 200 or 300 Kamajors came from all directions of the chiefdom and two days later, more arrived. During their short stay, civilians were forced to feed them. These Kamajors engaged in stopping any RUF/AFRC movement southwards by blocking successfully the Bo-Mattru Jong (Bonthe District) road.[1135]

[1132] For the most part, from 1991 to 1997, the SLA had a base at Konbondo and controlled the town. When the Coup took place in May 1997, SLA forces became members of the AFRC and so, in general, former SLA bases became RUF/AFRC bases.

[1133] One report states that while eight Kamajors, 11 adult civilians and one child were killed, after this attack 16 bodies dressed in military uniform were found.

[1134] It is not clear who had control of the town at this point. While it appears that the Kamajors were in control, it is also said that at this time the CDF had been disbanded and the Kamajors were operating secretly.

[1135] Sierra Leone Humanitarian Situation Report 22 July - 4 August 1997. It is, however, not clear when the Kamajors attacked the town, as the reports make no mention of this (these) attack(s). However, according to the Sierra Leone Humanitarian Situation Report 28 August - 01 September 1997, fighting continued between

At this time, RUF/AFRC forces began to disguise themselves as Kamajors and attack towns in Tikonko Chiefdom. People were able to identify them as RUF/AFRC forces because they had RPGs, AK47s and grenades, whereas the Kamajors were armed with single barrel guns, cutlasses, sticks and knives. One incident took place on 25 June 1997, with some men dressed in full Kamajor attire came from the direction of Bo, riding Honda motorbikes. This was confusing to the people of Tikonko, because Kamajors never rode motorbikes and, at the same time, rumours were going round that RUF/AFRC forces were heading for Tikonko Town. Shortly after the arrival of these men, the sound of RPG fire was heard in the town. RUF/AFRC forces entered the town, taking property and killing people. All those who were trapped in their houses were killed, including 11 people in one house near the market and a woman who was disembowelled. One of the Kamajors based in Tikonko Town was beaten and tortured before being killed. Many Kamajors died in the forest along Lembema Road, north of Tikonko Town. A similar incident occurred in January 1998, when RUF/AFRC forces coming from Bo went to Towama, between Bo and Tikonko towns, saying it was a Kamajor base. Four civilians were killed, up to 25 houses were burnt and property was taken away. The RUF/AFRC forces went back to Bo and stayed there until ECOMOG forces arrived.

After reports had reached the CDF National Coordinator that the Kamajor commander who had rescued the ECOMOG troops at Gondama (Kakua Chiefdom) was harassing, maiming, ill-treating and killing civilians, this commander was replaced by another one, who became commander for Jiama Bongor, Bagbe, Lugbu and Tikonko Chiefdoms. In the weeks that followed (July 1997), there was relative peace, although the Kamajors began to steal property.

RUF/AFRC forces again bombarded the ECOMOG position at Gondama on 11 October 1997; ECOMOG responded by bombing RUF/AFRC positions, using Nigerian warplanes.[1136]

In December 1997, RUF/AFRC forces attacked Kamajors at Baiama (Gbo Chiefdom). A few days later, one man and one woman who were suspected of being relatives of an AFRC member were killed at Baiama Junction and their bodies remained lying there until they decomposed.

Operation "Black December" was declared in December 1997 by the CDF High Command in a bid to take control of RUF/AFRC positions and was implemented in Boama Chiefdom. As part of this operation, all the highways and roads leading to the villages were blocked, in order to prevent RUF/AFRC forces from attacking civilians. Due to this operation, Kamajors became increasingly dependant on civilians to obtain food and medication, as the supply routes were blocked. Nevertheless, the operation also successfully prevented RUF/AFRC movement and enabled the CDF to counter-attack the RUF/AFRC forces in Gerihun.

Events in 1998

Kamajors and RUF/AFRC forces in the south of Bo Town, which may suggest that fighting already took place previously. Furthermore, it is clear that whatever battle may have taken place in the area between the RUF/AFRC and the Kamajors, the RUF/AFRC forces were still in control of the town.

[1136] Sierra Leone Humanitarian Situation Report 1 - 13 October 1997.

In February 1998, fighting took place between Kamajors and RUF/AFRC forces all over the Southern Province, which led to the withdrawal of the combined forces. By early 1998, the Kamajors had regained control of Boama Chiefdom until the arrival of ECOMOG forces around 20-22 February 1998.[1137]

That same month, two boys came to Koribondo (Jiama Bongor Chiefdom), their hands covered in blood. They told the people of Koribondo that Kamajors had shot their hands and that they were coming to attack Koribondo; indeed, the Kamajors did attack the town on 13 February. During this attack, two AFRC soldiers and two Kamajors died. Soon after, the AFRC forces withdrew from Koribondo, following the ousting of their government from Freetown in February 1998. The attitude of the Kamajors panicked people, who decided to move to Bo Town, where houses identified as occupied by Koribondo people were harassed. This situation lasted until ECOMOG arrived in Bo Town in February or early March 1998.[1138]

Around 16-17 February, there was a major battle between RUF/AFRC and ECOMOG forces in Bo Town;[1139] hundreds of people fled the town. The town was set on fire, massively looted and bodies were left lying on the streets. RUF/AFRC forces looted three commercial banks, destroyed the telecommunications network and damaged the Bo-Kenema power facility serving the Eastern Province.[1140] Shortly after, around 20 February, ECOMOG troops based at Kenema deployed in the north and east of the town, areas previously held by Kamajors and then in the town itself, where Kamajors had been fighting RUF/AFRC forces.[1141] After RUF/AFRC forces had left the town, youths were searching for RUF/AFRC members and their "collaborators", including people who were suspected of being Temne.[1142] Those suspects who were caught were killed, some hacked to death and others had tyres put around their neck, which were then set on fire.[1143] Furthermore, a committee created for processing stolen property"discovered a large docksidearea that had been used to take such goods out of the country".[1144]

[1137] Key persons recognise that some atrocities were committed by Kamajors but tried to justify them, saying that anyway, there was no law or order and that these Kamajors were not trained for war as soldiers but took arms to defend democracy. They continued by stating that since most of them were not educated, you could not expect them to observe rules and regulations governing "warriors".

[1138] It is not clear from the records when ECOMOG arrived in Bo Town. However, ECOMOG movements in the rest of the country, in particular in Port Loko, Moyamba and Tonkolili Districts, as well as their arrival date in Kenema District suggests that ECOMOG troops had to be in Bo Town by the very beginning of March at the latest. Some contingents of ECOMOG forces were however already deployed in the District at Gondama (it has to be remembered that the Gondama Camp since 1993 was placed under the protection of Nigerian troops).

[1139] Open sources revealed that on 16 February, over 10,000 well-armed Kamajors entered the town from three different directions and "several junta soldiers and their sympathisers were killed or tied on the spot and handed over to anti-junta youths for execution [...]": AAP, 17 February 1998.

[1140] AFP, 24 February 1998.

[1141] AFP, 24 February 1998; BBC Online News Archive, 25 February 1998.

[1142] The RUF leader was a Temne by tribe whereas the Kamajors were Mende.

[1143] No more information could be obtained on this event.

[1144] AFP, 24 February 1998.

On their way out of Bo Town, civilians were thoroughly searched at Kamajor checkpoints. At one checkpoint on the way to Manguama, which lies north-east of Bo Town, some civilians were stripped naked, tied up and forced to sit on the ground, suspected of being "Junta" collaborators. These people were later killed. In another incident on 17 February, civilians coming in a truck were asked to show their passes at a checkpoint at Baiama junction (Gbo Chiefdom). Those who could not produce them where put into a cell made up of sticks and were beaten.

Kamajor harassment of the civilian population, including physical violence, looting and the burning of houses, continued throughout 1998. In one instance in Baiama (Gbo Chiefdom), a woman suspected of being an AFRC member's wife was killed and her body was displayed at the checkpoint. In the villages where they had found refuge, people were harassed by Kamajors for food.

Around June 1998, a large number of Kamajors attacked Konbondo, looting and burning over 70 houses. Shortly after the town was set ablaze, the CDF National Coordinator came to Konbondo and held a meeting at the village square, at which people of the town were present. During this meeting, he allegedly thanked the Kamajors but reprimanded them from not having followed his instructions completely, as he had told the Kamajors not to spare any building except the church, hospital, mosque and the village square. It appears that this attack was partly done in retaliation for Konbondo people hosting SLA and RUF/AFRC forces. Following this incident, some ECOMOG troops arrived in Konbondo to investigate the matter and the Kamajor commander together with 20 of his forces were arrested and taken to Bo.[1145]

Kamajors went to the south of Kakua Chiefdom to villages including Baoma, Segbwema, Adala and Berehun. On three separate occasions in December 1998, they took people's possessions, including cars, clothes and other valuable items, as well as any food they could find, including livestock. In addition, Kamajors targeted people suspected of being collaborators with both SLA and AFRC soldiers. One example is from the end of 1998, when the Kamajors drew up a list of the 25 "most wanted" people, who were suspected of having hosted soldiers in their houses. A letter was sent to Sembehun that Kamajors would attack the town to kill those 25 most wanted people and on the day they stated, a large group of Kamajors[1146] came to Sembehun. Although nobody was killed, as the 25 people were nowhere to be found, a lot of houses were burnt down. A short while later, the CDF commander based at Konbondo, who had control over Sembehun and who led the search in December, required the 25 people to come to Konbondo and pay Le 50,000 each, or they would be killed. The people did as they were told and then were allowed to leave.

Following the RUF/AFRC invasion of Freetown in January 1999, negotiations started between the Government of Sierra Leone and the RUF. A ceasefire was signed in May and a peace accord supposed to mark the end of the conflict and known as the Lomé Peace Agreement was signed on 7 July in the Togolese capital. An important part of the accord was that the disarmament, demobilisation and reintegration (DDR) process was to start within six weeks of its entry into force. This process, somehow delayed, was formally launched by the President of Sierra Leone on 20

[1145] It is not clear from the records what happened to these Kamajors after they were taken to Bo.
[1146] Records relate that "thousands" of Kamajors came to Sembehun on this day.

October 1999 during a ceremony at Wilberforce Barracks, Freetown and began properly on 4 November. However, despite the calls of the RUF leader and ex-AFRC leader to their troops to disarm,[1147] disarmament was implemented at a very slow pace, thus hindering the deployment of humanitarian aid in the country. The delay of the process was mainly due to the resumed fighting in the Northern Province and in Kono District.[1148] In the meanwhile, the first UN peacekeepers arrived in the country and, in January, troops from the Ghanaian contingent arrived in Bo District.[1149]

In a bid to foster and enhance the DDR process, sites for new DDR camps were identified around 10 March 2000, one being located at Gondama (Kakua Chiefdom).[1150] However, the disarmament process was stalled in May 2000, following the capture by RUF forces of over 300 UN peacekeepers in the Northern and Eastern Provinces. The process would be given a new start in November 2000 when the Government of Sierra Leone and the RUF signed a new ceasefire agreement in Abuja, Nigeria.[1151]

On 31 January 2001, a CDF meeting was convened at the CDF District Headquarters in Bo Town in the presence of the UNAMSIL military observers (MILOBs) team for Bo, the resident Minister, the Deputy Defence Minister, the CDF District Administrator and the NCDDR (National Commission for the Disarmament, Demobilisation and Reintegration) representative. At this meeting, the problems caused by the CDF in the District were discussed, including the recent attack on the NCDDR office, the reorganisation of the CDF and CDF interference in police matters. During a separate meeting convened by the Deputy Defence Minister, the reorganisation of the CDF in the District was discussed, rather than its disbanding.[1152]

By 31 March 2001, the 14 chiefdoms of the District were declared safe for resettlement, thereby making the entire Southern Province safe, unlike the North, where humanitarian activities were not possible in three-quarters of the Province, and in the East, where the whole of Kono and Kailahun Districts (except Daru) and six chiefdoms in Kenema District were still considered unsafe.[1153]

[1147] On 10 January, the RUF leader, the ex-AFRC leader and the Deputy Minister of Defence and CDF National Coordinator stopped in Bo Town, as part of sensitisation trip on the disarmament campaign, aimed at exhorting combatants, namely ex-AFRC, RUF and CDF, to disarm: IRIN West Africa, 10 January 2000.

[1148] In November 1999, only 1,500 combatants had disarmed out of the estimated total of 45,000 combatants: IRIN West Africa, 17 November 1999.

[1149] The United Nations Mission in Sierra Leone (UNAMSIL) was established by Security Council Resolution 1270 (1999), adopted on 22 October 1999. Six thousand peacekeepers were sent into the country and their number would increase over the coming months, following the security developments in the Northern and Eastern Provinces.

[1150] The initial camps were located at Port Loko North, Port Loko South, Kenema Town and Daru (Kailahun District): IRIN West Africa, 17 March 2000.

[1151] The security situation in the Northern and Eastern Provinces prevailing in 2000 urged the Government of Sierra Leone to negotiate a ceasefire with the RUF in November 2000. On 4 May 2001, those parties would meet again in Abuja, Nigeria to review the ceasefire. Further to the meeting in May 2001, those parties would hold monthly tripartite meetings as the Joint Committee on DDR. The final meeting took place in January 2002 when disarmament was declared complete and the war over.

[1152] UNAMSIL press briefing, 31 January 2001.

[1153] Sierra Leone Humanitarian Situation Report, 11 – 31 March 2001.

Following the meeting in Abuja in May 2001, disarmament was carried out at different dates across the country. It was scheduled to start in Bo District by the end of September 2001[1154] but was briefly delayed. However, during a symbolic disarmament ceremony in Gerihun (Boama Chiefdom) on 20 October 2001, over 80 CDF members disarmed in the presence of the Special Representative of the Secretary-General (SRSG) in Sierra Leone and were transported to the DDR camp at Gondama, where the SRSG addressed the now ex-combatants.[1155]

At the conclusion of the seventh tripartite meeting of the Joint Committee on Disarmament, Demobilization and Reintegration (DDR), comprising representatives of the Government of Sierra Leone, UNAMSIL and the RUF held in Freetown on 8 November 2001, it was communicated that disarmament would be complete in Bo District on 10 November 2001.[1156]

3. Conclusion

The pattern of the conflict in Bo District followed to a large extent the one of the three other southern Districts. The RUF/NPFL incursion in Pujehun District in 1991 expanded in the bordering chiefdoms of Bo District. Successful SLA counter-attacks in 1991 and 1992 limited the RUF/NPFL attacks to a lower scale, mainly carried out by "pockets" of RUF/NPFL members for food finding purposes. The situation was similar in Bonthe and Pujehun Districts and would continue until the second phase of the conflict began in 1994.

As in the rest of the Southern Province, the conflict reached its peak in Bo District in 1994 and 1995, as RUF forces spread across the whole District. Their strong grip over the District would allow RUF forces to advance further inland towards the north-west (Moyamba District) and the south-west (Bonthe District), where most of the attacks in 1995 originated from Bo District through Moyamba District, unlike in 1991 when Bonthe District was affected by RUF /NPFL forces coming from Pujehun District. During this period, SLA forces were wholly unable to contain the RUF advance into the District and in the Southern Province as a whole, although (or because) their numbers increased greatly in 1994.

This RUF progression and stay in the whole Southern Province and in Bo District in particular was gradually stopped by the initiative of the Kamajors who started fighting alongside the SLA in 1996. The collaboration between those two forces however deteriorated rapidly and fighting between them reached its climax in early 1997. At this time, the Kamajors and the SLA were controlling distinct and separate areas of the District.

Following the ECOMOG intervention in Freetown and its deployment in different towns in the Provinces in 1998, the Southern Province became free of RUF/AFRC attacks and instead came under the total control of the Kamajors. Bo District was not affected by the retreating RUF/AFRC

[1154] IRIN West Africa, 13 August 2001; UNAMSIL press briefing, 14 August 2001. For example, in early August 2001, the Joint Committee on DDR declared disarmament complete for Port Loko and Kambia Districts.

[1155] UNAMSIL press briefing, 23 October 2001.

[1156] UNAMSIL press briefing, 09 November 2001. However, the target date of 30 November 2001 for the completion of the process in the whole country was not met and the disarmament was declared complete in January 2002.

forces from Freetown, as they regrouped and concentrated on the main mining areas (Kono District and north of Kenema District) and those areas in which CDF members did not have established and constant control, mostly in the Northern Province.

Throughout the conflict, widespread violations were committed primarily by RUF/NPFL, RUF and RUF/AFRC forces, but also by SLA forces and Kamajors, especially once they firmly established their control and authority over the District. Those violations were directed against civilians and their property and included stealing and destruction of property, physical violence, sexual assault, killing and abduction for use as fighters, workers or "wives". Only a few cases of mutilation were reported for the District, as most of these incidents took place during a specific RUF/AFRC operation called "Operation No Living Thing" in the first months of 1998 and following the retreat from Freetown. Furthermore, while it hosted thousands of IDPs from other Districts, mainly Pujehun District, Bo District suffered less internal displacement of its own population.

b Bonthe District

1. Introduction

Bonthe District is located in the south-west of the Southern Province of the Republic of Sierra Leone. It is the only District in the Southern Province that shares boundaries with the other three Districts in the Province, namely Moyamba and Bo Districts in the north and Pujehun District in the south and east. Bonthe District is bordered by the Atlantic Ocean in the west.

Although located on Sherbro Island,[1157] its headquarter, Bonthe Town, is not part of the two chiefdoms of the island (Sittia and Dema Chiefdoms). Rather, its is part of another administrative structure, the Sherbro Rural District.

There are 11 chiefdoms in the District, two of which are located Sherbro Island:

Chiefdom	Headquarter
Bendu Cha	Bendu
Bum	Madina
Dema	Tissana
Imperi	Gbangbama
Jong	Mattru
Kpanda Kemo	Matuo
Kwamwbai Krim	Tei
Nongoba Bullom	Gbap
Sittia	Yonni
Sogbini	Tihun
Yawbeko	Taka

[1157] This island is commonly known as "Bonthe Island".

The presence of the water, whether it is the ocean, the rivers or the swamp, is the most striking natural feature of the District. The nine chiefdoms of the mainland are separated by the ocean from the two chiefdoms located on Sherbro Island. The south of the District, especially Nongoba Bullom Chiefdom is an area made up of swampland.

The two main rivers of the District, the Sewa River and the Jong River, both of them taking their source directly in the ocean, would affect the deployment of the forces throughout the conflict. They would be a substitute way of communications, especially in the south of the District where the road network is rather poor. The highway that links Bo Town to Mattru (Jong Chiefdom), via Sumbuya (Lugbu Chiefdom, Bo District) and Kpanda Kemo Chiefdom would allow rapid penetration into the north of the District from Bo District. From this highway, secondary roads extend into the neighbouring chiefdoms of Sogbini and Imperi.

The main economic activities include fishing, rice growing and palm plantations but the greatest revenue is generated by the rutile mining in the north of the District, particularly in Imperi Chiefdom. The north of the District and the south of Moyamba District, which advances into Bonthe District, are indeed renowned for the importance of their mining activities, which procured vital economic resources for the Government.

The ten years of conflict in Sierra Leone started in Bonthe District as early as April 1991, due to the fact that the District shares a border with Pujehun District, which was one of the entry points of the RUF/NPFL forces into Sierra Leone in March 1991. The National Patriotic Front of Liberia (NPFL) and Revolutionary United Front (RUF) forces entered the border chiefdom of Kwamebai Krim in May. This was the start of a long series of hostilities and atrocities committed against the civilians in the District, which lasted until the completion of disarmament in the District in mid 2001.

From this first incursion, Bonthe District was affected by the conflict through three discernable phases, the first one running from 1991 until the end of 1994. During the first attack in May 1991, RUF/NPFL forces settled in Kwamebai Krim Chiefdom for a short while before moving westwards to the neighbouring chiefdom of Nongoba Bullom. When entering a village, they would always proceed in the same manner: they gathered the civilians in the Court Barrie, introduced themselves as "freedom fighters" coming to redeem Sierra Leoneans from the corrupt APC regime and deposed and replaced local authorities. Defeated by the SLA forces some months later, they withdrew from Kwamebai Krim Chiefdom to their base in the south-west of Pujehun District. At the time of this first incursion, SLA forces were deployed mainly in Bonthe Town (Sherbro Island) but by the end of 1991, more bases in the east of the District were set up. RUF/NPFL forces occupied Bum Chiefdom for six months before being repelled by the SLA. Although RUF/NPFL attacks were still reported during the subsequent years of this first phase, they never succeeded in going further than the three chiefdoms of Kwamebai Krim, Bum and Nongoba Bullom. In 1994, RUF forces coming from Pujehun District re-entered the District and succeeded in controlling some areas in those three chiefdoms.

Each of the RUF/NPFL and, later, RUF incursions was marked by violence against civilians; indeed, from the very beginning of the conflict in the District, there were incidents of physical violence against civilians, who were also killed, raped and abducted for the purposes of using them as fighters or workers. Government authorities in particular were targeted. Those forces also stole civilians' property, mainly food and domestic animals, and destroyed houses and other buildings. The SLA forces also imposed harm on civilians in general and on "collaborators" in particular, killing those suspected of having collaborating with the RUF/NPFL and RUF during their stay in their villages. Civilians were also harassed for their food and other property. As the conflict continued, SLA violence heightened, with cases of killing, rape and use of civilians for forced labour being reported. By the close of this first phase, rumours of imminent RUF attacks in the other chiefdoms of the District were rampant.

The second phase encompassed 1995 to February 1998 and is characterised by the spreading of the conflict across the District. By February 1995, RUF forces controlled all of the northern chiefdoms of the District and proceeded southwards and westwards in an ultimately unsuccessful attempt to attack Bonthe Town on Sherbro Island. Training bases were opened across those chiefdoms under RUF control. This phase was marked by a clear increase in violence against civilians, as RUF forces settled in those areas. Physical violence, killings, rapes and the abductions of civilians, mainly to be trained as fighters and to work for the forces continued to be carried out on a scale much larger than during the first phase. Also during this period, a massive killing, which was scarcely reported in the media, took place in late 1995.

By the end of the year, the RUF were dislodged from most of their strongholds by SLA forces assisted by foreign troops and Kamajors, who had earlier emerged in Kwamebai Krim Chiefdom and subsequently developed in the other chiefdoms. During the subsequent years until the Coup in May 1997, Kamajors entrenched their control of the District, although some skirmishes with RUF forces were still reported. The Kamajors' initial collaboration with the SLA did not last long as tension and fighting erupted between the two factions.

Following the 25 May 1997 Coup, the RUF/AFRC were concentrated in Bonthe Town, from where the Kamajors had pulled out but maintained a covert presence around the town, allowing them to retake control of the town the day after the RUF/AFRC retreat in 1998. Civilians rapidly suffered at the hands of the Kamajors, who increased their demands on civilians, chased RUF collaborators and started regulating people's everyday life. The Chiefs, whose actions had been paralysed during the RUF stay, were again deposed and had no authority over their chiefdoms, as the Kamajors set up their own administrative structures and appointed their own Town Chiefs. Civilians were constantly harassed for food and other items; this harassment included physical violence and killing, mainly of alleged collaborators.

The last phase ran from February 1998 to the completion of disarmament in late 2001. During this time, the Kamajors were in total control of the District, as no more RUF or AFRC forces were operating in the District. The brief return of RUF/AFRC forces to Bonthe Town following the invasion of Freetown did not much change the situation of the District, let alone Bonthe Town. The Kamajors continued to impose and affirm their authority in every aspect of life, deciding over

administrative and private matters, chasing "rebel" and "Junta" collaborators and intensifying their havoc on civilians. This would continue until the completion of disarmament and the deployment of UN peacekeepers throughout the District in late 2001.

2. Factual analysis

a) Events in 1991

In early April 1991, traders coming from Bo Waterside (Soro Gbema Chiefdom, Pujehun District) reported to inhabitants of Kwamebai Krim Chiefdom that unknown gurumen had crossed into Sierra Leone from Liberia.[1158] Soon after, on 9 May 1991, RUF/NPFL forces coming from Gbandapi (Panga Kabone, Pujehun District)[1159] arrived by canoes to Tei (Kwamebai Krim Chiefdom) in the south of Bonthe District, while civilians were conducting a ceremonial rite. These forces were allegedly led by some civilians from the chiefdom who had earlier gone to Gbandapi to bring them to Tei in search of the Paramount Chief.[1160]

On their arrival in Tei, one member of the RUF/NPFL forces shot a person in the leg, not knowing he was the Paramount Chief for whom they were searching. The Paramount Chief fled to the bush to hide from the forces. The RUF/NPFL forces asked civilians where they could find the Paramount Chief and when civilians revealed he was the man previously shot in the leg, the RUF/NPFL forces became more aggressive and beat people. The Paramount Chief was found behind his house, had his hands tied behind his back and was brought at the front of his house, where his property was taken away[1161] in his presence. He was then taken into his house and shot many times before the house was set on fire. His head was cut off and allegedly brought to Gbandapi. The RUF/NPFL forces appointed a man to be Town Commander of Tei and asked him to take care of the town in their absence.

In the same month, the combined forces entered Topain (north of Kwamebai Krim Chiefdom). There, they identified themselves as RUF fighting along side the NPFL from Liberia, who were mainly Burkinabes and Liberians. They assembled all the men and elderly people in the centre of the town and made them sit in the sun, on the accusation that they knew where the SLA forces and the staff of the Paramount Chief were. Property was taken, including household items and livestock. People were abducted and forced to carry the loads.

The RUF/NPFL forces then headed for the town of Bordeh, which is four miles from Topain. In that village a man was slaughtered and mutilated in his house. They went further south to Mass

---

[1158] Bo Waterside is the crossing point between Liberia and Sierra Leone and, by April, the RUF/NPFL had spread across Pujehun District.

[1159] Gbandapi is located on the bank of Mafemie River, which joins the Wanjei River that flows to Bonthe District. It is renowned for hosting weekly trade fares where slat is predominantly sold. The RUF/NPFL forces were based there for a while.

[1160] Reports recount that a disgruntled man who had an argument with the Paramount Chief over a land issue went to Gbandapi to relate his fate to the RUF/NPFL forces. This has to be read in conjunction with the fact that the RUF/NPFL forces had been targeting Paramount Chiefs since they entered the territory of Sierra Leone, as the Chiefs represented the APC Government in the chiefdoms.

[1161] The property taken away included clothing, money earmarked for the mechanical cultivation of the rice the following year, two single barrel guns, rice and other personnel belongings.

Kpanguma, where they carried out similar actions as they had done in Topain, to where they returned in the evening of the same day. Topain was at that time selected to be a training centre as it was on a flat land and reasonably close to their base at Gbandapi (Panga Kabone Chiefdom, Pujehun District). The young men of the town were taken aside and encouraged to join the RUF/NPFL forces since they claimed to be fighting against corruption and for the liberation of the people of Sierra Leone. The young men were then assigned to operate checkpoints established at the entrance of the town.

From Topain, the forces went on daily stealing and killing sprees in the neighbouring villages. Young and elderly people were forced to carry loads from neighbouring villages to Topain and onwards to Gbandapi. A load meant to be carried by three people was often given to one person to carry.

On one Sunday in May, RUF/NPFL forces attacked Kale (Kwamebai Krim Chiefdom), a town approximately 10 miles to the west of Topain. A lot of property was taken, including food items and livestock. The former Regent Chief was captured and seriously flogged before he was taken to Topain, where he was finally killed. His head was cut off and put at the main junction in the village for everybody to see.[1162] This killing was reported to the RUF High Command in Gbandapi, which led to the withdrawal of the troops based at Topain and to the court martial of the commander who had ordered the killing of the former Regent Chief. This commander was killed and replaced by another commander.[1163] The forces continued stealing and killing in the surrounding villages and attacked the town of Benduma (Kwamebai Krim Chiefdom), three miles from Topain. The Chiefdom Speaker was captured there together with his three sons and some of his relatives. The RUF/NPFL forces took all of his property, then forced him and his sons to carry it for them to Gbandapi, where one of the sons and a relative were later killed.

Later in May 1991, the RUF/NPFL forces left Topain for Bonthe Town on Sherbro Island to launch an attack on the SLA forces based there. They gathered their forces from all their minor bases in and around Topain, abducted young men and elderly people to carry stolen property for them and took away all the canoes they could find from the surrounding villages. They continued to take property in the villages they passed on their way. There are reports of clashes between them and SLA forces along the way. A few days later, a heavy battle took place in the area surrounding Bonthe Town (Sherbro Island) between the RUF/NPFL forces and the SLA forces.[1164] Most of the RUF/NPFL forces retreated to their base at Gbandapi while others were killed and the SLA forces at Bonthe Town also started to advance to Topain.

From their base at Gbandapi, the RUF/NPFL forces came at intervals to attack neighbouring towns and villages in Kwamebai Krim Chiefdom but this time, they did not follow the previous pattern of introducing themselves as "freedom fighters". Rather, their attacks were allegedly carried out for

[1162] It is further revealed that to make it more fearful, a cigarette was placed into the mouth of the dismembered head. This killing led many civilians to flee to the bush.

[1163] To a certain extent, the RUF adopted the internal structure and organisation of the Sierra Leone Army.

[1164] However, attacks actually taking place on Sherbro Island were not reported. It is accordingly more likely that this battle took place somewhere between Kwamebai Krim Chiefdom and Bendu Cha Chiefdom, on the western edge of the mainland. No further information is available on this event.

reasons of reprisal, as they accused the civilians of supporting the SLA forces. Furthermore, they were poorly dressed and some were barefoot. For example, on 14 May 1991, RUF/NPFL forces entered Topain at 6.00am and fired continuously to scare people away. Civilians ran into the bush, leaving the RUF/NPFL forces free to take whatever property they could find. They also raped five young women, some under the age of 12. A three-month-old suckling mother was raped by many assailants.

Another attack was made on the town just one week later. This time not many people were found and the forces had to search for them in their hiding places in the bush. RUF/NPFL forces inflicted physical violence on the civilians and took away nearly all of their property, which consisted mainly of food items. Those civilians found hiding were severely beaten and their property was taken from them; some were brought into the town and forced to catch the remaining livestock for the forces. A woman was beaten with sticks until her skull cracked.[1165] Another was seriously beaten all over her body on the accusation of having committed adultery with the fighting forces. Others had hot melted plastic dripped in their eyes. Two houses, two kitchens and the Court Barrie were burnt by the troops on that day before they left for neighbouring villages. They returned in the evening from the direction they had come, bringing a lot of young men and boys below the ages of 12 and 15.

As their base in Bonthe Town (Sherbro Island) was too far to enable them to fight the RUF/NPFL concentrated in the south-east of the District, the SLA made a base south of Topain at Massa Kpanguma (Kwamebai Krim Chiefdom). One hundred and fifty of them came to the chiefdom between June and July 1991, all in full military uniform and armed with new weapons including AK47s, RPGs, LMGs, mortar guns and grenades. From there, they went to Topain to open another base. Arriving in Topain, they gathered the young men[1166] of the town and told them they must help the SLA forces in ensuring the security of the town, mainly by operating checkpoints.

At this time, the SLA forces had already begun to harass civilians; for example, anyone who refused to operate a checkpoint was severely beaten and/or arrested and put in detention. Women were sometimes raped by some SLA members while their husbands were kept in detention. Other civilians from neighbouring villages were captured and brought to Topain to work as labourers. Their wives and children were taken away to unknown places and nobody knows what happened to them. The situation was similar at Massa Kpanguma, where civilians were forced to feed the SLA forces even although these forces already had their own supplies of food.[1167]

After a month staying in Topain, the SLA forces commanded the civilians to arm themselves with sticks, cutlasses or any other potential weapon to be ready to fight the RUF/NPFL forces who were threatening to attack the town. An ambush was laid at Bandakor, a village close to Topain, but the RUF/NPFL forces did not come at that time.

[1165] This woman reportedly had significant and permanent mental health problems following this attack.
[1166] No further information is available about how young these people were.
[1167] Every town or village was to contribute 24 dozen fish, a bag of rice, five litres of palm oil and Le 25,000 on a monthly basis.

Between June and July 1991, the RUF/NPFL forces attacked the town of Sohlon (Nongoba Bullom Chiefdom, which adjoins Kwamebai-Krim Chiefdom to the west). Dressed in country clothes with red bandanas tied around their heads, the forces came together with some of the inhabitants of the town and some people from Pujehun District, all speaking the Mende dialect.[1168] Those civilians had allegedly joined the forces willingly and were leading them and indicating the places where they could find SLA forces, Lebanese businessman and Government authorities or their relatives. On their arrival, the RUF/NPFL forces summoned a meeting of all the people of the town and instructed the Section Chief to detain everyone until they came back from Yelewa (Nongoba Bullom Chiefdom). Two days after the attack of Sohlon, Yelewa was also attacked. The forces held a meeting with the civilians in the town and killed one prosperous businessman and native hunter after he was asked to produce his gun. His body was left in the open to rot, as the RUF/NPFL forces prevented people from burying it.

At around this time, the eight SLA members who had came to Gbap (Nongoba Bullom Chiefdom) from Bonthe Town asked civilians to help them construct an elevation at the jetty on which they could put their anti-aircraft gun. However, the SLA forces soon realised that the RUF/NPFL forces would overpower them and went back to Bonthe Town to obtain reinforcements from the SLA naval branch. Most of the RUF/NPFL forces left Yelewa after two days by boat, taking a lot of civilians with them, allegedly for use as protection against attack. Along the route for the headquarter town of Gbap (Nongoba Bullom Chiefdom) on the north bank of the river,[1169] the RUF/NPFL forces reached the junction on the Sewa River at Yele, which has routes going both to Bonthe and Gbap. On their arrival, they were attacked by the SLA reinforcements coming from Bonthe, who killed many of the RUF/NPFL forces. Civilians who were travelling with the RUF/NPFL forces had to dive and swim underwater to the other side, where they hid themselves until the battle was over. The SLA forces then went back to Gbap and from there to Bonthe Town (Sherbro Island).

The remaining RUF/NPFL forces (about eight of them) who were not part of the crossing went to Daama (Nongoba Bullom Chiefdom) where they took civilians' property, mostly clothes, food items and a box of tobacco, and forced a woman to cook for them. The troops then went to Mecca (Nongoba Bullom Chiefdom), where they abducted two men to bring the stolen property across the river to Yele before letting them go and telling them to go back to Mecca. The forces then withdrew from the chiefdom and retreated to Kwamebai Krim Chiefdom.

Some civilians and SLA forces who were left at Bandakor (Kwamebai Krim Chiefdom) were attacked in November 1991 by RUF/NPFL forces coming from the Gbandapi route. The SLA forces were forced to retreat to Topain before going on to their base at Mass Kpanguma. After two days, they returned to Topain and launched a counter-attack that successfully repelled the RUF/NPFL forces from Bandakor. More civilians were brought from neighbouring villages to Massa Kpanguma and used as labourers by the SLA forces. However, RUF/NPFL forces attacked

[1168] Those RUF/NPFL forces probably came directly from Pujehun District, using the Wanjei River, which flows almost parallel to the Ocean.

[1169] The natural features of Nongoba Bullom Chiefdom are very unique, as the Sewa River separates the mainland on the north from the south edge, composed of a long strip of swamps and bordered by the Atlantic Ocean.

Massa Kpanguma two weeks later, killing a lot of civilians. Defeated, the SLA forces pulled out of the town[170] and when the SLA forces based at Topain heard of this attack, they also left the area. The surviving civilians fled to the bush but the RUF/NPFL forces did not settle in the town, destroying houses and taking livestock as they left the village. The day after the battle at Massa Kpanguma, the SLA forces who had pulled out passed by Korankor (Kwamebai Krim Chiefdom); at a nearby village they tried to stop all the civilians at a checkpoint but as the fleeing population grew, they let them go.

Civilians at Mano (Nongoba Bullom Chiefdom), at the border with Kwamebai Krim Chiefdom, abandoned the town and boarded a patrol boat together with the SLA forces to safer areas. No sooner had they left than the RUF/NPFL forces entered the towns of Korankor and Mano. Civilians who had fled Korankor described discovering bodies when they returned to the village, mostly the elderly and children who could not find their way in the bush. They also found a lot of dwellings burnt, including the mosque, the Bondo society house and the Court Barrie. Civilians were also abducted to carry the stolen property.[171] This incident forced civilians to abandon the town for the bush where they made makeshift camps. Food and medicine were difficult to get while in the bush, which led to many deaths, especially of children.

SLA forces who later entered the towns of Mano and Korankor after the RUF/NPFL attacks took civilian property, such as building materials and household utensils. The forces then burnt down the remaining two houses in Korankor when leaving the town. After this incident, SLA troops went from town to town identifying civilians they alleged to be "enemy collaborators", who they executed in public without any trial.[172]

In November 1991, approximately 25 armed men entered the town of Kanga Oil Mill (Bum Chiefdom), at the border with Bo District (Bagbo Chiefdom). Civilians suspected those armed forces, who were carrying talisman and other charms, were NPFL forces, because they were all speaking in Liberian dialect. They were proved right as the men introduced themselves as NPFL forces who had come to liberate the people of Sierra Leone from the then APC government. The civilians cheered them and the night passed without incident, the forces leaving the next morning for Madina. On their way to Madina, they came across a commercial vehicle and took it to continue their journey. As in Kanga Oil Mill, their arrival in town passed without incident and they left to go back to Bo District. However, at some point on their way, they killed a Lebanese businessman, drank his blood and threw his body into a river.[173]

---

[170] This battle at Massa Kpanguma was also reported as taking place in July 1991. As this information could not be reconciled with the attack on Bandakor, which allegedly took place in November, it has to be considered that all these actions were carried out in the same period of time, between broadly July and November 1991.

[171] It is reported that the RUF/NPFL forces went back to the direction of Soro Gbema Chiefdom (Pujehun District). This action, although carried out by an important number of RUF/NPFL forces that forced SLA to escape, was probably not part of a wider movement to advance into the District, as at this time, the SLA forces had repelled most of the RUF/NPFL forces out of Bo and Pujehun Districts.

[172] Although one report mentioned that at this time, RUF/NFPFL forces were based in Topain, it seems that RUF/NPFL forces were no longer settled in Kwamebai Krim Chiefdom and launched their attacks from Pujehun District.

[173] The exact location of this incident could not be ascertained.

One month later, NPFL forces together with RUF forces again entered Bum Chiefdom in Madina, where they abducted the Paramount Chief and took her to an unknown destination.[1174] They recruited a large number of the town's inhabitants, including young boys and girls, into the fighting forces, which swelled from 50 to about 200. During their stay in Madina, they forced civilians to carry loads, raped young girls and women in the town and flogged elderly men and women. Town Commanders and secretaries were appointed in villages and towns in the chiefdom to carry out directives from the RUF/NPFL forces, disregarding any other authority in the chiefdom.

RUF/NPFL forces, around 45 in number, also reached Kanga Oil Mill, firing randomly while entering the town. Civilians were gathered at the Court Barrie and detained there while the forces took away property and food items. They introduced themselves as "freedom fighters" who had come to liberate the people of Sierra Leone from the APC misrule. They carried with them sophisticated weapons, large quantity of arms and ammunition. During their first night, they raped young girls, most of whom were between 12 and 13. During their stay in the town,[1175] RUF/NPFL forces deposed all the chiefdom authorities, appointed Town Commanders and Town Mothers and passed laws for the civilians, saying they had come to settle in the area.[1176] While no incidents of mutilation, killing or destruction of property were reported, the RUF/NPFL forces forced civilians to work for them, raped women and girls, beat people and inflicted punishments such as frog jump[1177] and rolling on the ground. Youths were encouraged to join the RUF/NPFL forces. Old as well as young people were forced to carry loads for the forces. After they ate all the livestock of the village, they taxed civilians to supply them with fish or meat in turns. It was later observed that the forces came into the town in batches of 25 every two months. At this time, one commander was very notorious in trafficking civilians and training them to be fighters for the forces, often shooting those who tried to resist, and for taking civilians' property away.

Sometime in December 1991, SLA forces made a base in Gbap (Nongoba Bullom Chiefdom), from where they went on routine checking missions in the surrounding villages.

b) Events in 1992

Between January and February 1992, SLA forces entered Sohlon (Nongoba Bullom Chiefdom), were they took civilians' livestock. The matter was reported to their High Command at Gbap, who warned them against such acts, as it did not present a good image of the SLA. These actions stopped for three months, during which time civilians hid all their livestock. However, on or around 15 May

[1174] She would be released in 1993 in Pujehun District.

[1175] This group stayed six months in the village before being dislodged by SLA forces in July 1992.

[1176] Some of these laws were as follows: everyone's personal property is meant for everybody; no civilian should steal or would be killed and every civilian was to deposit his money to the RUF/NPFL forces or face arrest for carrying illegal property.

[1177] To "frog jump" or to "pump" is done by first holding on to the earlobes with two hands – the left hand holding the right ear lobe and vice versa– after which the person is required to jump up and down continuously on their haunches. This form of punishment was both physically and psychologically painful, because it is a punishment meted out mostly to children and it is considered shameful for an adult to be made to "pump".

1992, the livestock was stolen from these hiding places with the help of one of the inhabitants of the town, who was a vigilante at the time.

Around August 1992, the town of Gbap was attacked by RUF/NPFL forces who successfully dislodged the SLA forces from the town. The SLA forces retreated temporarily to an island, labelling it "F.M".[1178] Civilians staying at Sohlon, a few miles away from Gbap, moved to the neighbouring town of Nyandehun, four miles from Sohlon, which became a "safe haven" for many civilians in the chiefdom. Realising that their villages were not affected by the RUF/NPFL forces and that the living conditions in the camp at Nyandehun were deteriorating, civilians decided to resettle in their houses.

In the middle of the year,[1179] on hearing the rumours that SLA forces were close to Bum Chiefdom, RUF/NPFL forces left the chiefdom and made their way to Pujehun District.[1180] The SLA forces did in fact enter the chiefdom later and made a base at Madina.[1181] After a few days, all the Town Commanders and their secretaries were gathered and interrogated by the forces on how they were helping the RUF/NPFL forces. Those people that the SLA forces considered had taken active part in aiding the RUF/NPFL were killed, while those they considered having taken lesser part were detained for a certain number of days and given manual jobs to do before they were released. Apart from the Town Commanders and their secretaries other civilians who were considered collaborator of the enemy forces were also killed. A boy of 18 was tied to a stick head downwards and fire set under him. He was then tortured to death by the heat of the fire. Sometimes civilians from other villages like Tarsor and Kassie (both of Bum Chiefdom) were alleged to be "rebel" collaborators, because they came from areas where RUF forces were known to be, and were killed by firing squad without proper investigations. In addition, civilians were forced to harvest the oil palm and process it for the SLA forces. Plantains, fish, bananas and other commodities were either seized or bought cheaply from civilians; indeed, the SLA appeared to be more interested in trading these items than in ensuring the security of the chiefdom or the District.

The SLA forces also settled at Moyia, which gave some respite to the people at first. However, not long after, the SLA forces gathered together all the Town Commanders, their secretaries and all other alleged collaborators. An unspecified number of them were killed on the basis that they had encouraged the RUF/NPFL forces to stay in the town and were helping them in their activities. Some people were forced to dig their own graves and lie down in them. They were then shot at afterwards and left there; some people were buried while they were still alive. Harassment of civilians, stealing of property and killing was taking place on a daily basis. People were grossly intimidated as the SLA forces frequently fired their weapons and made people frog jump. In addition, the SLA forces made the people work for them, processing the palm oil fruits, fishing and engaging in many other activities.

[1178] The RUF/NPFL forces did not however stay in the town but it could not be ascertained when the SLA forces came back to Gbap.

[1179] This may have occurred either in July or in October/November.

[1180] No more information could be obtained on this movement of forces.

[1181] As the RUF/NPFL forces had already left the chiefdom, no confrontation was reported. The SLA forces would have control over the chiefdom for two years, until the middle of 1994 when RUF forces came back.

In November, one Saturday afternoon, most of the SLA forces the civilians had seen the year before at Massa Kpanguma (Kwamebai Krim Chiefdom) entered Topain and took away civilians' property in a manner described as "much like the RUF/NPFL forces". Women were raped and livestock was taken away the same day. They came back the next day and spent a night in the town, during which they fired their guns to frighten people out of the town. However, the inhabitants stood their ground and the SLA forces soon left the way they had come.

c) Events in 1993

In June 1993, another SLA officer was sent to command the SLA forces deployed at Madina (Bum Chiefdom). They occupied the house of a civilian who later demanded payment of rent for the period. The troops not only refused to pay but also imprisoned one of the civilians after severely beating him up, accusing him of having been a "rebel" collaborator. The villagers were then forced to build more huts for the troops deployed in the town. Those who refused or tried to escape were caught and severely flogged.

In around July 1993, some SLA forces came to their base at Gbap (Nongoba Bullom Chiefdom) in order to expand their number in the area. They dispatched some troops at Yele (Nongoba Bullom Chiefdom) and at Massa Kpanguma (Kwamebai Krim Chiefdom); in August, others were sent at Sohlon (Nongoba Bullom Chiefdom), on the other the bank of the river.[1182] Young men were asked to be vigilantes at various locations in Gbap Town. The fishermen were required to put the Sierra Leonean flag on their fishing boat, to allow the SLA to monitor and control the movement of boats on the river. At this time, the SLA only required civilians to provide fish for the troops and there were no reported incidents of physical violence or ill-treatment. At one time, when the civilians could not give them fish, the SLA took some livestock away from the people of the town and prepared it as food for the forces. However, this stopped when civilians told the forces that they would complain to their commanding officer.

In October 1993, SLA forces from Bonthe Town (Sherbro Island) visited Tissana (Nongoba Bullom Chiefdom) on a security tour. The troops harassed the civilians by forcing them to contribute money for their feeding. Those who failed to pay were beaten up and a teacher who incited the people not to pay was imprisoned. SLA forces also took away some property of the civilians, including fish and livestock. Civilians were detained at a Court Barrie while the SLA forces searched their homes and took away what they found.

Also in October 1993, a small group of armed men travelled along the Wanjei River and stopped in Baoma Section, west of Nongoba Bullom Chiefdom. They were all dressed in country clothes and had masks covering their faces. One of them who was speaking Liberian dialect told the civilians they were from Burkina Faso. They took away some food items and alcohol they found in the town and forced civilians to carry this load to a crossing point, where they were released. Burkinabe

[1182] This deployment was probably done to allow SLA to have control over the river, which leads to the ocean in the west, thus preventing the RUF forces not only from making incursions in the chiefdom but also from advancing towards Bonthe Town.

mercenaries also entered Mecca (Bendu Cha Chiefdom, west of Nongoba Bullom Chiefdom),[1183] where they took the property of civilians and forced elderly people to carry loads for them. A man who had never drunk any alcohol before was forced to drink wine to excess by one of the forces. It appeared that those armed men had come from Pujehun District and were on a raiding tour of villages in Nongoba Bullom and Bendu Cha Chiefdoms. At one point, SLA forces from Bonthe Town were informed about those armed men and laid an ambush in Nongoba Bullom Chiefdom, where many of the armed men were killed and some captured. A civilian was arrested and taken to Bonthe Town together with the captured forces for interrogation; they were all killed in Bonthe Town.[1184]

d) Events in 1994

Throughout 1994, RUF activities were mainly reported in the eastern chiefdoms of Bonthe District, in Kwamebai Krim, Bum and Nongoba Bullom Chiefdoms.[1185]

In the first week of May 1994, SLA forces based at Bonthe Town (Sherbro Island) entered Mina village and ambushed some RUF forces on their day patrol. The SLA forces attacked the first loaded boat of the RUF troops heading for the town in the early morning hours. Forty-seven of them were killed, including five women, and 12 were seriously wounded. On their way back to their base the RUF forces entered Mano (Nongoba Bullom Chiefdom) and captured a girl of 11 years old, whom they raped. They further went to Topain where they established a base. When the SLA forces realised that the RUF forces had left Mass Kpanguma, they immediately re-established a base there. They later attacked and dislodged the RUF forces at Topain, occupying that town as well.

Pelewahun was attacked by the RUF forces on 14 May 1994 and several people were killed in the town, including elderly people and children as young as seven, some of them being hacked to death. People who remained in the town had absolutely nothing to survive on as the forces took all the property in the town. After a month, in June 1994, Mass Kpanguma was attacked. At the time of the attack, the town was full of displaced people from the neighbouring chiefdoms of Pujehun District. The attack did not appear to be a surprise to the SLA forces based there, as some of them had already left the town the previous day with their relations.[1186] During the attack, the remaining SLA forces were overpowered and some were killed. Immediately afterwards, civilians in the

[1183] Although it is not specified when in 1993 those mercenaries reached Bendu Cha Chiefdom, we can infer from the information collected in Nongoba Bullom Chiefdom that they reached Bendu Cha Chiefdom around the same time.

[1184] It cannot be ascertained whether those arrested men went through any kind of process before being killed.

[1185] In 1993, most of the NPFL forces had been recalled by their leader to fight in Liberia as the United Liberation Movement for Democracy in Liberia (ULIMO), a fighting faction that emerged in May 1991, started to defeat them in various areas in Liberia. Thus, the troops that entered Sierra Leone in 1994 were mostly composed of RUF forces whose number had considerably increased from the 250 men at the beginning of the conflict, due to the conscription that had been carried out.

[1186] The day before the attack, SLA forces based at Massa Kpanguma came to Tei and told civilians they were going to Bonthe Town to get their salaries. They however told their relatives to pack quickly things they could lay hand on and to leave Tei for a safer area. It can however not be inferred from this information that the SLA acted in concert with the RUF forces during the attack. It rather seems that, having heard about the incoming attack, the SLA deserted the area.

neighbouring villages fled their houses and went into hiding in the bush, sometimes in neighbouring chiefdoms like Bum Chiefdom.[1187] This control over strategic towns in Kwamebai Krim District would allow the RUF to continue its advance in the District.[1188]

On 17 July 1994, the RUF forces made a move to recapture Bum Chiefdom from the SLA forces,[1189] following the Sewa River and arriving from Tormabum, on the main road to Madina. Four truckloads of SLA forces together with their families and some vigilantes retreated from the chiefdom without putting up any resistance to the RUF/NPFL forces, because the SLA forces were far outnumbered. As a result, by August 1994, the RUF forces had taken control of the entire chiefdom and settled in almost all the villages, making Madina their administrative town. The forces had limited number of Liberians among them at this time and were mainly Sierra Leoneans who came through Tormabum along the Sewa River. Their behaviour towards civilians was different from the previous years, as it was reported they were violently hostile to every civilian they came across, killing unspecified numbers whenever they entered a town. At this period, the RUF forces were dressed in such a way[1190] that suggests they had been living in the bush for quite some time.

RUF forces attacked the town of Kanga Oil Mill (Bum Chiefdom) during the night to recapture it from the SLA forces based there.[1191] They met no resistance from the SLA forces, as they killed a lot of civilians even before they entered the town. Houses were burnt and many people killed in the town. In the first two weeks after they recaptured the town there was indiscriminate killing of civilians because they regarded everyone to be the "enemy". Civilians were forced to abandon the town for camps in the bush. They were later hunted and brought back into the town by the forces; those who refused to come were killed in the bush. This forced the civilians to return to the town, particularly following an incident where RUF forces killed two people in the bush to underscore their threats. Furthermore, it is worth noting that most of the RUF members were inhabitants of the chiefdom, who had earlier been abducted by the RUF forces. Raping and killing of civilians was an everyday occurrence. More young men and women were conscripted and people were forced to carry loads for the forces.

After two months in Madina, during which time they went on patrol missions, the RUF forces entered the village of Mami, a fairly large village situated six miles south of Madina. The RUF forces were engaged in a house-to-house search in the village when they saw some military uniforms in one

[1187] It however seems that the RUF did not settle in the area for a long time as in December 1994, civilians who had fled their villages went back and did not encounter any RUF activity.

[1188] The control over Mass Kpanguma would give access to the Wanjei River, which merges with the Sewa River in Nongoba Bullom Chiefdom.

[1189] Early in 1994, RUF forces dislodged the SLA forces that had been in Bagbo Chiefdom (Bo District) for two years, thus allowing the RUF to attack Bum Chiefdom, knowing the SLA would not be reinforced by those who used to be based at Momajoe (Bagbo Chiefdom, Bo District), a few miles from Madina Town. Bum Chiefdom adjoins the southern part of Bagbo Chiefdom (Bo District).

[1190] These forces were roughly dressed in jeans and t-shirts, with slippers on their feet and very few military boots, although their attire improved as they stole more clothes from civilians.

[1191] Although the report mentions that the town was attacked in December 1994, it is clear that it took place shortly after Madina town was attacked and prior to the incident in Mami (see below) took place. Accordingly, it probably took place earlier than December.

of the houses. The inhabitants were all gathered to explain why military uniforms should be found in the village. The chief and his wife were first called upon to explain; when they failed to do so they were both shot dead. A woman in the front row was then picked to explain and when she could not, she was told to undress. Her son was called upon and told to do the same. He was then told to have sex with his mother in the presence of everybody. Shocked and panicked, he could not do it and they were both shot dead. Another woman was picked from the crowd and shot in the head. Although the troops were only three in number, the people were so terrified that they were unable to escape. Four more people were killed that day, making a total of eight. Four girls were raped on the same day and 17 more were abducted. Property was taken and removed from the village on the same day.

In a small village called Tarsor (Bum Chiefdom) located near a stream, the decomposed bodies of two RUF child combatants who had earlier gone missing were found on the seashore. Around 30 people who were found in the village were quickly gathered and asked to explain by the RUF forces. No one knew anything about the death of the boys and could not explain anything to the satisfaction of the RUF forces. Six people were immediately shot and killed and the other people were tied up and made to lie in the sun. Rubber was melted and dropped in their eyes. This was done to both young and old, including babies. Fifteen houses were burnt in the town and the farmhouses were destroyed, at which time seven more people were killed. At Bisoa, at the boundary with Kwamebai Krim Chiefdom, RUF forces burnt six houses at night and killed 18 people on the grounds they were harbouring SLA forces.[1192]

Madina was made a training base for the abducted young men and boys; drugs were allegedly given to them during the course of the training that took place at the school compound, during which young girls were also trained as fighters. Although not all of them were given weapons after the training, these new recruits were used to attack SLA positions in Pujehun and Bo Districts. RUF forces also had a training base at Torma, where conscripted civilians were sent for training. The training was carried out in two phases. Training to fight was done during the first phase and then trainees were drugged during the second phase. Most of the boys that were trained in this way were below 15 years of age and they were usually sent on looting patrols called "mission" for their commander.

During their stay in Bum Chiefdom in 1994, the RUF did not face any counter-attack by government troops. This firm control over Bum Chiefdom would only be the prelude for further incursions into the District in early 1995 from Bo District.

In November and December 1994, six months after the SLA established a navy base in Bonthe Town, those navy forces patrolled the waters in Sittia and Dema Chiefdoms on the pretext that they were chasing away illegal foreign trawlers, despite the fact they never met any trawlers during their patrols. Their visits were sometime announced to the Chiefs in advance, who consequently taxed the civilians to contribute money for the feeding of the SLA members. On one occasion, the SLA forces called the people and local authorities at Tissana (Dema Chiefdom) to a meeting at which they

[1192] It was however revealed that this village did not host SLA forces.

demanded that they should be supported financially so they could protect the lives and properties of the civilians. Women were required to give Le 1,000 and men had to give Le 1,500. One civilian, who incited the others not to give this money, on the grounds that the SLA was already paid, was arrested and put in a cell. This meeting concluded with a token by the Paramount Chief of Le 500,000;[1193] once the SLA forces had sufficient money and food, they released the civilian who had earlier been detained.

Around this time, rumours of impending RUF attacks were spreading across almost the entire District and in late December, a Catholic priest of St. Ambrose Parish who was travelling from Rutile (Imperi Chiefdom) to Mattru (Jong Chiefdom) ran into armed RUF men. He was flogged by them and given a letter for the people of Mattru together with the sum of Le 6,000. On his arrival in Mattru, he informed the Chiefs and other civilians what had happened and gave them the letter. Most people abandoned the town for bigger towns like Bo and Freetown on account of this while others went to villages like Blama, Kabati, Wongifor, Bisao and Nyandehun all in the neighbouring chiefdoms. Furthermore, three RUF members who disguised themselves as State Security Division (SSD) officers were arrested at a dance organised by the people of Mattru (Jong Chiefdom) on 25 December 1994. They later confessed that they were RUF spies.

e) Events in 1995

On 19 January 1995, RUF forces attacked the Sierra Rutile Company in the north of Imperi Chiefdom.[1194] In the morning, three groups of RUF forces[1195] passed in succession by Moriba, heading to the plant-mining site where they were to gather. With them, they had abductees from the Sieromco Bauxite Mining Company in Mokanji (Banta Chiefdom, Moyamba District), which they had attacked the day before.[1196] They did not shoot while they were going to the mining site but took with them a large number of people of all ages and both sexes. The whole population was in panic but the RUF told them that they were not here for them but for the SLA forces so that they should join their movement, which some civilians did. They arrested all the junior staff at Kpanguma, 100 yards from the mining site. When they arrived at the senior staff quarters at Mobimbi, they started shooting and arrested some of the staff, including foreign workers. Soon after, they were in control of the mining site, where they fired their weapons for some time and took almost all the property

[1193] As a very rough guide, five hundred thousands Leones is approximately equivalent to 250 USD. This should be placed in the context of Sierra Leone's position at the bottom of the Human Development Index: between 1991 and 2000, 57% of the population lived on less than 1 USD (2.000 SLL) per day and 74.5% lived on less than 2 USD (4.000 SLL) per day: see UNDP Human Development Report 2003, http://www.undp.org/hdr2003/indicator/cty_f_SLE.html, last visited on 30 December 2003.

[1194] The Sierra Rutile was the world second largest producer of rutile, used in paints; before the war, the rutile extracted from this site represented 50% of Sierra Leone's total exports and 3,000 people were employed at the mining sites: AFP, 11 March 1997. At the time of this attack, the mine was in the middle of a major expansion program: Africa Review World of Information, 1 September 1995.

[1195] Numbering 40, 80 and nearly 100 men in the respective groups, the RUF forces were equipped with AK47 and RPGs.

[1196] This Swiss-owned mine was the world's largest producer of bauxite. These mining areas in Moyamba and Bonthe Districts were the two most important economical sectors after Kailahun and Kono Districts had fallen in 1992 and 1993, thereby depriving the Government of significant resources coming from the mining of diamond and the cultivation of cash crops like coffee and cacao.

from the area, including vehicles, money, fuel, engines, medicines, food, livestock and other items taken from the company itself. RUF forces started giving food to civilians, which once more convinced civilians to join them.

At the time of the attack, foreign troops[1197] and SLA forces were deployed in the area; members of the SSD (Special Security Division) were in charge of the security of the company. SLA and foreign troops made attempts to dislodge the RUF forces and finally succeeded on 30 January, at which time the RUF retreated to areas not far from the mining site. Doubts were raised among the civilians on the role played by the SSD and especially its commander in the overrun of the mining site by the RUF.[1198]

At the end of January 1995, RUF forces attacked and captured Mattru (Jong Chiefdom) without much resistance, as it seems the SLA had already pulled out of the town. While the bulk of these forces most likely came from Imperi Chiefdom, it is possible that some of these forces came from Lugbu Chiefdom (Bo District)[1199] through Gbonge, stopping at the crossroad between the main road going west to Mattru and a southern one going to the chiefdom headquarter of Tihun (Sogbini Chiefdom), at which time they decided to attack Mattru. When they entered the town, the RUF forces did not kill people or destroy property, informing civilians that they were only against the NPRC government and the government soldiers.[1200] As they settled in the town, they put in place structures to administer the town and the chiefdom, including the appointment of Town Commanders and Town Mothers. They also appointed adjunct clerks who, in charge of the control of movement in the chiefdom, were responsible for issuing passes allowing civilians to go from one area to another. They encouraged civilians to join them by giving them food, medicine, clothes and other items. However, this behaviour was not to last long and soon they began to act in a manner contrary to their words.

During the first weeks of their stay in the town,[1201] they lived on the food and other items they had taken away from the Sierra Rutile but as they run out of those items, they forced civilians to work for them, notably by repairing and maintaining the ferry on the Jong River that allowed RUF forces to use the direct road to Sierra Rutile, where they had a lot of stolen property stored. Vehicles from civilians were used for this purpose. Civilians were also required to undertake other tasks; everyday, the young men each had to bring a bag of cassava and women had to bring vegetables, water and wood, as well as cook the food. Failure to carry out these tasks brought punishments, like being beaten or tied up and laid under the sun; the most severe punishment was death, for example if a civilian refused to give vegetables from his or her garden or if a civilian was caught hiding in the bush, like one woman who was shot at Luawa, near Mattru, in April. People were also brought from other towns and villages and killed for similar reasons at the RUF headquarter in Mattru. Youths,

---

[1197] The records mention ECOMOG but this refers to either Nigerian or Guinean troops.

[1198] The commander would have carried arms and ammunitions for the RUF at the mining site, once the RUF had overrun it and would have gone in surrounding villages

[1199] Lugbu Chiefdom adjoins Kpanda Kemo Chiefdom on the east. Its headquarter town, Sumbuya, is on the main road that leads to Mattru (Jong Chiefdom). Since 1994, Lugbu Chiefdom had been under RUF control.

[1200] Mattru was the hometown of the Vice Chairman of the NPRC and two Government Ministers.

[1201] RUF forces would occupy the town for eight months before being dislodged by the SLA in October.

mostly between the ages of eight and seventeen, were also brought from the surrounding towns and villages to be conscripted.

Two bases were established in the chiefdom, one at Mattru and the other at Gambia Oil Mill. The RUF forces stole the supply of medicine and other items at the government hospital in Mattru and turned the hospital into a training base. The base at Gambia Oil Mill, nine mile from Mattru, was called "Camp Lion"[1202] and hosted the more mature and top ranking members. To build the camp, the RUF forces unroofed houses in the surrounding villages. The new recruits who were trained in Mattru were presented to the commander at Camp Lion for approval to be sent at the war front.

The RUF forces also burnt down many houses in the town, including the entire compound of the Paramount Chief as well as houses that were allegedly empty. Occupied houses were also burnt and in one incident, two civilians who went back to their burnt house to gather some of the things that had not been destroyed were stopped by the RUF forces; one was killed and the other mutilated. Throughout the chiefdom, civilians' property, including furniture, clothing and money, was taken away, which led civilians to hide some of their belongings. When the RUF forces discovered that civilians were hiding property, they would take a member of the family, who would be forced at gunpoint to show them the hiding place. As at that time condiments and tobacco were only to be found in areas under SLA control, any civilian found with those items would be killed. Radios were also not allowed, to prevent civilians from hearing independent news about the war. During the time of their stay, both young and old women, including girls as young as 10, were sexually assaulted, sometimes in public and by more than one RUF member. People who escaped in to the bush were later hunted down and brought back into the town; some people were killed in the bush and their property taken.

RUF forces settled in many areas in the chiefdom, such as in Blama, south-east of Mattru, and Biawo, north-east of Mattru. When they settled in these villages, they carried out the same actions as previously described, including forcing civilians to work, to go hunting and to carry the load and conscripting children. In addition, they deposed existing authorities and installed their own structures, including the appointment of Town Commanders and Town Mothers, and established the "pass" system. At Blama, the Town Commander was sent to Camp Zogoda to be trained.[1203]

On 3 February 1995, a very large number of RUF forces entered the headquarter town of Tihun (Sogbini Chiefdom). Over 1,000 people were in Tihun at the time the RUF forces entered it, at which time they gathered all the civilians they met in the town, including the Town Chief. Gathering the inhabitants at the Court Barrie, the RUF forces asked the civilians who identified themselves as members of the Bio family (relations of the then NPRC Deputy Head of State, Brigadier Julius Maada Bio) to step forward. Many civilians did step forward, even if they did not belong to the family, thinking that the RUF forces were doing this to protect them; however, everyone who

[1202] This was a generic name for training bases and other Camp Lions existed in the country, notably in Makeni (Bombali District).

[1203] This Camp Zogoda, although it is a generic name, probably refers to the important camp located in Koya Chiefdom (Kenema District).

stepped forward was then killed.[1204] Other civilians were killed on that day, including two girls and an elderly woman. Over 34 houses were also burnt down in the town, a large amount of property was taken and a lot of people were captured.

The following day, the captured civilians, including the Town Chief, three white foreigners taken from the Sieromco Company in Mokanji (Moyamba District) and hundreds of others captured from Mattru, were marshalled towards the town of Senjehun (Kpanda Kemo Chiefdom), near the Sewa River.[1205] They stopped at a junction near Senjehun, where the abductees, who were carrying stolen property for the RUF forces, were divided into five groups. The Town Chief was told that the troops were heading for their base at Camp Zogoda in Kenema District (Koya Chiefdom), where the RUF leader used to stay. These forces further explained that they had captured some elderly men, as the RUF wanted elderly people advise the parliamentarians they would have once they seized power in the House of Parliament. Some civilians, headed by the Town Chief of Tihun, were then told to go back to Tihun under an RUF escort while the others proceeded to Senjehun carrying the stolen property, crossed the Sewa River at Borleh and headed for Madina (Bum Chiefdom), from where the RUF said the civilians from Madina would continue the journey to Camp Zogoda.

Soon after this attack, SLA troops were sent to secure the town of Tihun. On 11 February 1995, the RUF attacked the town but faced stiff resistance from the SLA forces based there. Several other unsuccessful attempts were made by the RUF to recapture the town between 11 and 18 February, when the SLA forces were dislodged from the town by a strong and fierce attack. A lot of civilians were killed; young men, women and girls were abducted; and several houses were burnt. Children got lost in the battle and a lot of property was taken and carried away by the RUF forces, who left the town on the same day of the attack.[1206] They went to neighbouring villages like Moyorgbo, Gerehun, Bauya Junction and Karleh, where they took away and destroyed civilian property and abducted several people. In each village or town they visited, they deposed the traditional chiefs and appointed Town Commanders, Town Mothers and clerks, who assumed administrative responsibilities and the running of the towns and villages. As in other places, a system of "passes" was established and civilians caught travelling without their pass were severely beaten.

When they entered Bauya Junction, RUF forces wrote "RUF" on the doors of civilian houses before leaving for the nearby village of Semabu, two miles from Bauya Junction. People in Bauya fled into the bush as sooner as the RUF forces left the town. That same night, the RUF forces returned from Semabu, together with a large number of young men who carried property the RUF forces had taken from the people of Semabu. Some of the RUF forces then took the property to "Camp Charlie",[1207] returning four days later. They asked the civilians to return to the towns and stop

[1204] It is estimated that around 300 people were killed during this incident.

[1205] Information from Kpanda Kemo Chiefdom confirms that this chiefdom was used as a transit chiefdom for RUF forces, who did not settle there but used it to transport their stolen property, including televisions, bags of rice, corrugated iron sheets and food items, across the Sewa River and through Sumbuya (Lugbu Chiefdom, Bo District) to Camp Zogoda in Kenema District.

[1206] Although it is not certain whether RUF forces came back to the town, it is clear that SLA forces did not launch any counter-attack the following months.

[1207] There was one famous "Camp Charlie" near Mile 91 (Yoni Chiefdom, Tonkolili District).

sleeping in camps in the bush. They also imposed laws on civilians preventing them from travelling to Bo Town (Bo District) without permits; people caught travelling without the permit would be killed. Indeed, movement from one place to the other could only be done with a "pass". The forces elected administrative leaders in the town and surrounding villages. Often, people accused of coming from Bo by the RUF forces were shot dead without questioning. People were also killed if they were found with tobacco or food items like fish and any manufactured goods, as this was considered to be proof that they had gone to areas controlled by SLA forces, which were the only areas such items were available.

This continued for up to three months, when the RUF forces introduced another system known as "Man Power", by which civilians were forced to carry loads for distances of about 50 miles. At that time, wives of civilians forcefully became the "wives" of the RUF forces and the husbands were to thank them whenever they had intercourse with their wives. Civilians were also forced to have sexual intercourse with their relatives in public and those who refused to do so were killed.

Also in February 1995, RUF forces entered the headquarter town of Matuo (Kpanda Kemo Chiefdom), killed two civilians and burnt down 16 buildings including the Court Barrie. At Senjehun, a town used as a crossing point on the Sewa River, the forces terrorised the civilians by killing several people, burning down several houses and destroying the boats they found at the waterside in the town, on the grounds that civilians were using the village as an escape way to Bo District and other places.[1208]

During that month,[1209] SLA forces based in Bonthe Town regularly patrolled the sea route in the north-west of Bonthe District between Dema Chiefdom and Gbangbatoke (Banta Chiefdom, Moyamba District). Civilians were banned from going to sea for fishing in this area, as the SLA feared that RUF forces might attack them and use their boats to continue their advance in the District. Civilians however continued to travel to Gbangbatoke, at night and SLA forces started to chase them and once captured, took away their fish and sometimes killed the faulting civilians.

On 25 February, the RUF made a successful counter-attack at the rutile mining site (Imperi Chiefdom), dislodging the SLA forces based there. During their stay, their behaviour was not as friendly as during their first stay. On the contrary, they told civilians that because civilians in the area had taken the side of the Government when the RUF was dislodged on 30 January, they would not spare any soul in the area. On that day in Imperi Chiefdom, in villages such as Mogwemo, Kpanguma and Moriba, the RUF forces ransacked villages, indiscriminately killed civilians, forced civilians into houses and set fire to them, destroyed and burnt houses, raped women and girls, conscripted young people into their movement and forced civilians to work for them. As in other places, any civilian caught with condiments or tobacco would be accused of going to areas under SLA control, where those items could be found, and would be killed.

[1208] The same forces also entered Lawana (Bumpeh Chiefdom, Bo District) where they burnt down five houses and stole a lot of civilian property. They also killed four old people who were unable to escape from the attack. The town was attacked because of rumours that diamond mining was going on and a big diamond had been found there.

[1209] It is likely that this was a practice that was carried out for a number of months around February 1995.

Following the recapture of the mining area, RUF forces scattered throughout almost the entire chiefdom, taking control of the area for over eight months before being dislodged by SLA forces in November. For example, RUF forces entered Gbangbama on 20 February 1995, where they stole a lot of property, killed two people and captured many others. One week later, on 27 February 1995, the forces attacked the nearby village of Folnda. They took a lot of property, killed one civilian and abducted many others, who were forced to carry the stolen property to Mobimbi, which was previously the headquarter of the senior staff of the Sierra Rutile Company and became the RUF headquarters when they re-captured the town. Another example is Gandema, which was attacked on 1 March 1995. RUF forces invaded the village in the north of the District with heavy gunfire. They remarked that civilians were ungrateful to them, as they had laid down their lives to fight against the dictatorship government of the NPRC, which had earlier toppled the APC government. They described the NPRC government as selfish, not transparent and unaccountable. The RUF forces attacked the village from its landlocked side, leaving the direction to the river open; accordingly, people fled from the continuous gunfire into the river where some, who were unable to swim, drowned while others were shot. In the village, RUF forces captured civilians, killed some and conscripted others. These forces also took a lot of property, which they then transported to their headquarters.

These continuous attacks on the villages in the chiefdom led the majority of the population to leave Imperi Chiefdom and to find refuge in more secure areas like Bonthe Town on Sherbro Island. Their control of the chiefdoms in the north of the District, where the strategic roads spreading through the rest of the District originate, allowed RUF forces to proceed further southwards to Yawbeko, Nongoba Bullom and Bendu Cha Chiefdoms In these chiefdoms, most of the civilians were already living in camps in the bush, after they heard about the attacks in the north of the District. Furthermore, it is believed that the attack on the mining company, which led hundred of civilians jobless, resulted in increased favourable public opinion for the expansion of the Kamajors in the chiefdom.

The situation for Kwamebai Krim Chiefdom was, however, slightly different as it seems that the first RUF attack in the chiefdom, which took place in February 1995, originated from Pujehun District.[210] Civilians ran into the bush leaving behind children and elderly people who were unable to run. Those forces, dressed in military attire,[211] identified themselves as RUF forces based at Sulima (Soro Gbema Chiefdom, Pujehun District). Young girls who were caught were raped in front of their parents, including a 10-year-old girl, who was severely traumatised and remained ill for a long time. A lot of civilians were appointed as labourers to carry property as far as Dama, some 11 miles from Topain, where they were released and ordered to return back to Dama. People abandoned the town and stayed in the bush, where life rapidly became unbearable. Several visits were made to the town by the RUF forces in the following days but no one was found in the town so they stopped going there.

[210] Although RUF forces were reported to be in the chiefdom in 1994, it seems that an important attack was carried out on the chiefdom from Pujehun District.

[211] Starting in 1992, RUF forces acquired uniforms from the SLA, often taken after a battle. Some of those uniforms also came with SLA members who deserted their ranks to join the RUF.

Most of their activities were then carried out at Bandakor, from where they raided the neighbouring villages. Tei was also attacked in February, at a time when most of the people had gone to their farms or fishing, leaving the youngest and eldest in the town. The RUF forces burnt down the whole town, including the school, the UBC church and the Town Barrie and took away property such as fishing nets, canoes, seed rice, livestock and poultry. Five civilians were killed, among them an 85 year-old man, and some young people were abducted and forced to carry the load.

During one of their raids on the villages, three young men at Kale resisted the attack and killed two of the RUF forces. Civilians in the neighbouring towns and chiefdoms were informed and they immediately formed civilian-fighting groups or local militia to defend themselves, since the SLA forces was no longer able to contain the RUF advance. This group was composed of Kamajors, a Mende word for hunters. Civilians started contributing to the support of this civil force, donating single barrel guns and money for the purchase of cartridges. Other weapons like knives, spears and machetes were made by blacksmiths in the chiefdoms as part of their contributions.[1212] The main place for initiation was at Kalleh Wanjama (Kwamebai Krim Chiefdom) but, as the group expanded, it was further divided into sections with its headquarter base at Kale, south of Topain.

On 21 March 1995, around 120 RUF members coming from Jong Chiefdom, dressed in new combat attire with red cloth tied around their necks, entered the town of Baoma (north-east of Nongoba Bullom Chiefdom) as they had heard SLA forces were in the area. The RUF forces made civilians they met in the town lead them to the farmhouses, where they took civilians' property, including food items and livestock, and captured a lot of civilians to be trained as fighters. They then went north-east to the town of Gambia (Jong Chiefdom) with all the stolen property. The attack was reported to the SLA forces based at Gbap, south-west of Baoma. They came to the town two days afterwards, took the remaining food items and livestock and returned to Gbap. On hearing about SLA troop movements, a large number of RUF forces came back to the town on 27 March 1995. One man who was asked whether he had informed the SLA about the first attack was tied up and stripped naked, as was another man. The first man was hit with a bladed weapon on his neck until he died while the second one had his genital organ cut off before being hacked to death. On the same day, RUF forces went looting in the surrounding villages, burnt down houses and came back to Baoma with captives carrying their load before leaving the town for Gambia (Jong Chiefdom).

Two members of the RUF re-entered Baoma about a week later, on 5 April 1995. They encouraged an old man they found in the village to call all the civilians who were hiding in the bush to return to the town, as there was no other person in the town, but nobody responded to the old man's appeal. A few days later, the RUF forces raided the camps of the civilians in the bush and burnt down several huts and destroyed other property. They threatened to kill all those who failed to return to the town, as a result of which civilians returned to the town a few days later. Town Commanders were appointed and arrangements were made for the support of the forces while they were in the town. However the Town Commanders were fearful for their lives, having heard that SLA forces

[1212] The support of the force was voluntary at the beginning but as time went on it became compulsory and also included provision of food and other essential materials for the Kamajors.

killed civilians appointed as Town Commanders and those who stayed with the RUF on the grounds that they were collaborators, so they advised the civilians to escape back into the bush.

The RUF forces continued to harass civilians in the neighbouring towns and villages. Also in April, the RUF forces dislodged the SLA from Gbap, where civilians had already fled the town. The retreating SLA forces went to Bonthe Town before coming to the chiefdom between May and June and settle at Yele, south west of Gbap. From Yele, the SLA exhorted the civilians to leave the Baoma area, as they were going to launch an offensive on the RUF. The SLA did not however succeed in dislodging the RUF forces who themselves launched a counter-attack on SLA position at Yele five days later. During this counter-attack, RUF forces killed a large number of civilians and a few SLA forces. The few remaining SLA forces left for Bonthe Town and the RUF went back to Baoma, burning down some houses before leaving.

Around April, RUF forces attacked and settled in many villages in Yawbeko Chiefdom, in the centre of the District, including the chiefdom headquarter of Talia.[1213] The pattern they followed in the villages they entered was similar to what they had done so far in the north of the District. Local authorities were particularly targeted, deposed and replaced by Town Commanders and Town Mothers. Some of the local authorities were also molested and killed.

RUF forces coming from Jong Chiefdom reached Bendu Cha Chiefdom in May 1995.[1214] Their arrival was accompanied by severe brutality towards civilians and instances of killing, often with bladed weapons, raping, burning of houses, stealing of civilians' property and abduction of civilians were commonplace. For example, in May 1995, RUF forces reached Tigbe from Jong Chiefdom and shoot and killed two fleeing civilians. The forces cut off the dead men's genital organs, which they placed in the mouths of the bodies and left the mutilated corpses on the road. They then burnt down 10 houses before proceeding to another village, Tisama, where they beat a man with sticks almost to the point of death. Also in May, some RUF forces on their way to Malama passed by Molamdeh. They burnt a house in which a sick woman was lying in bed, allegedly because she did not give them water as they had asked. Once in Malama, they took a lot of property, including food items, which they forced captured civilians to carry to their base at Baoma (Nongoba Bullom Chiefdom). They also killed a petty trader who refused to give them money.

Fighting between the RUF on one hand and SLA forces assisted with Kamajors on the other hand continued in Kwamebai Krim Chiefdom. On 25 May 1995, RUF forces located the hidden camp at Taifa, where civilians from Tei had found refuge, and attacked it. The SLA and the Kamajors fought the RUF forces and a big battle took place at Tamgbassi, two miles from Taifa. About 50 RUF forces were killed while 10 SLA members and two Kamajors died.

Another heavy battle took place at Bombokor (Kwamebai Krim chiefdom) on 7 June 1995 as a result of which the RUF forces were dislodged; about 25 of them killed while five were captured alive. There were no civilian fatalities reported to have been committed by the SLA, as their

[1213] The date of their arrival in Talia could not be determined with precision. More details will be added for Yawbeko Chiefdom.

[1214] Bendu Cha Chiefdom is a small chiefdom on the western edge of mainland Bonthe.

commander[1213] ordered his forces not to shoot civilians. The SLA commander also returned the stolen property left behind by the retreating RUF forces to the civilians.[1214] On their way back to their base after the defeat at Bombokor, the RUF forces, apparently in retaliation, raped, beat and killed civilians with bladed weapons, including young children. Nevertheless, the RUF forces were driven entirely from the Kwamebai Krim Chiefdom. As such there was great influx of civilians from the other chiefdoms into Kwamebai Krim, which caused a lot of hunger, starvation and disease, as there were not enough food and medicine.

However, RUF forces maintained control over chiefdoms in the centre of the District and continued their actions against civilians. For example, sometime in June 1995, RUF forces entered the village of Ghaloh (Bendu Cha Chiefdom), captured civilians, flogged some and later killed some of them. They also entered Bormimahun village but found no one in the town. They burnt down all the houses and traced the footprints of people to the camp in which they were hiding, where they killed some civilians and abducted the rest. As they were about to leave, they set fire to seven houses in the town. Kanga village was also raided and eight houses were burnt down and several civilians were abducted, including a 15-year old girl together with other women. The following month, civilians made another camp between the boundary of Jong and Bendu Cha Chiefdoms in the northwest of Bendu Cha Chiefdom.[1215] At some point during the month, this camp came under the attack of the RUF forces at about 6.00pm. A baby boy was hit with bladed weapons by the RUF forces. Several people were captured and girls were raped and abducted.

Again in Bendu Cha Chiefdom, on 30 August 1995, RUF troops coming from Baiama (Jong Chiefdom) attacked Momaya, where they abducted civilians, including one man whom they recruited into their fighting force and some young girls, who they made their wives. The RUF forces then headed to Bawoma and Kpetema (both in Jong Chiefdom). On their way they killed two civilians. On or around 15 September, the Muslim festival day of Eid al Adha, RUF forces attacked civilians who had moved out of their camps to observe prayers around Mindohun village. Civilians were captured in the mosques and abducted; two men were killed, allegedly because they did not properly carry out a task the RUF forces had asked them. On their way out, they encountered a young man of about 30, who they suspected of being an SLA member, so they tied him to a stick, poured petrol over him and set him on fire.

As RUF forces were progressing and affirming their control of the District, except Sherbro Island, and the SLA were increasingly unable to defend the District, rumours about the Kamajors began to reach Bonthe Town. This consisted of information about the development of Kamajors, armed

---

[1213] This SLA officer who used to be based in the Nongoba Bullom Chiefdom favoured the idea of these local militia fighting alongside the SLA to bring the war to a speedy conclusion in the District.

[1214] However, this action of the commander made his men dissatisfied and they became disgruntled. Shortly after, the SLA forces were over powered by the RUF during an encounter in the west of the Chiefdom; it was said the SLA forces could not face this battle, mainly due to the loss of morale following the episode of looting at Bombokor. Those RUF forces required that the commander identify himself and one junior SLA member pointed out the commander, who was then killed by the RUF forces.

[1215] Civilians were leaving the camp during the day to go farming or fishing and were coming back after their activities.

with cutlasses and knives and rumoured to have mystical powers, who were coming together to restore peace in their villages in Kwamebai Krim Chiefdom. At this time, Bonthe Town was full of displaced people and the local authorities decided to send around 300 youths to the area where initiations were being performed.[1218] Once initiated, the Kamajors went back to various areas in the District, engaging the RUF forces and, initially, working hand in hand with the SLA.

On their return from their initiation, a group of Kamajors engaged the RUF forces based at Baoma (Nongoba Bullom Chiefdom) with heavy firing between September and October 1995. About 22 members of the RUF were killed and several of them and their wives were captured. They were taken to the Kamajor base at Karleh Wanjama (Kwamebai Krim Chiefdom). Following the attack, the RUF completely left Baoma but one week later they regrouped and launched a counter-attack. They succeeded in dislodging the Kamajors and burnt down the remaining houses in the town. On 5 November 1995, Kamajors also launched a fierce counter-attack on the RUF forces at Baoma. They finally succeeded in ousting them out of Baoma and Gbap and entirely chased them out of the Nongoba Bullom Chiefdom. This was the final battle between the RUF forces and the Kamajors in the chiefdom. Civilians returned to resettle in the various towns and villages in the chiefdom and also in the neighbouring Yawbeko Chiefdom.

In late October, rumours of imminent SLA attacks[1219] and sounds of heavy gun firing coming from the Bo road led some of the RUF forces based at Mattru (Jong Chiefdom) to leave the town for Senehun, in the south-west, and Gbonge (Kpanda Kemo Chiefdom),[1220] although those based at Camp Lion refused either to leave or to release the civilians. On 25 October, a group of SLA Forces known as "Special Task Force" and composed mainly of ULIMO forces entered Mattru with heavy gunfire. They were accompanied by two jets, which were clearing the way for them before they entered the town. The RUF forces who had stayed in Mattru deserted their base as soon as the members of the Task Force arrived in the town, after killing many civilians who were with them. The following day, the Task Force attacked the RUF at Camp Lion in the north of Mattru Town. A lot of civilians including men, women and children were killed during that attack and the survivors were all brought into Mattru Town. Civilians in neighbouring villages were also requested by the Task Force to come and live in Mattru Town. While bringing civilians from the villages to Mattru, the Task Force faced pockets of resistance from the RUF but continued to defeat the RUF forces who, while retreating, imposed great havoc on the population, burning down houses wherever they were dislodged and killing many civilians. For example, in Kale Kowama, RUF forces retreating from Blama came across a family (parents and two small children) and killed the two parents.

[1218] The local authorities asked the representatives of the chiefdoms, who had found refuge in Bonthe Town, to present a number of their young men.

[1219] Starting in August, SLA forces, who had just received military training from the South African mercenaries company Executive Outcomes, who were contracted by the Government of Sierra Leone, engaged in "mopping up" operations in the Southern Province, dislodging the RUF forces from various strongholds in Bumpeh Chiefdom (Bo District) and the mining area around Mokanji (Banta Chiefdom, Moyamba District).

[1220] At this time, Kamajors from Kwamebai Krim Chiefdom, in the south of the District started to have successful confrontation with RUF forces and went as far as Gbap (Nongoba Bullom Chiefdom). This strong grip on the south east of the District probably explains why the RUF forces did not move south, using the Sewa River and Waanje River, that flow in Nongoba Bullom and Kwamebai Krim Chiefdoms but rather retreated to Gbonge, a hilly area in Kpanda Kemo Chiefdom.

Civilians brought to the town undertook a massive brushing and clearing of the town and surrounding villages but soon, started to lack food and other necessary items.

In one of their patrol to bring civilians to Mattru, members of the Task Force went to Njahun and Senjehun (Sogbini Chiefdom). On hearing this, the RUF forces at Bauya (Sogbini Chiefdom) gathered the civilians and told them to wait for a while and all the civilians would go to Mattru. More civilians, some from neighbouring chiefdoms, came to Bauya, either brought by the RUF forces or arriving of their own free will, hoping to find a safer haven in Mattru. Therefore, thousands of people where gathered at Bauya when the RUF forces divided them in two queues, one for men and one for women. The civilians were told to sing a song and the RUF forces started to take one person after the other and killed them either with a gun or a bladed weapon. When they realised what was happening, the civilians started to flee to the bush. RUF forces fired on the fleeing crowd, killing hundreds of people. The RUF forces also ambushed the town to catch and kill escaping civilians.[1221] The surviving civilians went back to their camps in the bush, where RUF forces chased them, killing everyone they found, including young children. At Licono for example, they gathered the civilians they found in the Court Barrie, hacked some of them into pieces, opened the stomach of one pregnant woman and threw the foetus in the fire. Some civilians found refuge at Bahoi, on the Sewa River east of Kpanda Kemo Chiefdom, and were rescued by Kamajors from Senjehun who came and took them to their base. Around 200 RUF forces attacked the Kamajor base at Senjehun but were defeated by the Kamajors stationed there, who were assisted with civilians equipped with sticks. After this attack, the RUF forces went to the Gbonge hills from where they raided villages in Kpanda Kemo Chiefdom, burning houses, taking away property, killing and abducting civilians. Senjehun did not however sustain any further RUF attacks.

In November, SLA forces dislodged the RUF forces from Imperi Chiefdom and settled in the mining area, at Kpanguma and Mobimbi.[1222]

Around October/November, Kamajors repelled the RUF from Yawbeko Chiefdom. To strengthen their positions, the Kamajors established more training bases in other chiefdoms than Kwamebai Krim Chiefdom, so that they could spread over wider areas of operation. Many young men and boys, some aged below 15, enlisted to be trained, calling themselves "Black December". One such base was at Talia (Yawbeko Chiefdom). Another base was at Gambia (Jong Chiefdom) where young men and boys initiated were called "Avondo".

On 13 November, Kamajors from Kwamebai Krim Chiefdom entered the village of Kpankpa (Bum Chiefdom) and killed 19 civilians on the allegation that they were accommodating the RUF forces in the village. The bodies were dragged into the river flowing by the village. The Kamajors who carried out this action were around 15 in number, only two of them had shotguns and all the others had cutlasses. After this incident, the Kamajors went back to their base at Karleh Wanjama (Kwamebai Krim Chiefdom) before returning in the same month to attack RUF positions in Bum Chiefdom.

[1221] This event resulted in the death of hundreds of civilians. In 1998, over 1,000 human skulls were discovered at Bauya Junction: AFP, 10 March 1998.

[1222] No information on fighting with RUF forces was recorded. Those SLA forces would be joined by some ULIMO-K forces for a short while in January 1996.

The RUF forces' position at Mami was attacked and they were dislodged from the town. They regrouped at Madina, where they faced a serious confrontation with the Kamajors. The RUF forces were again dislodged from their Madina base but burnt down 25 houses and killed several civilians before leaving the town. Eighteen RUF members were killed during the encounter. The RUF left towards the north and went in the direction of Sumbuya (Lugbu Chiefdom, Bo District).[1223] As they were retreating, the RUF forces killed civilians they came across, abducted a large number of people and took with them all the young girls they found. In December, RUF forces launched hit and run attacks on the chiefdom from Bagbo Chiefdom (Bo District), north-east of Bum Chiefdom, but following their retreat from Madina they no longer settled in Bum Chiefdom, where more and more young men were initiated within the Kamajors society.

At a general meeting held in Mattru on 27 and 29 November 1995, civilians who had formerly served the RUF forces in various ways were identified and condemned to death. Some were later freed after investigations proved that they were innocent. At around this time, some of the Task Force members engaged in cannibalism, cooking and eating the bodies of RUF members they had captured and killed. In once incident, one child member of the RUF and known by the civilians for making "unruly" statements about the government forces was arrested by the civilians, who brought him to the Task Force members. Those shot him, removed the organs and left the body, asking civilians to dump it in the river.

As food was lacking, civilians living in Mattru were authorised by the SLA to go back to their villages in December with an SLA escort. The civilians were divided into groups depending on the area they were from and taken to their villages in order of the directions of the compass, with a group from the north going out one day, a group from the east when the first group returned and so on.

Towards the end of the year, the RUF were sill to be found in Bendu Cha Chiefdom. In an incident that took place around October or November, RUF forces came to Gordana, approaching it from the river side. Two civilians who had earlier been captured in the chiefdom were with these forces. They were mainly interested by food products and told civilians that the war was not over and that the rumours that they did not have any more ammunition were not true. Before leaving, they forced civilians to carry the property they had taken to the south of Jong Chiefdom.

f) Events in 1996

In January 1996, civilians continued to resettle in Jong Chiefdom and engaged in commercial transactions with SLA members from the navy branch and coming from Bonthe Town.[1224] This period is referred to by civilians as "being calm".

[1223] Information gathered for Bo District reveals that in December 1995, RUF forces arrived in Bagbo Chiefdom from Bonthe District, repelled by Kamajors.

[1224] The SLA forces were bringing condiments, tobacco, clothes and radios that the civilians in the chiefdom could buy or exchange for gari, cassava or palm oil.

Since RUF forces had been repelled from the boundaries of the chiefdom in 1995, the inhabitants of Kwamebai Krim Chiefdom did not sustain any more RUF attacks. After the February elections, however, the Kamajors started subjecting civilians to physical violence, sometimes killing people, and stealing people's property. For example, the Kamajors erected a detention cage made of thorns at every checkpoint in the chiefdom, which they used to punish people who did not have proper papers or for other reasons. Civilians were targeted for a variety reasons and were often ill treated.[1225]

Many civilians, particularly adult males, sought initiation into the Kamajor society not because they wanted to go to the war front but to protect themselves and their families from mistreatment by the Kamajors. One specific example of this occurred at the beginning of 1997 in Nongoba Bullom Chiefdom. A civilian who was selling tobacco in the chiefdom came across Kamajors at Torma Gbangbahun, who took his tobacco. As he wanted to talk, they threatened to beat him. On his return to Sohlon, some Kamajors he knew advised him to be initiated, because it would stop this kind of harassment. Accordingly, the man went to Talia (Yawbeko Chiefdom) for initiation.

The Kamajor presence expanded across the whole District, gaining control over areas previously under RUF control. They starting settling in the various chiefdoms and putting in place local structures. The collaboration with the SLA rapidly became problematic as tension, amounting sometimes to fighting, erupted between the two forces. Indeed, most of the activities reported for the year concern the Kamajors and the SLA, as the RUF forces were gradually being repelled from their positions across the whole District. While RUF forces were still present in some areas, they were more likely to be acting in small groups and looking for food rather than in large numbers and on the offensive. For example, RUF forces were coming from time to time to Bendu Cha Chiefdom, chasing civilians in their camps in the bush, especially in the coastal area of Tisagbe, where they burnt down houses and took away a lot of property.

In January 1996, Kamajors joined the SLA forces based at the mining site in Imperi Chiefdom. The ground commander for the Kamajors kept his men within the rules of the Kamajors and punished the few Kamajors who harassed civilians. On one occasion, for example, he ordered the arrest of one Kamajor who had seized a whole lorry of gari from a civilian. The Kamajor was put in a culvert pipe for sometime and had to pay a fine.

Kamajors also settled in Tihun (Sogbini Chiefdom), which became an initiation centre where the High Priest and Chief Initiator performed initiations. A big camp was built behind the health centre, where the ceremonies were performed. Before being initiated, Kamajors had to bring money for initiation fees (Le 10,000) and other items like oil, old country clothes and razor blades. In Tihun, Kamajors and civilians together gathered the remains of civilians killed by the RUF forces and buried them in a grave dug in a graveyard.[1226]

[1225] No further details are available on this information.

[1226] It is not clear when the RUF was dislodged from Tihun and whether the SLA carried out this operation alone or in conjunction with the Kamajors. On 20 November 1995, the Government claimed the SLA had retaken control over the town but this information could not be confirmed by independent sources: Xinhua News Agency, 20 November 1995.

In January 1996, Kamajors based in the Nongoba Bullom Chiefdom held a meeting with the civilians at Baoma, where they appointed a chief or PRO they referred to as "AG" (Action Group). At the meeting, several laws were made regarding how the civilians were to behave, requiring them to observe the practices of the Kamajors, of whom there were 33 based in the town. The Kamajors took over all civil authorities in the town and surrounding villages, taking on the responsibility for judging all cases and settling disputes. Several restrictions were put on the civilians, who were forbidden to pound anything in a mortar[1227] and to hit a Kamajor with a broom. Contravention of these laws would lead to loss of life and the fine of demolition of the offender's dwelling house. The civilians were also tasked with feeding the Kamajors. In or around March, a woman violated one of the laws by pounding in a mortar and, as the Kamajors were chasing her in order to catch and kill her, she ran to the AG for rescue. The AG pleaded with the Kamajors, who demolished part of the woman's house as a fine. A civilian was also imprisoned on allegations that he was a rebel collaborator. On 7 August 1996, some Kamajors from Gambia (Jong Chiefdom) sent by the High Priest Initiator, took a lot of food items from the civilians at Baoma, which was also an initiation centre for the Kamajor society in the chiefdom. In a separate incident, civilians were molested and beaten when one of the initiators fell from his motorbike after hitting a stick that was lying across the road. The people of Motefoe village, where this incident happened, were brought to Baoma, where they were punished. The commander ordered the people to pay for the parts that were damaged on the motorbike. The people who had been brought to Boama, together with the authorities of Baoma, paid the money.

SLA forces based in Bonthe Town and equipped with two gunboats (101 and 201) were working together with the Kamajors, entering the mainland to chase RUF forces. At this time, a lot of civilians labelled as RUF collaborators were brought from the mainland to Bonthe Town by both the SLA and the Kamajors, were killed and buried along the seaside, on the road opposite the military naval base. On one occasion, a man from Gbap (Nongoba Bullom Chiefdom) accused of being a collaborator, as he cooked for the RUF, was brought to Bonthe town and killed. In a separate incident, a man from Bendu (Bendu Cha Chiefdom) was also brought to Bonthe Town, accused of being an RUF collaborator and was killed.

On 15 February, Executive Outcomes reached the District and deployed at the rutile mining site (Imperi Chiefdom). They held meetings with the civilians, SLA and Kamajors on strategies to protect the chiefdom. These three forces had different bases in the area and Executive Outcomes worked together with the Kamajors but not with the SLA, whose behaviour towards civilians was "not cordial". Indeed, the SLA engaged in taking away civilians' property and in chasing RUF collaborators. In one incident, the Town Chief of Mogwemo was killed without much questioning, accused of being an RUF collaborator.

Some SLA troops came to Jong Chiefdom from Bo road, as a support body for the Task Force in February 1996. The SLA forces occupied places captured by the Task Force from the RUF forces but, after staying in the chiefdom for a while, started to take civilian property, including zinc and

[1227] This particular law did not fit in the pattern of civilians' life, where pounding was the basis of food preparation, be it pepper, cassava leaves or rice.

palm oil, and began to beat up civilians who refused to work for them. In the meanwhile, Kamajors had deployed at Gambia,[1228] east of the chiefdom, equipped with cutlasses, knives, shotguns, sticks and FM ropes.[1229] In the town, they appointed a chief (AG). Information gathered from Jong Chiefdom reveals the general laws the Kamajors had to abide by. For example, newly initiates could not have relations with women, could not lie on beds, could not bath and could not eat nut oil during the two weeks following their initiation. Kamajors were also not allowed to sit on mortar, to eat unscaled food or to stand at doorposts. It was believed that any Kamajors breaking those laws was no longer protected and would be killed by enemies during battles. To strengthen the force of the Kamajors in the chiefdom, more initiation began to take place at Gambia.

In a bid to control the chiefdoms where they were deployed, Kamajors established checkpoints and issued passes to civilians, thus regulating the movements of the population. In Bum Chiefdom, civilians coming to any village without such a pass were beaten, made to lie on the floor or forced to beat the back of their fingers on concreted floor, a practice referred to as "typing". They also appointed civilians as Town Chiefs (AG) and GS clerk,[1230] to deal with administrative issues. At this time, the Kamajors' attitude towards civilians started to become hostile, as the villages were taxed in order to feed the Kamajors and, above all, summary executions of alleged RUF collaborators were carried out. On 27 January, Kamajors from Bum Chiefdom attacked Torma, killed some civilians, took away some property and vandalised the quarters and offices of the swamp rice project.

Sometime in 1996,[1231] Kamajors from Kwamebai Krim Chiefdom attacked RUF forces who had retreated from Mattru and re-established in the Gbonge Hills (Kpanda Kemo Chiefdom). Sixty-eight civilians were rescued from the RUF, although 23 died in the crossfire. Seventeen RUF forces were killed and the Kamajors recovered the property the RUF had previously taken away.[1232]
On 26 April, a serious fight broke between the Kamajors and the SLA forces based at Mabaka (Imperi Chiefdom), which resulted in some SLA members being killed.[1233] Following this encounter, the SLA withdrew from Mabaka and went to their main headquarter at Mobimbi. Sometime in 1996, reports of actions carried out by "lawless" SLA forces reached the military headquarter in Freetown and those forces were removed from the mining site and brought by helicopter to Camp Charlie, an SLA base near Mile 91 (Yoni Chiefdom, Tonkolili Chiefdom). Those forces who escaped this evacuation were believed to have gone to the Mokanji area (Banta Chiefdom, Moyamba District).

A few months after the 1996 general elections,[1234] a conflict arose between the SLA and Kamajors in Kpanda Kemo Chiefdom. The SLA forces fell in a Kamajor ambush at the village of Kebawana, where one of the SLA members was killed. In revenge, the SLA forces killed seven Kamajors at

[1228] It was allegedly a lack of ammunition that prevented Kamajors from attacking the RUF stronghold in Mattru in 1995.
[1229] This rope, one foot long with small sticks at its edge, was used to tie people at the ankle by their backs. "FM" means "frequency modulation", because when somebody was tied with such a rope, he would talk and reveal a lot.
[1230] Those GS clerks fulfilled the same kind of tasks as the clerks appointed by the RUF.
[1231] This attack probably took place early 1996, before May.
[1232] This attack may have been carried out by Kamajors deployed in different chiefdoms.
[1233] This was however not the only conflict between Kamajors and the SLA in Imperi Chiefdom.
[1234] The exact date of this event could not be ascertained.

Kebawana and displayed their bodies on the Mattru-Bo highway. Two days later, the Kamajors regrouped and attacked the SLA forces. However, the SLA forces defeated them, killing 40 Kamajors and burying them in a mass grave in Mattru. The two groups continued to live as enemies for another month until an SLA officer came and settled the conflict.

Local authorities were among the people harassed by the Kamajors. In March 1996, the Paramount Chief of Sittia Chiefdom went into hiding, opposed to the Kamajors deployment in his chiefdom and their behaviour towards civilians. This did not go down well with the Kamajors who chased them, severely beating one of his relatives to know about his hiding place. The Kamajors eventually found him, seriously beat him, went to another relative of the Paramount Chief who had hosted him and fined her Le 300,000, which she subsequently did not have to pay due to a reverend's intervention. However, the Paramount Chief was so severely beaten that he was transported for medical treatment to Freetown, where he allegedly died.

Sometime in May 1996, the Kamajors continued to harass civilians, particularly businesswomen and other civilians who often went in search of food in Sittia Chiefdom on Sherbro Island. Some of the civilians were punished by being forced to carry loads for the Kamajors or were beaten and sometimes killed. People deserted the towns and villages to go into hiding in camps. However, the Kamajors followed them to the camps and forcefully brought them back to the towns. In the same month, the Kamajors attacked the village of Mobayeh (Sittia Chiefdom), where civilians were hiding. They burnt down the whole village and killed three people, namely one old woman who had given notice to the inhabitants of the village of the Kamajors coming was tied up and left to burn in one of the houses; a pregnant woman, whose womb was slit open; and that woman's four year-old daughter.

In June 1996, the Kamajor ground commander of Sogbini Chiefdom ordered the killing of four people on the grounds that they were enemy collaborators, who were arrested at night, taken to Talia (Yawbeko Chiefdom) and killed.

In September 1996, Kamajors, who were mainly from Imperi Chiefdom in the north of Bonthe District, arrested 28 civilians and killed many of them in Sittia Chiefdom. There were cases reported of human flesh being cooked and eaten by the Kamajors. SLA forces were given notice about these civilians held captive by the Kamajors and went to attack them and free the captives. In retaliation, Kamajors laid an ambush for the SLA at Mbockie (Sittia Chiefdom). During the attack, some civilians who ran to the river and could not swim across it were drowned, while others were burnt in their houses by the fire sparked by fragments of RPGs. Two members of the SLA were also killed by the Kamajors. Over 50 Kamajors attacked the town and overpowered the 10 SLA soldiers who were based there. A large amount of stolen property was loaded into boats and carried away to Gbangbatoke (Banta Chiefdom, Moyamba District) by the Kamajors.

By the end of the year, the main Kamajor base was at Talia (Yawbeko Chiefdom). After the 25 May events, it would be called "Base Zero".

g. Events in 1997

By 1997, the Kamajors together with the SLA forces had succeeded in removing the RUF forces from most of their strongholds in the District. This notwithstanding, there were several clashes between the Kamajors and the SLA forces. The Kamajors also wrecked a lot of havoc on the civilians, as the SLA and RUF had done previously and continued to do.

SLA forces continued to mistreat civilians in the few areas in the District where they were deployed. A group of SLA forces from the navy branch posted at York Island used to take food and other non food items away from civilians. Civilians accused of committing crimes like killing or raping were punished by the SLA forces without many investigations into the truth of these accusations. The main punishment was to tie the suspect up, hang them upside down from the roof of a house and beat them. The most senior SLA member in command used to mete out this type of punishment. Cases of sexual violence against women by SLA members were also reported, including harassing civilians in order to take their wives. In one incident, some SLA members locked a woman in one room of her house and assaulted her sexually. As they heard her husband was coming home, they went outside the house and fired in the air to make people flee the area. Those SLA forces however withdrew from York Island and went to Bonthe Town as reinforcements following the Coup in May 1997.[1235]

In March 1997, a combined force of Kamajors and SLA from Bonthe Town launched a fierce attack on the RUF position at Bendu, the headquarter town in the west of Bendu Cha Chiefdom. The combined forces had about 20 to 25 wounded, who were taken to Bonthe Town for medical treatment.[1236] The RUF forces continued to occupy the town and sent several messages to the SLA forces and the Kamajors in Bonthe Town threatening to attack them and the town. Nevertheless, despite this collaboration, fighting between the two factions continued. In one incident, an SLA member who had come to an area under Kamajor control was killed at Foinda-Madina (Imperi Chiefdom).

In May 1997, the military overthrew the Government and put in place a military regime called the Armed Forces Revolutionary Council (AFRC). This brought a total change in the attitude of the SLA forces based in Bonthe Town and its environs, who then joined the AFRC government. Civilians were continuously harassed, property was taken and a large number of people were killed on the allegation that they were Kamajors. The RUF forces, then referred to as "Peoples Army", joined the AFRC forces and the combined forces continued to attack and mistreat civilians in the Town.[1237] The Kamajors in Bonthe Town moved out of Bonthe Town, which is part of the Sherbro Urban District, to Sittia Chiefdom and to Bendu (Bendu Cha Chiefdom), where they regrouped to attack the AFRC forces now in Bonthe Town. Furthermore, Kamajors had been deployed since 1996 in all the villages along the river from Mattru down to York Island, three nautical miles to Bonthe Town. Accordingly, the RUF/AFRC forces were surrounded by Kamajors.[1238]

[1235] They would however come from time to time to patrol the island.
[1236] Casualty figures for the RUF forces could not be ascertained.
[1237] This would be the only time RUF managed to get a grip on Bonthe Town.
[1238] The Kamajors were however not deployed in York Island.

Following threats of attack by the Kamajors on Bonthe Town, the AFRC forces mounted checkpoints at various locations in the town around July/August. Civilian movement was restricted and all boats and other vessels were grounded. Fishing nets and boats were seized from the civilians by the RUF/AFRC forces. Civilians were beaten, molested and deprived of their daily food. The AFRC commanders often sent their forces to attack villages occupied by Kamajors and to kill civilians. Sometimes civilians, suspected of being Kamajor collaborators, were arrested and brought to Bonthe Town, where they were imprisoned; those who could not be identified were shot and buried by the seaside opposite the naval base.

People were evicted from their homes to accommodate the RUF forces when they began to arrive in Bonthe Town in May 1997 and were harassed. At this time, the actions carried out by the RUF/AFRC members were masterminded by the AFRC forces, because the RUF forces, who mostly came from outside the District, did not know the area.

The Kamajors occupied SLA and RUF positions in Bendu Cha Chiefdom soon after the overthrow of the Government in May 1997. By July 1997, RUF/AFRC forces were shooting at civilian locations in the area. People in villages like Momaya were under serious attacks and during one attack, a 15-year old girl was killed. People abandoned their villages in the area for camps in the bush. Those attacks carried out by RUF/AFRC forces also prompted many young people in the chiefdom to join the Kamajor society, in Nongoba Bullom Chiefdom and at Talia (Yawbeko Chiefdom). Reports however mention that as their number grew larger, they became out of control and created more havoc on civilians.[1239] In November 1997, two young boys from Bonthe Town coming to Bendu to bring their relatives to Bonthe Town were arrested at the wharf by the Kamajors posted at Bendu checkpoint. When they admitted they were coming from Bonthe Town, they were accused of being "junta" collaborators and were killed with cutasses.

Kamajor harassment and violence against civilians was reported in almost all the chiefdoms where they were deployed. In Bum Chiefdom, they targeted businessmen, especially if they were Fullah or Temne by tribe, and killed them.[1240] In one instance, one man from Moyia who was coming back from Bo District with food items was intercepted by Kamajors at Moyia who took away his food, locked him up in a guard room and subjected him to punishment, as a result of which he died. Punishments included starvation or tying the elbows behind the back and projecting the chest forward. The harassment of civilians increased when an embargo was imposed on Sierra Leone. At the checkpoints they mounted, Kamajors from Bum Chiefdom used to take whatever property the civilians had. If they resisted, civilians were beaten and put in a 2" x 2" cage made of thorns. In Kwamebai Krim Chiefdom, Kamajors were forcing civilians to work for them and were also taking away their property. They would load vehicles with the property they had stolen and take it to Talia (Kwamebai Krim Chiefdom). On another occasion, a group of Kamajors in Mattru amputated the

[1239] Around this period, it was suggested that there was "[…] a clear difference between newly-recruited Kamajors, who have access to automatic weapons and apparently operate outside the authority of chiefdom representatives, and the traditional Kamajors who are carefully screened and respect traditional chiefdom structures": Sierra Leone Humanitarian Situation Report 29 October – 18 November 1997. REG. NO. 97/0390.

[1240] It has to be remembered that the Kamajors were Mendes.

ears of one civilian. He was also severely wounded on the arm and later died of the wound. Another Kamajor killed two civilians at the Keiga checkpoint (Imperi Chiefdom).

The situation for the civilians in Bonthe Town worsened when RUF/AFRC forces imposed an economic embargo on the civilians in Bonthe Township. No one was allowed to leave Bonthe Town for Freetown and those who attempted were beaten and molested. Civilians therefore found themselves caught between the Kamajors and the RUF/AFRC forces, with the RUF/AFRC forces threatening them for being relations of Kamajors and the Kamajors threatening them for being "rebel" collaborators. This situation became unbearable by August 1997, so the elders of Bonthe organised a peace deal between the Kamajors and the RUF/AFRC forces. The peace was initiated after the peacemakers met with the Kamajor High Priest and Chief Initiator who was based at Talia (Yawbeko Chiefdom). Their trip to Talia was, however, accompanied by many obstacles, most of them being the Kamajors checkpoints all along the road to Matru. Those civilian peacemakers were severely molested at a checkpoint at Momaya (Bendu Cha Chiefdom), where Kamajors opened fired into the air.[1241] They were also molested by Kamajors on their arrival at Talia. Nevertheless, they met the High Priest and Chief Initiator, who gave them a message for the RUF/AFRC based at Bonthe Town. In that message, the Chief Initiator asked those forces to stop killing civilians and Kamajors and, in return, he promised he would try to stop his men from launching attacks on Bonthe Town. The peacemakers went back to Bonthe, escorted by some Kamajors responsible for the security of the High Priest and the RUF/AFRC agreed to the peace plan.

However, the AFRC forces soon undermined the peace deal several times by attacking the positions of the Kamajors. For example, a few days after the return of the peacemakers from the negotiations, the RUF/AFRC forces attacked the Kamajor position at Gbangbatoke (Banta Chiefdom, Moyamba District). They were defeated and two members of the RUF/AFRC forces were killed. In September 1997, the RUF/AFRC forces attacked the Kamajors at Pembihun, north of Bonthe Town. The RUF/AFRC forces were again defeated and the Kamajors killed a lot of their number, including a very top RUF member. Soon after, the RUF/AFRC made another attack on Kamajor location in Bamaba, west of Bonthe Town, and were again defeated by the Kamajors. The RUF/AFRC forces continued to harass the civilians and killed people they suspected of being Kamajor collaborators in Bonthe Town. Dema Chiefdom, east of Sitia Chiefdom, was also affected by these attacks, as in December 1997, AFRC members went to Moyema by sea, over powered the few Kamajors posted there, looted some houses and a store and burnt down some houses before leaving.[1242] The AFRC members left for Bonthe Town but one of them proceeded to the village of Mokutu (Dema Chiefdom) and killed a youth, who allegedly tried to be "defiant". This AFRC member was later arrested on his way to Tissana and killed by Kamajors.

In the middle of 1997, newly initiated Kamajors settled at Mokossie (Nongoba Bullom Chiefdom), where they convened a meeting with the civilians to explain the new laws civilians would have to obey. These laws included no whistling in the town, no sitting on motorbikes by women, no trousers for women and no use of mortars at night. The penalty for the breach of one of these laws was the

[1241] This checkpoint was called "the gate of hell".

[1242] During the period of 1997 to 1999, Dema Chiefdom administration was entirely in the hands of the Kamajors, who presided over cases and served as chiefdom police sub chiefs and as Paramount Chief.

destruction of the civilian's house. The Kamajors decided on cases and tied people with a FM rope for various reasons.

Around 10 and 11 September 1997, the AFRC commanders ordered that all the important personalities in Bonthe Town be arrested, in particular those who initiated the peace talks, alleging they did not negotiate in the interests of the AFRC. The arrested people were, however, released in the evening. On 15 September, the Kamajors launched an attack on Bonthe Town, which was unsuccessful, as the RUF/AFRC forces had a large amount of weapons in the town. Several Kamajors and a lot of civilians were killed during the battle, which lasted for four hours. The dead Kamajors were buried in a mass grave dug by the RUF/AFRC forces. After the battle, the RUF/AFRC forces conducted a house-to-house search in Bonthe Town, looking for Kamajors. Civilians were advised not to host any Kamajor and to report any case of a civilian harbouring a Kamajor. Information of imminent Kamajor attacks on the town continued to arrive in Bonthe Town, through the businessmen travelling back and forth to Sittia Chiefdom. This led many RUF/AFRC forces to leave the town on gunboats for Freetown, taking with them a lot of property they had previously stolen. Few civilians were authorised to board the RUF/AFRC gunships on that occasions but on subsequent trips and during a transfer to the boat, the sea car they boarded capsized and many civilians drowned in the ocean.

The RUF/AFRC forces who stayed in the town continued to take property and kill civilians in and around Bonthe Town. On 14 October, they arrested the SLPP secretary for Bonthe District, accusing him of being among the Kamajors who launched the attack on the town on 14 September. He was detained for three days, during which time physical violence was inflicted on him; the RUF/AFRC forces also burnt down his house. On 18 October, he was brought to the United Methodist Church, where he was mutilated and had his head cut off.[1243] The RUF/AFRC forces then dismembered the body, put his head on a stick and paraded across the town, asking civilians to give them money for the good work they did.[1244] Four days later, the civilians asked the RUF/AFRC members for authorisation to bury what was left of his body.[1245]

h) Events in 1998

In January, Kamajors went to York Island and stole a lot of property from civilians' houses, without killing anybody. They took their load and went back to Bendu Cha Chiefdom.

On 14 February 1998 the AFRC forces departed from Bonthe Town for Freetown.[1246] The Kamajors replaced them the next day, on 15 February. Two groups of Kamajors heavily armed with

[1243] It was reported that his organs were cooked and eaten at the naval base.
[1244] It is reported that the officers in charge of the town did not take any action, which led civilians to think that they actually masterminded every action carried out by the junior staff.
[1245] Those responsible for this action would be court marshalled in September 1998 and the mother of the man killed testified she was forced to eat her son's heart by the men who had killed him: AFP, 16 September 1998.
[1246] In late March, over 500 decomposed bodies were discovered in two shallow graves on Sherbro Island. It was believed that these bodies were hurriedly buried by the RUF/AFRC forces before they pulled out of Bonthe Town. It is not clear whether those people had been killed by the RUF/AFRC forces just before they retreated or throughout their stay in the town: AFP, 1 April 1998.

AK47s, RPGs and LMGs under different commanders, one numbering about 30 members and the other of unknown size, entered Bonthe Town on that day. A meeting was held with the civilians in the township, where some people were killed, mostly on the grounds that they were identified as "rebel" or "junta" collaborators. One of the civilians killed was a tailor who had made the "Kamajors uniforms" the RUF/AFRC forces sometimes used to attack the Kamajors by surprise. In another instance, Kamajors arrested a man who used to live in York Island but was now hiding in Bonthe Town. He was put in prison where two civilians and two policemen were already detained. He was severely beaten by a young Kamajor around 13 years old, following the order of a commander; a few minutes later, five Kamajors entered the cell and told them they would be killed because they were collaborators. They were then taken to the Kamajors High Command, where they were tied up and beaten. It was only due to the intervention of a parish priest that their lives were spared. Instead, they were allowed to pay a fine, which – because the original punishment had been death – was set at Le 200,000, although the first civilian was allowed to leave on payment of Le 54,000.

More Kamajors from the mainland chiefdoms arrived in Bonthe Town, where they looted houses and public offices before going back to the chiefdom from which they had come. Businessmen and traders were continuously harassed by Kamajors who took all their property from them; sometimes, people were killed. Checkpoints were established at various locations at the entry points of the town through which civilians coming from the mainland or from Sherbro Island had to pass. In one instance, Kamajors went to Mania, a trading place for civilians. On their way, they met some civilians going to the nearby village of Ndainga to trade. Those civilians were flogged and one was wounded with a dagger on his back. The Kamajors took most of the items the civilians were about to trade and left for Jimi. On their way, they saw a canoe going towards Ndainga. They took away all the traders' property and took control of the speedboat with the traders still inside, leaving their canoe out at sea. The civilians were disembarked on a piece of land and the Kamajors continued on their way to Jimi, where they set one house on fire.

The Kamajors continued to harass civilians, killing people alleged to be "junta" or "rebel" collaborators and stealing property. They were totally dependant on civilians for their food and starting taxing civilians, as a contribution to their feeding and to the purchase of ammunition. This made life for the civilians very difficult in the township and surrounding villages. The Kamajors burnt down villages like Gbogboma, Puokie and many others in the Sittia Chiefdom and killed people who occupied positions of respect in the community.

Throughout the remainder of the year and those following, Kamajors victimised civilians in towns and villages across the District. They deposed or ignored all the chiefdom authorities and themselves acted in those positions, including as chiefs and policemen. They added to the suffering of the civilians with their prohibition laws to protect their powers and their mistreatment of civilians, applicable only to the Kamajors. Civilians were required to obey a set of different laws, which included no stealing, no fighting and no travelling from one village to another without a pass, each with different penalties depencing on their gravity. Furthermore, the Kamajors asserted that their authority was supreme and that the Town Commander called AG had the right to intercede between civilians and Kamajors.

While the Kamajor initiation was going on at Gambia (Jong Chiefdom) in 1998, one Kamajor commander raped a suckling mother at the market place in Goba town. He also threatened to kill the husband of the woman. On 27 March 1998, a one-year old boy was deliberately killed at Mowagor village near Mattru by a Kamajor commander.

i) 1999, 2000, 2001 and 2002[1247]

The Kamajors were not respectful to each other let alone to the civilians in the District, including instances of riots and fighting between different groups of Kamajors in the District. The High Priest would send his own men out on looting missions, but they would often encounter troubles with other groups of Kamajors in other chiefdoms. The Kamajor structure appeared blurred or non-existent to the civilians at this time: acts of violence against civilians and their property throughout the country led people to think that there was no more structural organisation, aside from the District Coordinator and High Priest.

In January 1999, a group of Kamajors from Sittia Chiefdom entered the island town of Timbima (Dema Chiefdom) and required the civilians to pay the sum of Le 1,000.00 and a quantity of fish for their feeding. Defaulters were tied up and made to lie down and look at the sun. Another group of Kamajors from Dema Chiefdom went to attack this first group,[1248] but could not find them in the town. This second group therefore required the civilians to pay for the cost of fuel used to visit the village. From September 1999 to the end of 2000, the administration of all of Dema Chiefdom was in the hands of the Kamajors, with the chiefdom ground commander assuming the responsibility and position of the Paramount Chief. They also made themselves into sub chiefs down to headmen and made additional laws, including prohibiting civilians from eating certain food, like bananas. Civilians were forced to obey their instructions and defaulters were always given severe beatings. Housewives were punished together with their husbands. The Kamajors continued these practices throughout the years of 1999, 2000, 2001 and the early part of 2002, when disarmament begun in the District, although on a lower scale.

Following the Freetown invasion by the RUF/AFRC in January 1999 and their subsequent defeat by ECOMOG and others, RUF/AFRC forces retreated hastily into the country and some arrived in Bonthe Town. While in the town, they raided villages in Sittia and Dema Chiefdoms, took property and burnt houses. Four months later, Kamajors from Dema Chiefdom agreed to regroup with those of Sittia Chiefdom to attack Bonthe Town. Civilians were requested to provide them with the items they needed, like food and cartridges. During a meeting with elders at the chiefdom headquarter of Tissana (Dema Chiefdom), the Kamajors were told that civilians could not gather the money to buy the ammunition, which did not please them. They molested the Paramount Chief and some began going around to collect money from civilians while others were chasing cattle. From Tissana, they moved to an island called Nyagai, where they found a man they accused of having been an attendant

[1247] It is mentioned that Executive Outcome were based in the Moyamba District, and intermittently went into Bonthe District to give moral support to the Kamajors. However, Executive Outcomes left the country early 1997, therefore this information may refer to other forces.

[1248] This second group of Kamajors were from Dema Chiefdom and were ordered by their commander to drive the Kamajors from Sittia Chiefdom back to their chiefdom.



for the RUF/AFRC in Bonthe Town during previous years. The Kamajors amputated the man bit by bit, starting with his ears, before removing his eyes and internal organs and finally dumping him in the river. The people for whom the man was working for were obliged to pay a fine for having harboured and kept a collaborator. The Kamajors then launched their attack on Bonthe Town but were unsuccessful[1249] and about one month later, those Kamajors, now over 500 in number, launched a second attack on the town. In the meanwhile, the RUF/AFRC forces had started pulling out of the town, having learnt of this attack.[1250]

On 24 May 1999, the deputy task force commander of Bonthe District led a troop of Kamajors and attacked Mattru Police station at midday. Two police officers were killed. On 8 July 1999, the same commander led a group of Kamajors at night to launch a strong attack on Kortumahun village (Yawbeko Chiefdom). A pregnant woman was shot in the leg during the attack and later taken to Bo Government Hospital.

In Sogbini Chiefdom, the Kamajors had no regard for the Paramount Chief. They defied his authority and claimed that they were only accountable to the CDF National Coordinator. Civilians were physically and sexually harassed. Children below the age of fifteen were abducted and some were forcefully conscripted and initiated into the Kamajor society. More and more youths joined the society to protect their relations and families from the continuous harassment and havoc wreaked by the Kamajors. In the town of Semabu (Sogbini Chiefdom) a notorious Kamajor killed civilians, took property and burnt down civilian houses. Fear of the Kamajor atrocities forced civilians to go back into the bush camps for safety, abandoning their property behind them. The Kamajors took all of that property that had been abandoned, sometimes visiting the bush camps to steal property and harass civilians.

Following the signing of the Lomé Peace Agreement on 7 July 1999, the disarmament, demobilisation and reintegration program (DDR) was formally launched on 20 October 1999 by the President of Sierra Leone during a ceremony in Freetown. Very few combatants out of the estimated 45,000 combatants, however, laid down their arms at this time.[1251]

The DDR process was halted in 2000, due to the insecurity in the Northern and Eastern Provinces and the abductions of UN peacekeepers in May 2000. To reactivate this process, a ceasefire was signed in Abuja, Nigeria on 10 November 2000, which again had to be re-activated for the second time on 4 May 2001.[1252]

[1249] Some Kamajors and few RUF/AFRC members were killed but civilian fatalities could not be ascertained.

[1250] It could not be ascertained whether there had been any fighting at all between the RUF/AFRC forces and the Kamajors.

[1251] In November 1999, only 1,500 combatants had disarmed out of the total 45,000 estimated combatants: IRIN West Africa, 17 November 1999.

[1252] The security situation in the Northern and Eastern Provinces prevailing in 2000 urged the Government of Sierra Leone to negotiate a ceasefire with the RUF in November 2000. On 4 May 2001, the parties would meet again in Abuja, Nigeria to review the ceasefire. Further to the meeting in May 2001, they parties would hold monthly tripartite meetings under the Joint Committee on DDR. The final meeting took place in January 2002 when disarmament was declared complete and the war over.

Following a meeting between the Government of Sierra Leone and the RUF held at the UNAMSIL headquarters in Freetown, the parties agreed on the need to accelerate and complete the disarmament process, which included the opening of a DDR centre in Bonthe District.[1253] The second meeting of the Joint Committee on DDR took place in Magburaka (Tonkolili District) on 2 June 2001 and the parties agreed on an accelerated disarmament process meant to take place simultaneously in Kono and Bonthe Districts in June 2001,[1254] although the disarmament camp was not yet set up.[1255]

Disarmament finally began on 2 July 2001[1256] although at a slow pace, as only nine CDF members turned in their weapons on the first day of the opening of the DDR centres. In fact, CDF members from the mainland expressed their wish to disarm in Mattru (Jong Chiefdom) and not in Moyamba District, as was planned.[1257] Therefore, following a meeting attended by the Deputy Special Representative of the Secretary-General, UNAMSIL's Force Commander and Deputy Force Commander, the CDF coordinator and other officials and a member of the NCDDR, the parties agreed to establish another DDR camp in Mattru.[1258] This camp was opened around 13 July and from this time, the disarmament process began to accelerate in the District: as of 27 July, 813 CDF members had disarmed in the two DDR camps in Bonthe District. On this date, the Special Representative of the Secretary-General visited the two centres to assess the disarmament progress and to stress the importance of having this process complete by the end of July.[1259]
During a meeting of the Joint Committee on DDR, the parties formerly declared disarmament in Bonthe District complete in September.[1260] UN peacekeepers of the Nepalese contingent deployed in the District in late 2001.[1261]

3. Conclusion

Sharing a border with Pujehun District, Bonthe District was affected by the RUF/NPFL incursion into Sierra Leone as early as 1991. The effect of the conflict, however, differed slightly from the experience in Pujehun District. Until 1995 in Bonthe District, the conflict had only spread into the three chiefdoms of Kwamebai Krim, Bum and Nongoba Bullom, while in 1991, although only for a few months, RUF/NPFL forces had spread across the whole Pujehun District. After a first short stay in Kwamebai Krim Chiefdom in 1991, RUF/NPFL forces would visit the District sporadically,

---

[1253] In addition to the existing DDR camps in Port Loko, Bo, Moyamba, Kenema and Daru, the parties also agreed on the urgent need to open new DDR camps in the country, in the Northern Province (Lunsar, Makeni, Kamakwie, Masingbi and Alikalia), the Eastern Province (Koidu and Kailahun) and the Southern Province (Pujehun and Bonthe): UNAMSIL press release, 15 May 2001.
[1254] UNAMSIL press briefing, 5 June 2001.
[1255] UNAMSIL press briefing, 8 June 2001. The acceleration of the disarmament was meant to take place District by District.
[1256] UNAMSIL press briefing, 3 July 2001.
[1257] Kamajors wanted a fast-track disarmament to be able to return rapidly to their farming activities.
[1258] UNAMSIL press briefing, 6 July 2001.
[1259] UNAMSIL press briefing, 27 July 2001.
[1260] Sierra Leone Humanitarian Situation Report 01 - 30 September 2001. Disarmament would only be declared complete for the whole country in January 2002.
[1261] UNAMSIL press briefing, 16 November 2001.

often in small numbers, but would not establish a real presence there, except in Bum Chiefdom for six months in late 1991/1992.

The natural features of the District, particularly the swamp areas and rivers in the south, could explain the containment of the conflict to the three aforementioned chiefdoms during its early stage. This is reinforced by the fact that the major incursion penetrating the District in 1995 was carried out from the north of the District, where the road network is the more developed.

By 1995, the conflict had taken a new turn, as RUF forces spread across the whole country. The attacks on the east and south of Moyamba District and the north of Bonthe District in January 1995 was in fact preceded by a massive RUF operation in Bo District, where RUF forces launched attacks on camps and headquarter towns in the centre of the District all within a couple of days towards the end of December 1994. RUF forces then proceeded directly to Moyamba District and then to Bonthe District.

RUF forces attacked and thus paralysed the economically vital mining area, which spreads across the north of Bonthe District and the south of Moyamba District. This new development was dramatic for the Government of Sierra Leone, as the income from mining activities and the selling of cash crops produce had already dropped considerably following the previous occupation of Kono and Kailahun Districts. RUF forces spread across the mainland District, failing however to reach Sherbro Island.

Their progression and the violations they committed were hampered by the intervention of a special military unit in late 1995 and the continuous development and successes of the Kamajors. By the end of 1996, the RUF forces were dislodged from their positions across the District and the subsequent actions they carried out was the fruit of small pockets of RUF remnants.

Unlike Pujehun, Bo, Kenema and Kailahun Districts, after the overthrow of the Government and the establishment of the AFRC regime, the Kamajors did not withdraw from their positions and go underground, as the RUF/AFRC forces were concentrated in Bonthe Town and not in the rest of the District. Furthermore, most of the RUF forces who joined the AFRC members in the Bonthe Town did not originate from the District but came from Kailahun District.

From February 1998 and following the withdrawal of the RUF/AFRC forces from Bonthe Town, the pattern of actions in Bonthe District was similar to how the conflict affected the other Southern Districts of Pujehun, Moyamba and Bo. Free of RUF/AFRC presence, Kamajors actions, originally aiming at defend their chiefdoms against RUF attacks and violence, became oppressive for the civilians, as Kamajors affirmed their control not only of the security of District but also of the local administration, substituting themselves for the local authorities, and of the civilians living in Bonthe District.

After 1998, the conflict concentrated in the Northern Province and areas of the Eastern Province, where the CDF members were not able to put up a firm and continuous resistance to the RUF/AFRC advances and where the main mining areas were located.

Violations committed by Kamajors during this period were fewer reported than the violence carried out by the RUF/NPFL, RUF and RUF/AFRC forces. This is probably mainly due to the fact that key people mostly reported violence when carried out during an attack; from 1998 onwards, the Kamajors were in total control of the District, so the day-to-day violations were most of the time not reported, blurred in the memories of the key persons.

As RUF forces did not settle in the District for a long period and the intensity of fighting was generally lower than in the rest of the country, Bonthe District was one of the least affected Districts in term of destruction of property, displacement of people[1262] and violence against civilians.

c. Moyamba District

1. Introduction

Moyamba District is one of the four Districts in the Southern Province of the Republic of Sierra Leone. It is bounded by Bo District in the east; Tonkolili and Port Loko Districts in the north; Bonthe District in the South; and the Western Area in the west. The headquarter town, Moyamba Town, is located in Kaiyamba Chiefdom, in the centre of the District.

There are 14 chiefdoms in the District:

Chiefdom	Headquarter
Bagruwa	Sembehun
Banta	Gbangbantoke
Banta Mokele	Mokele
Bumpeh	Rotifunk
Dasse	Mano
Fakunya	Gandohun
Kagboro	Shenge
Kaiyamba	Moyamba
Kori	Taiama
Kamajei	Senehun
Kongbora	Bauya
Kowa	Njama
Ribbi	Bradford
Timdel	Bomotoke

Having borders with both the Southern and the Northern Province, Moyamba District would be affected by the development of the conflict in those two Provinces, both of which were used to launch attacks on its borders, primarily from the south.

[1262] Although there was no massive displacement of population between towns inside the District and outside the District, civilians often took the bush, leaving in bush camps called "sorkoihun".

Two strategic roads pass through the District. The main highway leaving Freetown for the Provinces separates into two roads at Mile 91 (Yoni Chiefdom, Tonkolili District). The first road goes from the west to the north towards Magburaka (Tonkolili District) and Koidu (Kono District), while the second one reaches Bo and Kenema through Moyamba District. This second road reaches Moyamba District in the east, and runs in the District from the extreme north-east of Fakunya Chiefdom and its headquarter town, Moyamba Junction, Taiama (Kori Chiefdom), and Senehun (Kamajei Chiefdom) before arriving in Bo District in Gbo Chiefdom. From Moyamba Junction (at the border with Tonkolili District), a road leaves to the south-west to reach Moyamba Town. Accordingly, controlling Moyamba Junction would allow access to the north-west to Tonkolili District, to the south-west to Moyamba Town and to the south-east to Bo Town. When circumstances make using this highway impracticable, an alternate route to reach Bo from Freetown runs through Moyamba Town. It leaves the Western Area through Songo and goes south-east to Moyamba District, passing by the headquarter towns of five chiefdoms, before ultimately reaching Bo District through Bumpeh Chiefdom. The control of this road would be of a critical importance, as it makes Freetown reachable from Moyamba District.

Its main economic activities, besides salt production on the coast, are rutile and bauxite mining. The mining area is located in the south of the District, in Banta Chiefdom, and in the north of Bonthe District (Imperi Chiefdom). The headquarters of the bauxite company are in Mokanji (Banta Chiefdom), while the headquarters of the rutile company is in Imperi Chiefdom (Bonthe District). Those mining activities were of vital importance for the Sierra Leone Government, as mineral resources made up the bulk of its exports before the war.

Njala University College (south of Kori Chiefdom), by the Taia River that flows south-north in the east of the District, is part of the University of Sierra Leone and is the only University Campus in the Provinces.

The way the conflict affected the District can be divided into three distinct stages. The first stage was from 1991 to 1994, the period before the RUF forces entered the District. During this time, SLA forces were deployed in the District but harassed civilians, including taking away their property. Cases of rapes and killing were reported and the chasing of collaborators increased by the end of 1994 as rumours of imminent RUF attacks grew stronger.

The second stage ran from 1994 to 1998 and saw the progression and settlement of RUF forces in the District and the development of the Kamajor society. In early 1995, RUF forces made an incursion in the District and, shortly after, began to make their way towards Freetown. As this advance was stopped by SLA forces, the RUF forces settled in the District, progressively reaching all the chiefdoms and establishing a strong base in the north. The chiefdoms in the south of the District were less affected and most of the actions were concentrated in the north of the District. Civilians began organising themselves into Civil Defence Units (CDUs) and by early 1996, the first Kamajors deployed in the District and engaged RUF forces. They however also fought SLA forces who were asked by the civilians to leave in 1996. The following year was described as the peak of

Kamajor activities in the District. RUF forces were still active in the north of the District but had been repelled from the south and centre.

During the AFRC regime, RUF/AFRC forces were only deployed in limited areas of the District and were strongly resisted by the CDF. This second phase was characterised by violence inflicted on civilians mainly by RUF forces but also by SLA forces and Kamajors. RUF forces, once stopped on their progression to Freetown, mainly carried out hit and run attacks, entering villages, taking away property and burning houses but also killing civilians, raping girls and capturing civilians to carry their loads, usually to their main base. They also killed number of civilians on the grounds they were Kamajor collaborators. During this period, the behaviour of the Kamajors towards civilians began changing, as they intensified their fight against the RUF and, later, RUF/AFRC forces and started gaining control over different areas. Civilians were initially requested to provide them with food and other basic items but soon, Kamajors began harassing civilians and taking their property. Kamajors did not recognise the authority and power of local authorities and other Government personnel, as they only had respect for those who had been initiated and they soon extended administrative authority over civilians in the areas they occupied. Their control of an area included physical violence against civilians in general, including sexual violence against women. Alleged RUF or AFRC collaborators were killed without first undertaking an investigation. The Kamajors made certain laws for the civilians and those who broke those laws were subject to various punishments, including imprisonment in a small cage made of sticks and thorns.

The third and final stage ran from 1998 to 2001 when disarmament was complete in the District. Following the retreat from Freetown, RUF/AFRC forces pulled out of the entire District, which was therefore in total control of the District. Only few and limited attacks were carried out in the north of the District by RUF/AFRC forces based in Tonkolili District. This period was however marred with a lot of atrocities, and most of the CDF actions described in 1997 also happened in 1998. Alleged RUF or RUF/AFRC collaborators were killed and traders and businessmen were particularly targeted for their belongings. Fighting between two factions of the CDF erupted in the District in 1998 and 1999.

However, by the end of 1998 CDF activities against civilians started to decrease and, gradually, civilians became free from attacks and harassment. People returned to their various towns and villages and started resettling. This continued until the disarmament of the CDF in the entire District by 2001.

2. Factual analysis

a) Events in 1991 – 1994

Sierra Leone Army (SLA) forces were deployed across the country in the District's headquarter towns and other sensitive areas soon after the coup d'état in 1992, with the aim of securing the country from the National Patriotic Front (NPFL) and Revolutionary United Front (RUF) forces, which had entered Sierra Leone from Liberia in 1991. Around this time, new SLA units emerged, such as Tiger Battalion, Scorpion Battalion and SLA Rangers. In Moyamba District in 1992,[1263] some

[1263] The date is not clear from the record, but this was probably sometime in 1992.

SLA members deployed in Fakunya Chiefdom in the central north of the District, which shares a boundary with Tonkolili District. They deployed in two sensitive areas of the chiefdom, namely Moyamba Junction, 102 miles from Freetown on the Freetown-Bo highway, 22 miles to Moyamba and Njagbahun Junction, on the Moyamba Junction-Moyamba road, 8 miles from Moyamba Junction and 14 miles from Moyamba town.[1264]

At this time, the District was free of an RUF/NPFL presence, as those forces were confined to the south-east and north-east of the country. However, the war had already begun to affect civilians, who were harassed by SLA forces, mainly for their food and domestic animals. Food was often stolen at the checkpoints mounted by the SLA, but also when SLA forces would leave their checkpoints and visit towns and villages in the chiefdoms for the purposes of finding food. In addition, cases of physical violence, killings and rapes were reported. At the checkpoints, SLA forces took some women and girls away and sexually assaulted them. The forces also took aside civilians suspected of being "rebels", inflicting physical violence on them and sometimes killing them when they could not be identified by relatives or other civilians.[1265]

By the end of January 1994, the then Head of State declared "total war" against the RUF forces and launched a massive recruitment process, more than doubling the ranks of the SLA.[1266] In addition, in April 1994, an SLA captain visited Rotifunk (Bumpeh Chiefdom),[1267] in the north-east of the District, where he held a meeting with the people of the town. During that meeting, he instructed the people of the town to give their young men to be trained as vigilantes to help the SLA fight the RUF forces and to further protect their chiefdoms in the Districts. The trained youths formed a Civil Defence Unit (CDU).[1268] The people of the town were instructed to provide the CDU with food and logistics but as elders were reluctant to tax an already poor population, the Chiefs decided to tax themselves to support the youths. The CDU kept guard at certain locations in Rotifunk and the surrounding villages. Other units were formed in other chiefdoms in the District. Additional security was provided for the workers at the mining company[1269] in Mokanji (Banta Chiefdom) by SSD (State Security Division) forces, who arrived on 4 July 1994.[1270]

However, towards the end of 1994, the actions of the SLA against civilians continued to increase. For example, SLA forces who introduced themselves as SLA members went by military truck to the town of Rotawa (north of Fakunya Chiefdom) on 14 October 1994. Those men were dressed in full

---

[1264] Whoever controlled these junctions would have open access to Moyamba Town (Kaiyamba Chiefdom), south-east of Fakunya Chiefdom.

[1265] No more detail was available on this information, nor the precise year of its occurrence.

[1266] In late 1993, RUF forces launched a massive operation in the south of Kenema District and rapidly spread across the District. By the end of 1994, they were all over Kenema, Pujehun and Bo Districts and continued their inland progression.

[1267] There is also a Bumpeh Chiefdom in Bo District.

[1268] A CDU was the most developed form of organisation the civilians put in place for the defence of their chiefdoms. This was the step prior to the initiation and development of the Kamajors.

[1269] Sierra Leone Ore and Metal Co. (Sieromco), a Swiss-owned mining company based in the southern area of Mokanji was the only bauxite producer in the country and was mining deposits within 4 km of the washing plant at Gondama, in the centre of the Chiefdom: The Mining Journal, 29 May 1994.

[1270] The year is uncertain, as the SSD may have deployed in July 1993.

military uniforms. They took civilian property, mainly food items and livestock, and proceeded to Falaba and Gbotima, in the north of Fakunya Chiefdom, where they carried out the same action. Another group of SLA forces, allegedly coming from Mofokoya (Yoni Chiefdom, Tonkolili District), five miles to the north of Rotawa, entered Rotawa on 16 December 1994. They entered the compound of an elder, once a Regent Chief, and took her 16-year daughter whom they began to beat up. When the girl's father and one of his guests pleaded for her release, the SLA killed them; the father was beaten with stick and the guest was shot and killed. On their way back to Tonkolili District, they came across a woman whom they raped before giving her Le 1,000. They further told her they were SLA forces from Camp Charlie at Mile 91.[1271] Also, the town of Kwellu (Fakunya Chiefdom) was raided on 11 December by the SLA forces, who took a lot of property from civilians living there.

On 14 November 1994 the SLA forces came to Mano (Dasse Chiefdom), situated on a highway leading Fakunya Chiefdom to Dasse Chiefdom, through Kori Chiefdom southwards into Bo District. They were fully dressed in military uniforms and armed with RPG and automatic riffles. The SLA forces established a base in the town and erected checkpoints in the town at roads leading out towards Taiama to the north, Mokanji (Banta Chiefdom) to the south and Bumpeh Chiefdom (Bo District) to the south.[1272] Soon afterwards the SLA forces started harassing civilians in the town, taking money from people at the checkpoints, and even went to other towns and villages in the chiefdom. Civilians were beaten and their property was taken. Following the attack on Bo Town in late December 1994, the SLA imposed a curfew from 6.00pm to 7.30am and started suspecting civilians of being "rebels" or "rebel" collaborators; several people were beaten, imprisoned in the guardroom and even killed.[1273]

By the end of 1994, news about possible attacks by the RUF forces began to be heard in the District. There were rumours that the RUF forces were fast advancing to attack the mining town of Mokanji (Banta Chiefdom) and make a base there. Around 28 December 1994, SLA forces coming from Freetown were airlifted to Mokanji as reinforcements for the SSD.

Civilians were very much disturbed by the presence of the SLA forces in the District as those forces were treating them roughly and although RUF forces had not yet reached the District, civilians began to mistrust the SLA.

b) Events in 1995

On 11 January 1995, SLA forces entered Njama (Kowa Chiefdom, in the east of Moyamba District) and their commander introduced them to the Paramount Chief as troops sent from the SLA Brigade headquarter at Bo Town to secure the chiefdom, as RUF forces were on their way to the chiefdom. The SLA forces erected checkpoints in the town but departed the town on the following day, led by civilians taken to lead the way, en route to attack RUF forces that were based at Momajoe (Bagbo

[1271] Reports for Tonkolili, however, do not make mention of SLA troops based at Mile 91 around this time.
[1272] Around this time, RUF forces had spread across Bo District and were approaching Bumpeh Chiefdom, which adjoins Dasse Chiefdom to its west.
[1273] Massive attacks were carried out during the Christmas week in Bo District. RUF forces first attacked an IDP camp before attacking Bo Town and major cities in its environs.

Chiefdom, south of Bo District). However, they returned to Njama later the following day, overrun by the RUF forces at Momajoe; that evening, Njama was attacked by RUF forces.

This first RUF attack into Moyamba District was the prelude of a massive operation, at the end of which RUF forces attacked and spread across most of the District. There was, however, some confusion at the time of the attack on Njama, as the SLA present in the town appeared to put up no resistance to the RUF forces and some of them were seen outside the town, rubbing black and blue materials on their faces and putting on masks. RUF forces entered the headquarter town, shooting randomly and shouting at civilians to fight them with sticks and cutlasses.[1274] As they started to set houses on fire, civilians ran away from their houses. One hundred and six houses were burnt down that day and the houses that were not burnt were looted and the shops vandalised. RUF forces molested and beat civilians, raped seven girls, whose age could not be ascertained, and killed 10 civilians, including the Chiefdom Speaker and the Paramount Chief's son and younger brother. The RUF forces spent the night in town before departed the next day, early in the morning of 14 January, with some civilians whom they had abducted to carry the load. They arrived at Mokoya (Kowa Chiefdom), where they took property from the village. No casualties were reported, as all the civilians had deserted the village before they arrived. On the same day, an SLA gunship coming from the direction of Bo shot at Njama for two hours.

On 15 January 1995, RUF forces battled with SLA coming from Mano (Dasse Chiefdom) on their way to Njama. This battle took place at Pelewahun (Kamajei Chiefdom) some six miles to the north-east of Mano. The RUF forces overpowered the SLA, which forced them to retreat hastily to Mano. Before this battle, RUF forces had attacked some villages in the extreme south-east of Kori Chiefdom, west of Kamajei Chiefdom. RUF forces attacked Njala, including the University campus, and Mosongo, where they burnt 12 houses and killed some civilians. It appeared that RUF forces then separated,[275] with one group advancing north to Kamajei Chiefdom and one going south-westward to Dasse Chiefdom.

In Kamajei Chiefdom, RUF forces attacked villages in the south of the chiefdom, including Buma and Ngiyehun. At Buma, two civilians were killed and others abducted and taken to Njala (Kori Chiefdom). Although the RUF forces did not attack Senehun, the headquarter town, most of the civilians left the town and went to live in the bush or, for those who had money, to Bo Town. RUF forces established a base at Pelewahun Kenneh, where they would stay for 11 months and from where they would launch attacks on Kori and Kamajei Chiefdoms. For example, Pelewahun[1276] was attacked on 18 February, by RUF forces dressed in military uniforms, underneath which some of them had attire adorned with the RUF initials.

The RUF group that had advanced in the direction of Dasse Chiefdom pursued the SLA forces to Mano, where they discovered that the SLA had fled the town. The RUF forces captured eight civilians and introduced themselves as "freedom fighters", coming to redeem the Sierra Leoneans

[1274] This referred to the attack on Bo Town in late December, during which RUF forces were repelled by civilians equipped with sticks and cutlasses. See Bo District for further information.
[1275] It is not clear whether they divided before or after the battle at Pelewahun.
[1276] There are two Pelewahuns in the south of Kamajei Chiefdom.

from the APC regime. The RUF forces spent six hours in the town but did not inflict harm on the civilians. They then attempted to take the Mokanji road but were ambushed by the SLA on the bridge over the Taia River. Sixteen RUF members were killed and two civilians, who had attempted to escape, drowned in the river. The RUF left the area and spent the night at Benduma.

SLA forces and civilians who were in hiding returned to Mano and the SLA continued to harass civilians. People were killed on the suspicion that they were "rebels" or "rebel" collaborators. More checkpoints were established throughout the town and youths were asked to work as vigilantes, which included running the checkpoints but also doing menial work for the SLA like fetching water or cooking. When an attack was imminent, those youths were given weapons to fight.

From Benduma, the RUF forces proceeded to the south to attack Mokanji (Banta Chiefdom), the location of the Sieromco Company, a Swiss-owned company that specialised in the mining of bauxite. Prior to this attack, some SLA forces who were stationed in Mokanji had left the town for Njama (Kowa Chiefdom) to fight the RUF but were repelled at Pelewahun on 15 January and came back to the town.[1277] On 17 January, 30 SLA members, allegedly from Daru (Jawie Chiefdom, Kailahun District), were airlifted as reinforcement to Mokanji.[1278]

On 18 January 1995, the RUF forces from Banduma passed by Kabiama (Banta Chiefdom), where they abducted a diamond dealer, his wife and other civilians and continued to Mokanji, three miles from Kabiama.[1279] In Mokanji, no houses were burnt, but several civilians, both locals and foreigners, were abducted, including the personnel manager of the Sieromco company and civilians were killed, including the Government representative to the mining companies, a retired Inspector of Police, a worker from the company, a Fullah man and two SLA members. SLA forces deployed at the Sierra Rutile Company (Imperi Chiefdom, Bonthe District) came to the town, in order to consolidate the SLA forces at Mokanji and thus to protect the security of the other mining company. However, the RUF did not stay long in Mokanji and by the end of the afternoon had left the town and proceeded further south to Tongor (Banta Chiefdom) where they took a lot of civilian property. From there, they moved to Imperi Chiefdom (Bonthe District), the location of the Sierra Rutile Company, which would be attacked on 19 January 1995. Military strategists in Freetown suspected that the RUF forces would use the Sierra Rutile area as a base to access the sea through the port of Nitti (Banta Chiefdom), where major shipments of mineral products from both Sieromco and Sierra Rutile companies were exported by sea to Europe.[1280]

[1277] It is likely that they regrouped with the SLA forces who were deployed at Mano (Dasse).

[1278] A strong SLA military base was located at Daru, called Moa Barracks. This base had been attacked many times during the first years of the conflict by RUF/NPFL forces but SLA forces always repelled them, which led civilians in Mokanji to say that those SLA forces "knew how to fight". It is also alleged that this reinforcement was not too much encouraged, as the SLA forces already stationed in the town were poorly dressed in half combat, were carrying cudasses and half of them were wearing bathroom slippers.

[1279] During the attack on Mokanji, it appeared that the RUF were "all over the town", as gunshots were heard from everywhere. This may suggest two things: either RUF forces were already in the town before the attack, disguised in SLA uniforms, or some SLA forces left their ranks and joined the RUF.

[1280] Xinhua News Agency, 24 January 1995.

More SLA members were again airlifted to Mokanji to reinforce the forces already in the area. Supported by Nigerian Alpha Jets, they fought the RUF forces who had not gone to Bonthe District and who were allegedly still in the Mokanji Hills area.[1281] The workers of the mining company and their families were evacuated to Freetown. SLA forces based in Mokanji, however, began to harass civilians and to chase them out of their villages to steal their property, forcing them to live in the bush. For example, around 13 February, the SLA forces went to a bush camp in order to take civilians and to make them work for them. During their escape, a woman and her four children drowned in the Taia River. They also killed civilians they accused of being "rebel" collaborators.

For two months, the RUF forces concentrated on Bonthe District[1282] and to a limited extent on the south of Moyamba District. In February, RUF forces entered Mokele, the headquarter town of Banta Mokele Chiefdom. They burnt down the Paramount Chief's compound and four other houses and stayed in the town for two weeks before leaving. During the time of their stay, the civilians had fled to the bush. The RUF forces were also scattered in villages throughout Banta Chiefdom, including Yebanna and Mogbomo Junction in the south of the chiefdom, and asked civilians whether any SLA forces had visited their villages at any time. In late February, RUF forces coming from the rutile area (Imperi Chiefdom, Bonthe District) launched an unsuccessful attack on Mokanji (Banta Chiefdom). Until August, RUF forces would make other unsuccessful attempts to dislodge the SLA forces and to take control over the mining company.

In March 1995, a massive RUF operation was launched in Moyamba District. The pattern of the RUF actions clearly demonstrated that their goal was Freetown and that they initially did not intend to settle in Moyamba District, which they used more as a transit towards the capital. RUF forces simultaneously attacked Moyamba Junction (Fakunya Chiefdom) and Moyamba Town, following the same pattern in each attack.[1283] The group that attacked Moyamba Town would then follow the Moyamba-Freetown road, attacking the major roads on its way, before being halted in Ribbi Chiefdom, in the north-west of the District.

Prior to the attack on Moyamba Town, RUF forces attacked the town of Mokele (Banta Mokele Chiefdom). On their arrival in the town, the commander informed the civilians that they were peace-loving citizens fighting to liberate the people of Sierra Leone, which was why they were called "freedom fighters." However, no sooner had the meeting ended than the harassment of civilians begun. The forces stole civilians' property and took away all the young men and women including girls between 13 and 16 years old. They looted the township and forced the young men and women to carry the loads. Another group of RUF forces entered the town of Mosekie (Banta Mokele Chiefdom) where they had a meeting with the civilians. At the meeting people were ordered to cook for the them, after which the town was looted and the property was carried for them by young men captured in the village. Some houses were burnt but no one was killed. Around the same time, the RUF forces also entered Mokepie village (Banta Mokele Chiefdom), where they introduced

[1281] AFP, 25 January 1995.

[1282] By February 1995, all the chiefdoms in the north of Bonthe District had been attacked by RUF forces.

[1283] It is probable that the RUF group who attacked Moyamba Junction, to the north of the District came from Tonkolili District, and the one who attacked Moyamba Town came from Bonthe District.

themselves as "freedom fighters" and took property from civilians. They burnt down some houses in the town and abducted youths, for the purposes of recruiting them into their fighting force.[1284]

These RUF forces, dressed in military uniforms, reached Moyamba Town (Kaiyamba Chiefdom), close to the centre of Moyamba District, on 14 March 1995. At the time of the attacks, members of the CDU were deployed in the town but had to withdraw, as they could not withstand the heavy firepower of the RUF forces; the SLA forces, similarly overpowered, also had to retreat. Twenty-five civilians were killed in the town and several young girls and women raped. The RUF forces also burnt down 23 houses, including the Moyamba Police station and took away a lot of property from civilians and shops. Captured civilians were forced to carry property taken by the RUF forces, who also captured some children to be conscripted into the fighting forces. The RUF forces spent only one night in the town and continued their way on the Moyamba-Freetown road, passing by Yoyema (Kaiyamba Chiefdom).

Another group of armed men entered the town on 17 March 1995 and set up base in the compound of the Moyamba Boys Secondary School. They introduced themselves as SLA forces and encouraged civilians to come back to the town; civilians were convinced that these were SLA forces, as they were wearing military uniforms. Furthermore, the commander introduced himself as a famous SLA officer. However, three days later, those men began breaking into houses, shops and Government buildings and taking everything they could lay their hands on. They stayed in the town for one more month, during which they harassed civilians for their domestic animals and created more havoc, killing, raping and abducting civilians. They only left the town on hearing the rumour that SLA forces were on their way to the town. Civilians then identified those armed men as RUF forces.[1285]

At Yoyema (Kaiyamba Chiefdom), which they reached on 15 March. RUF forces also beat civilians, killing some, took away all the domestic animals and left the same day, continuing their journey westwards. Five days later, another group of armed men claiming to be SLA forces reached Yoyema and, as they did in Moyamba Town, persuaded people to resettle in the town; for one week, the town was calm. However, pandemonium broke out not long after, including the massive stealing of property throughout the town, and those forces were then identified by civilians as RUF forces. These forces also left on hearing that SLA forces were approaching Moyamba Town.

The next chiefdom to the west was Kongbora and Bauya, the chiefdom headquarter town, is located on the main road. RUF forces who had left Yoyema on 15 March attacked villages on the road but by-passed Bauya. They entered Morkorewo (Kongbora Chiefdom) on 16 March and burnt down the first house of the village. They killed some people, among them two elderly people, and abducted others. Those captured civilians were to carry their property while young boys, some of whom had weapons, were to fetch water. One old man who was captured at Yoyema the day before and who

[1284] Although this action was reported to have taken place on 19 March, it is likely that it took place before the attack on Moyamba Town on 14 March, as it is located in the south of the District and RUF forces reached Moyamba Town from Bonthe District, which is further south.

[1285] It is however not clear whether those armed men where RUF forces or ex-SLA forces deserting their positions and acting like the RUF. Civilians however recounted that they were RUF forces in disguise.

told them he was tired to carry the load was killed. The RUF forces stole property from the old part of the village and stayed for three days, during which time they killed some civilians and took all the livestock. These RUF forces were accompanied by men and women fulfilling different missions, some of them being engineers, cooks, first aid men, load carriers or road map directors.

The headquarter town of Rotifunk (Bumpeh Chiefdom), which is also located on the main road, was attacked in the afternoon of 18 March 1995. Civilians were abducted and killed; people coming to the town one week later found a lot of bodies in the centre of the town, some already beginning to decompose. Many houses were burnt, mostly on City Road, and property was taken. The day before this attack, armed men introducing themselves as SLA forces had come to the town. However, on the day of the attack, those armed men took red pieces of cloth out of their pockets and tied them around their heads. This made civilians understand that those armed men were not SLA forces coming to protect them as they pretended but RUF forces.[1286] Before leaving the town, the forces wrote on some of the houses: "RUF heading for the city Freetown – we will be back soon".

RUF forces then attacked the headquarter town of Bradford (Ribbi Chiefdom), to the north-west of Rotifunk. All the civilians in the town ran into the bush while the forces burnt down many houses, killed 13 civilians and took a lot of property. They were however repelled by SLA forces who had come from Freetown on three trucks the day before. During the fighting, one RUF member and two SLA members were killed. Although they had defeated the RUF, the SLA forces did not stay in the town.

After the attack on Bradford and their encounter with SLA forces, RUF forces came back to Rotifunk (Bumpeh Chiefdom). They established a camp, known as "Camp Fol Fol",[1287] located in a strategic position on a hilly hideout at the border with four chiefdoms, Bumpeh, Ribbi and Kongbora Chiefdoms (Moyamba District) and Yoni Chiefdom (Tonkolili District). From this camp, they went on to attack villages, notably the villages surrounding Rotifunk, where they killed civilians and took property. At Berembu, a woman was killed and in Makombrabai the RUF forces killed three people, one woman and two men. At Mokeboi, five miles from Rotifunk, no one was killed but several people were captured and property was taken. Old men and women were forced to carry the stolen property, including mattresses, rice, palm oil, gari and cattle, while young boys and girls were taken to the RUF base for training and recruitment. One young boy who attempted to run in order not to be abducted was shot and killed by an RUF member. When they reached Levuma, in the north-west of Kongbora Chiefdom, near their base, RUF forces released the carriers, as they did not want them to know the location of their base. A guard place or second camp was established at Motokoh, two and a half miles from Camp Fol Fol, where civilians abducted to carry loads from the villages were released and told to return to their villages. RUF forces also made several visits to Rotifunk town, which was completely deserted by civilians for some weeks. All these attacks led many civilians to find refuge in the centre of the chiefdom, notably in Bumpeh, a village virtually only accessible by the Bumpeh River, which originates in the ocean.

[1286] The red headband was characteristic of the RUF forces who had worn it since the beginning of the conflict. This red headband distinguished them from the NPFL forces during the early stages of the conflict.

[1287] This camp was reported spelled in two different ways, the alternative one being "Camp Fall Fall".

More than 200 RUF members, armed with AK47s, RPGs and a Anti Aircraft gun mounted on a lorry, attacked Bauya (Kongbora Chiefdom) sometime in March.[1288] Several buildings were burnt, including the Chief's house, the Secondary School, the Court Barrie and the market. More than 30 people were killed and a lot of property was taken. From Bauya, they attacked the surrounding villages. Besides Camp Fol Fol, a secondary training base was opened at Levuma (north-west of Kongbora Chiefdom). The area soon became deserted, as the RUF forces were settled and in control of the area.

In the other wave of attacks occurring concurrently with the attacks on Moyamba Town, Moyamba Junction (Fakunya Chiefdom) was attacked on 14 March 1995, probably by RUF forces coming from Tonkolili District.[1289] Early in the afternoon, armed men with full military uniforms entered the town with sporadic shooting; giving no excuse for the shooting, they left the town towards Mile 91 (Yoni Chiefdom, Tonkolili District), where they claimed they came from.[1290] Late in the evening, those armed men came back and attacked the town again. At the time of the attack, the SLA forces posted there were nowhere to be found. The RUF forces burnt down nine houses and captured several people. These forces then went south, attacked Waterloo in the evening and proceeded on to Njagbahun Junction, where SLA forces were based. Although no fatalities are reported, RUF forces succeeding in capturing a lot of newly supplied arms and ammunition from the SLA. From Njagbahun, they headed back in the direction of Waterloo and, on their way, attacked Kpetema Fanday at midnight. Property was taken and several people were captured in the town.[1291] On 15 March, civilians who had been abducted from Moyamba Junction and surrounding villages were forced to carry the stolen property to an RUF camp called "Borkor One" near Lumleblu village.[1292]

In about mid April 1995, the RUF forces attacked Motobong (Bumpeh Chiefdom), 16 miles from Rotifunk. As they opened fire while entering the village, civilians ran into the bush. The RUF forces shot two cows and took away other domestic animals to Moshibara Junction, where they entered the town, killed one woman and wounded another civilian. They then advanced to Moshemoi, capturing many civilians without resistance or the need for gunfire during the night. They asked a girl to show them the direction of the Paramount Chief's farm and, as they realised she gave them the wrong direction on purpose, they raped her. They then gave her Le 10,000, telling her that they would come back for her, and left for their base at Camp Fol Fol.

The SLA forces who had earlier prompted RUF forces, disguised as SLA members, to leave Moyamba Town in late March/early April, arrived in Moyamba Town on or around 20 April 1995. The SLA forces defended the town from several more attacks by the RUF forces, who never

---

[1288] Although it took place in March, this attack may have taken place before the establishment of Camp Fol Fol. It is also possible that some of the RUF forces had settled in villages in Kongbora Chiefdom, while the bulk of the RUF forces were heading to Rotifunk (Bumpe Chiefdom). Accordingly, the exact date of these events could not be ascertained. They took place either before or after the Rotifunk and Bradford attacks.

[1289] Around the same period, RUF forces attacked Mile 91, a strategic town on the highway to Freetown, in Tonkolili District.

[1290] At this time, SLA forces were deployed in Mile 91 in Tonkolili District.

[1291] No further information was available on this event.

[1292] Although the location of this camp could not be ascertained, it was probably a secondary camp.

succeeded in retaking the town. Their stay in the town was described as "peaceful" and no acts of violence against civilians were reported.

Probably coming from Camp Fol Fol, RUF forces came to Rotifunk (Ribbi Chiefdom) around 14 June 1995, although at that time, most of the people were living in the bush. On their way to Rotifunk, they came across a civilian at Mokaikono, whom they asked to lead them to the other civilians in the bush. As he did not want to disclose their location, he was hit with a bladed weapon and left for dead in the bush. The man however survived and after two days, managed to go back to his camp.

Sometime between June and July, Mokanji (Banta Chiefdom) was attacked for the fourth time by RUF forces probably coming from Bonthe District. They were repelled by SLA forces and 28 of them were killed. No SLA member or civilian was killed but SLA forces were actively engaged in stealing and vandalising the Sieromco Company.[1293]

During August 1995, the upper part of Bumpeh Chiefdom was under the control of the RUF forces. Villages in Bumpeh Chiefdom including Berembu, Topkumbu, Mosenesse, Kpamgbaya, Komrabai and Yenkissa were attacked. The RUF forces burnt a house at Tokpumbu and took the property of a civilian at Kpamgbaya. In that town, they also forced a man who was a Muslim and had never drunk wine in his life to drink alcohol; as his wife came out of the bush crying, she was shot and killed and acid was sprinkled on her body. The town of Mokebbi was attacked for the second time by the RUF forces and they proceeded to Mogbindi. Finding nobody in the town, they burnt all the houses there.

At that time, however, RUF forces were launching those attacks by group of 20 to 30 men, of whom only four to five had guns. It thus appeared that the progression force of the RUF as evidenced by their attacks on Moyamba Junction, Moyamba Town and the main towns on the highway had come to a halt during this period, and RUF forces were more engaged in looting.

In October 1995, another wave of attacks were carried out in Fakunya Chiefdom, by RUF forces coming from their main base at Camp Fol Fol. On 9 October 1995, they passed through the towns of Rotawa, Falaba Gbotima and arrived at Sembehun Kortuwabu, where they set up a temporary base. Many civilians were captured in the town on their arrival. The commander informed the people of the town that they were RUF forces and that both the town and all its surrounding villages were under their control. The RUF forces attacked neighbouring towns and villages and various items were stolen, including food products such as rice, groundnut, pepper and palm oil as well as personal effects, including tape recorders, radios, clocks, clothing and cameras. In those villages, some women were raped. On 10 October 1995, the RUF forces attacked the town of Kpangbama. After they entered the town, the RUF commander ordered the forces not to shoot, so they did not shoot. Over 100 people were captured, including women, including suckling mothers, and children. The captured civilians were forced to carry property stolen from the town to Sembehun Kortuwabu,

[1293] RUF forces carried out a fifth and last attack on Mokanji in August but were, once more, repelled by SLA forces.

escorted by one RUF group, while another group left intending to attack Njagbahun Junction but instead went back to Sembehun Kortuwabu, as they did not find any SLA forces at the Junction.

Other attacks were launched in the surrounding villages of Ngandorhun, Kwellu, and Falaba. The attacks were successful and a lot of property was taken. Again, captured civilians were forced to carry the stolen property to Sembehun. SLA forces who had come from Moyamba Town staged an ambush for the RUF forces but, as they could not withstand the firepower of the RUF, they went back to Moyamba Town. Some captured civilians managed to escape during the crossfire. In retaliation for the attack, RUF forces burnt down Kpangbama, accusing civilians of having warned the SLA they were there. Over 100 goats from the surrounding villages were killed and smoked, for later consumption at Camp Fol Fol. During their six-day stay in Sembehun Kortuwabu, RUF forces raped women and many girls, sometimes aged below 11, and killed three civilians who attempted to escape.

On 14 October, the RUF commander sent a message to Camp Fo. Fol for the High Command to send more men, both captured civilians and RUF members, to collect the looted items, as he, and his troops, together with the civilians captured in the area were heading for Njala University (south-east of Kori Chiefdom). The commander told the civilians that this university would not function until the RUF took over government.[1294] RUF forces entered the town of Mokorewa (Fakunya Chiefdom) on 15 October 1995 and took property, mainly personnel items like tape recorders, radios and clothing, from several houses. Two civilians were killed and several more were captured. They told the civilians they came from Sembehun Kortuwabu and were heading for Njala University. Just over a week later, on 24 October, the forces visited the town again and attacked surrounding villages, stealing property, raping and sexually harassing women and young girls. They stayed at Mokorewa for four days, during which time they abducted many civilians, the majority of whom were children. Civilians were forced to carry stolen property for the RUF forces.[1295]

A subsequent attack was launched on Sembehun Kortuwabu and its environs around 2 December 1995. A large number of the RUF members were children between the ages of 12 and 15 years, who had been captured in schools in Lunsar, Port Loko Town (Port Loko District) or Kambia. Civilians were captured and maltreated by the RUF forces in an attempt to learn where the civilians were keeping their food and sexual violence was rampant.[1296] From December to March 1997, it appeared that the civilians in Fakunya Chiefdom suffered greatly, as both RUF and SLA forces raided their villages and camps in the bush, mainly to steal food and other property; some of the civilians were beaten and some women were raped.

On 15 December 1995, RUF forces coming from Camp Fol Fol reached the north of Kagboro Chiefdom, to the south of Bumpeh Chiefdom. At this time, an influx of people had arrived in Shenge, the headquarter town located by the ocean, south of Kagboro Creek. The RUF forces came

---

[1294] Njala University was attacked by RUF forces on 27 December 1995. BBC Summary of World Broadcasts, 28 December 1995.

[1295] This attack on Mokorewa may have been carried out a few days earlier, before the RUF forces sent their message to Camp Fol Fol.

[1296] No more details were available on this information.

mainly for the purposes of finding food and, as they had done earlier in the beginning of 1995, introduced themselves as SLA forces. They entered Morkandor, where they took away domestic animals before continuing their journey to nearby villages, including Bandasuma and Mokana. In all these villages, they abducted civilians to carry the loads, mainly consisting of domestic animals, to their base at Camp Fol Fol. Civilians were warned by the RUF commander that they would be killed if they could not continue the journey. When they arrived near the base, those civilians were released and told to go back to their villages.

Following these attacks, a CDU comprised of civilians with cutlasses, swords and a few shotguns was formed in Kagboro Chiefdom. In addition, the attacks on Bumpeh Chiefdom led the elders to hold a meeting in Moyeamoh in December, at which they sought to find means by which they could repel the RUF forces. One Section Chief asked all the civilians with hunting rifles to surrender them to the Chiefs. Only nine guns could be gathered and 29 youths gave themselves up for training and to form a CDU.[1297]

On 28 December 1995, RUF forces attacked Senehun, the headquarter town of Kamajei Chiefdom, where they killed 28 civilians, burnt houses and took property, mainly money and other valuables. As a result of the attack, most of the civilians left the town and went to camps in Bo and Freetown.

e) Events in 1996

Kamajors from Bonthe District came to Moyamba District to assist the CDUs in the defence of their chiefdoms. At that time also, members of the CDUs and other young men progressively became initiated into the Kamajor society. They initially went to Bonthe District before initiation ceremonies began to be performed in Moyamba District. In February, the first Kamajors of Kagboro Chiefdom came back to the chiefdom from their initiation.

In early 1996, members of the newly formed CDU of Bumpeh Chiefdom had their first encounter with RUF forces between Moyah and Mogbainchain (Bumpeh Chiefdom). They staged an ambush, killing two RUF members, capturing one and taking two AK47s.[1298] Soon after, a few Kamajors from Tihun (Sogbini Chiefdom, Bonthe District) came to the chiefdom and started patrolling in the area, looking out for RUF members. They went to Moyah, where they joined the members of the CDU. In February, both the Kamajors and the members of the CDU went to attack Motokoh, the guard place or secondary camp near Camp Fol Fol. As they took the RUF forces by surprise, they succeeded in dislodging them. They killed some RUF members, took some arms and ammunition, destroyed the base and went back to Moyah. The relations between the Kamajors and the members of the CDU, however, began to deteriorate and they started to quarrel over the Kamajors behaviour. Their main complaints were that the Kamajors wanted the CDU to be their juniors, because the Kamajors had mystical powers; they were harassing civilians, beating them up whenever they did something wrong; and they were taxing civilians and treating the Chiefs and elders without respect.

Initiation ceremonies began to take place at Taninehun (Kongbora Chiefdom) in early 1996 at first only for men recommended by the Section Chiefs. Prior to this, in 1995, a few men had left the

[1297] Those men were not initiated Kamajors.

[1298] It could not be ascertained what happened to the captured RUF member.

Chiefdom to be initiated as Kamajors and had come back to the chiefdom, chasing the RUF who were sporadically raiding small villages, taking away property, abducting young boys and girls and killing some people.[1299] As more and more men were initiated, the Kamajors established checkpoints across the chiefdom, notably three in Bauya, the chiefdom headquarter town. An administration for the Kamajors was set up in the chiefdom with the following positions: Supreme Leader and Initiator, Deputy Initiator and Battalion Commander, Deputy Battalion Commander, Chiefdom Ground Commander and Commanders. Kamajors, equipped with hunting guns, swords, spears, knifes and other bladed weapons did not initially attack identified RUF positions but began by staging ambushes, capturing small groups of RUF forces on food finding missions. They killed a lot of RUF members and took their arms and ammunition. As their number grew, the Kamajors began organising their deployment in strategic areas of the chiefdom.

Before the elections scheduled for 26 February, RUF forces entered Moyoka (Fakunya Chiefdom), and killed with bladed weapons eight civilians attending a church service. They then headed for Moyolo and on their way, killed a man and left the body in the bush. On approaching Moyolo, some entered the bush and encircled the town while others in military uniforms and Kamajors attire entered the town, telling people they had come to talk about the initiation process. Youths came from their different locations and the RUF forces disguised in SLA members and Kamajors[1300] ordered them to assemble at the Court Barrie. The civilians were told to undress and were kept locked in houses. Some 18 civilians were then taken out of the houses, were set on fire and died. As this was going on, three women were raped by many RUF members and were then mutilated, one being forced to sit in a solution of caustic soda and another had her breast cut off with a knife. The third woman was sexually assaulted with a stick, as a result of which she died. Five more civilians including two children aged 12 and 15 were taken out of their houses and, after they were told by the RUF forces to identify which was their predominant hand, this hand was cut off.

The RUF forces left the next morning and one day later, SLA forces from Njagbahun came to the town. They told civilians who were burying their relatives that they had come to assess the damage caused by the RUF forces. However, they took civilians' property, including domestic animals, rice, groundnut and clothing. Three days later, SLA forces came back to the nearby villages of Mobayngahun, Salima, Bembeh, Mopotey, Njala Gofor, Gbeworbu, Potehun and Batama, where they took property, forced civilians to carry the load to their base at Njagbahun and sexually harassed women.

After the February elections, RUF forces came back to Rotifunk (Bumpeh Chiefdom) and burnt down more houses, but by this time most of the civilians had deserted the town. RUF forces were described as being "totally out of control", as each time they went to a village, they burnt down houses, took away property and killed anybody that they came across.

The north-east of Kamajei Chiefdom was attacked by RUF forces coming from Valunia Chiefdom (Bo District), to the east of Kamajei Chiefdom. They established a base in Yelina Section in March

[1299] It could not be ascertained where they went for the initiation ceremony.

[1300] It is also suggested that those RUF forces introduced themselves as officers of the Interim National Electoral Commission (INEC), coming to educate the people of the town about the electoral system.

1996 and abducted some young boys and girls to carry loads and to show them the various routes and passages through the chiefdom. In the same month, Kamajors arrived in the chiefdom to protect Gondama.[1301] The Kamajors attacked the RUF forces in Yelina section and rescued many civilians, who they then brought to Gondama. However, Gondama was attacked shortly after, with over 30 people being killed by the RUF forces, and the Kamajors left the town. Most of the people killed were civilians recently brought to Gondama by the Kamajors and, accordingly, did not know any escape routes. During this attack, the RUF forces did not burn any houses but took away property, mainly livestock.

In late March/early April 1996, RUF forces attacked the town of Mokainsay (Kagboro Chiefdom), in the south of the District. At first, the Kamajors put up a stiff resistance but they were soon forced to withdraw, as they ran out of ammunition. The RUF burnt some buildings, including a mosque. They left the town and two days later, killed an old man in his hammock and burnt houses at Mojana, in the east of the chiefdom. The RUF forces then retreated to their base at Camp Fol Fol.

Bagruwa Chiefdom, also in the south of the District, was attacked by RUF forces for the first time around April 1996. RUF forces coming from the north of Bonthe District through Banta Chiefdom arrived in the south of Bagruwa Chiefdom.[1302] At this time, the Paramount Chief hired Kamajors from Tihun (Sogbini Chiefdom, Bonthe District) to defend the chiefdom. RUF forces were dislodged in a fierce battle at Mogboi. The battle lasted for several hours and a large number of RUF forces were killed. At Matiru Bangay, one Kamajor killed a civilian on the allegation that he was an RUF collaborator.

In late May, RUF forces came back to Kagboro Chiefdom and attacked Mokobo (north-east of the chiefdom) for the second time, with the intention to establish a base there. They stayed in the town for two days, stealing civilians' property in the town and in the surrounding villages and forcing civilians to carry the load. These attacks led civilians to desert the town and go to live in the bush. The RUF forces then divided into four groups and scattered throughout the chiefdom, including at Tissana, Morkandor, Bandajuma, Mokana, Suen and Mohiteh, where they harassed civilians, stole their property and forced them to carry the load. They also made a rapid incursion into Timdel Chiefdom, east of Kagboro Chiefdom.

RUF forces attacked Sembehun, the headquarter town of Bagruwa Chiefdom, around 3 June. They broke into all the houses, took away property and captured four boys and four girls who cooked for the RUF forces at their temporary base at Kongonani.[1303] They then left the area, heading in the direction of Bonthe District. On their way, they stopped at Mokassie, where they released some civilians they had abducted but killed one man because he refused to go with them. Another man was killed for the same reason at Jondu. Following the attack on the town, CDUs were formed in Sembehun and young people, equipped with sticks, machetes and shotguns, established checkpoints.

[1301] This is a different Gondama Town from the one in Bo District, which hosted an IDP camp.

[1302] At the time of this attack, RUF force had already been dislodged from their positions in the north of Bonthe District and had scattered throughout the bush.

[1303] It is not clear whether those children were released after doing the cooking.

Around May or June 1996, a new wave of attacks were carried out in Fakunya Chiefdom and its environs by RUF forces using Falaba Gbotima village as their base. They raped women and took property in more than 30 villages in the area, capturing several civilians who were forced to transport their loads to Falaba Gbotima. Around the same period, Kamajors who went to be initiated came to Kwellu together with some Kamajors from Tihun (Sogbini Chiefdom, Bonthe District) and began engaging the RUF forces, who were continuing their attacks on the small villages of the area. Between June and July, Kamajors based at Kwellu heard that RUF forces were going on looting sprees in Kpangama, Gbengbedu and Mayendu. Four Kamajors met the RUF forces at Nyandehun and engaged them in battle, which left some civilians and some RUF forces, including their commander, dead. The following day, 45 RUF members came to Nyandehun to find their commander, as they could not believe four Kamajors had defeated them and killed their commander. They found the body of their commander displayed at the centre of the village and in retaliation, burnt the village. On their return to Falaba Gbotima, they captured a civilian whom they then mutilated and killed. While still alive, his genital organ was cut off and forcibly put in his mouth. His stomach was then slit open and his intestines tied across a stick by the side of the road. At the time of these attacks, the SLA forces were still based at Njagbahun, four miles from Nyandehun, but did not make any move. They would later comment on this by saying that the area was "divided" and as the RUF forces had not come to their area, there was no need for them to go and attack the RUF forces.

As Kamajors continued to attack RUF positions in Yelina Section (Kamajei Chiefdom), RUF forces launched a second attack on Gondama (Kamajei Chiefdom) around 28 June 1996. No casualties were reported, as most of the civilians were by then living in the bush, but the RUF forces burnt down the town. This attack was the last ones in the area, as the Kamajors started patrolling around Gondama. In the neighbouring chiefdom of Kori, Kamajors deployed at Wayima (north-east of the chiefdom), where they mistreated civilians and passers-by, notably by imprisoning them in cages made of thorns. On one occasion, they severely beat the Village Chief of Kerumah, near Wayima, on the grounds that he had made a statement against Kamajors. On another occasion, those Kamajors from Wayima killed three brothers who had travelled from Markoli to Kerumah to meet their mother, accusing them of being RUF members. When their father came to enquire about what had happened to them, he was hit with a bladed weapon and killed.

Around June, the Paramount Chief of Bagruwa Chiefdom sent 70 young men to be initiated at Tihun (Sogbini Chiefdom, Bonthe District). Prior to this development in the chiefdom, some members of the SSD had been sent to the headquarter town of Sembehun to protect the town from RUF attacks. However, those SSD members soon began to harass civilians, moving from village to village and taking away civilians' property, including domestic animals. On one occasion, they killed one young man at Gbangbatoke Junction. This harassment prompted the Paramount Chief to request the presence of Kamajors in the Chiefdom and to report the matter to the Paramount Chief of Kaiyamba Chiefdom. While the Kamajors did come back to Bagruwa Chiefdom, they also soon began harassing civilians.

On 13 July 1996, RUF forces entered Waterloo Town (Fakunya chiefdom) for the second time, from the direction of Rogboya (Fakunya Chiefdom). One of the RUF forces, described as a young boy, killed a civilian. On their arrival in the town, an old deaf man was in his garden, working with a machete, and as he did not drop his machete when told to do so by the RUF forces, a child soldier shot and killed him. During this attack on Waterloo, RUF forces burnt down 23 houses and attacked nearby villages, including Kondiama, Tombay Gbahama and Togbie. In those villages, a lot of property was taken away and civilians were abducted to carry the stolen property to the RUF base at "Camp Fol Fol".

Between June and August, RUF forces battled with Kamajors in Nyaogihun (Kagboro Chiefdom). Four members of the CDF were killed, including their commander. The RUF forces beheaded two of the bodies, cut their stomachs open and displayed their intestines across the road at a checkpoint. The RUF forces then burnt the village before crossing over to neighbouring villages in Timdel Chiefdom where they took property, mainly cattle, and harassed civilians. At this time, Timdel Chiefdom had no Kamajors, as it had never been attacked by RUF forces and the Paramount Chief paid for Kamajors to come from other chiefdoms, requesting subscriptions from the civilians to pay for their services.

As this harassment on Timdel Chiefdom grew, Kamajors from Kagboro Chiefdom went to Bumpeh Chiefdom to obtain reinforcements. They agreed with the Kamajors from Bumpeh that each would send reinforcements to the other chiefdom when it was under attack. Kamajors from the two chiefdoms went to Timdel Chiefdom and staged an ambush near Mokobo (Kagboro Chiefdom), killing many RUF forces. The remaining RUF forces fled the area but promised they would come back. More men from Kagboro Chiefdom were initiated, in Banta Chiefdom and in Kangahun (Kaiyamba Chiefdom) and deployed in different sections of the chiefdom in or around October. Men from Timdel Chiefdom were sent for initiation in Tihun (Sogbini Chiefdom, Bonthe District). No further RUF attacks took place in Timdel Chiefdom and the Kamajors established a base at Mosanda.

Around August, armed men claiming to be SLA forces arrived in Yoyema Town (Kayima Chiefdom), soon followed by another group composed only of women. Despite their claims, civilians understood that they were actually RUF forces, because the initials "RUF" were written on the weapons carried by the women. The RUF forces sent a message to the SLA commander in Moyamba Town. The SLA forces went to Yoyema and after a fierce battle, repelled the RUF forces out of the town.[1304] The SLA commander left some troops in the town and went back to Moyamba Town. The SLA forces left in Yoyema took away civilian's property and left for Moyamba Town three days later. RUF forces came back to Yoyema and stayed for five days, during which they maltreated and killed some civilians, raped some women and abducted about 20 children for conscription.

[1304] This event could, however have taken place in June, as around this period, Moyamba Town was under RUF siege and SLA forces thought the RUF were provoking them to violate the ceasefire, signed earlier that year following the elections: AFP, 7 June 1996.

Around the same time, SLA forces were asked to leave Moyamba Town by the people. It seems that following all the reports of SLA harassment across the District, the Paramount Chief of Kaiyamba asked the Government to withdraw the SLA forces, which he did. After the departure of the SLA forces, the people of the town decided to initiate themselves as Kamajors so that they could defend themselves, since they did not want any SLA forces in the town. The men in the town made it clear that the Kamajor society was only open to people who were Mende by tribe and taxed every household to pay a contribution of Le 1,000. Whoever did not pay the contribution was tied with a FM rope.[1305]

However, the Kamajors engaged in continuous harassment of civilians, including taking property, forcing women into marriage and sexually harassing them. The Kamajors also killed two SSD officers in Moyamba Town, taking their guns and uniforms. Those Kamajors went to Yoyema after the RUF departure from the town. They told civilians to call those who were hiding in the bush and "screened" them, looking for RUF members and collaborators. As in Moyamba Town, they taxed each household as a contribution to their feeding before leaving the town.[1306]

A large number of RUF forces returned to Kagboro Chiefdom in November. Having seen this large group, Kamajors from Mokobo asked for more reinforcements from the other sections. In the meanwhile, two Kamajors who had advanced on the RUF forces were killed. Their bodies were beheaded and their intestines were tied on two sticks across the road to act as a checkpoint. At Nyayagoihun, the RUF forces killed two pregnant women and three children, who were hiding under a bed, and burnt the houses of the village.[1307] Around the same period, RUF forces made another incursion in Bagruwa Chiefdom. They killed one man at Moseinongor and burnt three houses at Ngayebu. They also encountered SLA forces from Moyamba Town who were patrolling the area and some fatalities on both sides were reported. As they approached Gbangbatoke Junction, they burnt two commercial vehicles going to Shenge (Kagboro Chiefdom) but the passengers managed to escape by running into the bush. The RUF forces then left the area and went back up north.

At around this time, the Kamajors began increasing their numbers and, consequently, began putting in place structures for better coordination amongst themselves. Kamajors from Kagboro, Timdel and Bagruwa Chiefdom organised themselves and appointed one man as the Chief Kamajor for the region. Men from Banta Mokele Chiefdom were sent for initiation to Tihun (Sogbini Chiefdom, Bonthe District). Around the same period, Kamajors from Bonthe District arrived at Mano, the headquarter town of Dasse Chiefdom. However, as time went on, Kamajors started harassing civilians and summary executions of alleged collaborators took place at the Kamajor base at Mosanda. On one occasion, a man was brought to Mosanda from Sembehun (Bagruwa Chiefdom), was beaten and put in a cage made of thorns for one full day before being released.

[1305] This rope had two sticks on its edges. "FM" means "frequency modulation", for it was believed that once tied with such a rope, anyone would talk.

[1306] No more information was available on these events.

[1307] Although it seems that the RUF forces were repelled from the chiefdom, there is no further report on fighting with Kamajors in the chiefdom. In the south of Bumpe Chiefdom (north of Kagboro Chiefdom), RUF forces battled for two days with Kamajors before being chased away.

By the end of the year, probably around November, the Kamajors from Kongbora Chiefdom launched their first attack on RUF positions at Levuma, north-west of the chiefdom. The Kamajors shot down a helicopter and succeeded in dislodging the RUF forces from their positions. A large cache of arms, ammunition and weapons that the Kamajors did not have so far – in particular AK47s and RPGs – was captured. Following this successful attack, Kamajors launched an offensive on Camp Fol Foi, the main RUF base in the area. The battle went on for two days and the RUF forces were eventually dislodged.[1308] Kamajors came back from this battle with a lot of arms and ammunition and other property, including televisions and fridges. These victories led more and more men to be initiated into the society, fighting the RUF stationed in the north-west of the chiefdom. Kamajors brought back a lot of RUF members and people they suspected of being RUF members or collaborators and killed them; civilians recounted that they regularly heard that a "rebel" had been captured and that they knew he was going to be "washed", meaning killed.

In December 1996, RUF forces entered Benge (Bumpeh Chiefdom) where they killed a civilian who refused to have sex with his mother. They proceeded to other villages like Mobainda and Nyadahun (Bumpeh Chiefdom) where they took a lot of property from civilians.

In late 1996 and probably after the Abidjan Peace Agreement of 30 November, civilians refused to allow deployment of SLA forces in the District. By 1996, the population of Moyamba had developed a complete distrust of SLA forces, since the RUF forces who came to the District were wearing military uniforms and the SLA forces deployed in the District, mainly in Kaiyamba, Fakunya and Banta Chiefdoms, were harassing civilians.

d) Events in 1997

At the beginning of the year, resettlement of displaced persons, which had began in late 1997, continued as the Government declared the Southern Province safe for resettlement.[1309] Nevertheless, the year continued to be marked by violence against civilians and between all the different fighting factions.

On 3 January 1997, SLA forces based at Taiama (Kori Chiefdom), together with SLA forces from Bo Town, attacked Kamajors at Taiama. Prior to this event, tension between the SLA and Kamajors deployed at Taiama had built up to the extent that both forces were controlling different checkpoints in the town. In late December, one SLA member destroyed a Kamajor checkpoint in the town; civilians were killed during the subsequent attack in January. SLA forces then headed to

[1308] The RUF spokesman stated that the constant attacks on their main bases in the District from the air and the land around 9 and 11 November were undermining the peace process. Furthermore, conflicting information was reported about the crash of a helicopter in the Rotifunk area. According to the RUF, this was an SLA helicopter bringing reinforcements to strategic sites in preparation for a ground assault while it carried out aerial bombardment on RUF bases. The RUF claimed to have brought it down with an Anti-Aircraft weapon. However, military sources spoke about a helicopter bringing relief supplies, which had to undertake an emergency landing after developing engine trouble and was then set on fire by the Kamajors: AFP, 13 November 1996.

[1309] This resettlement went on in various areas in the south and at the same period, thousands of IDPs left the camps in Bo District and returned to Pujehun District.

Njala, south of Kori Chiefdom. On their way to Njala, those SLA forces stopped by Mokonde, where they ransacked the hospital. At Njala University, they went to a "customers store", broke into it and took everything they could carry away with them.

In January, villages in the Kovella Section (Fakunya Chiefdom) were tasked with sending men for initiation at Kwellu (Fakunya Chiefdom). On 30 January, Kamajors battled with the SLA troops based at Njagbahun for two hours before dislodging the SLA from the town, killing some SLA members during the battle. This battle was the last of a series of fights between the two fighting factions in the chiefdom.

On 26 January, Kamajors attacked the SLA forces based in Mokanji (Banta Chiefdom), allegedly because those forces had been stealing property. The Kamajors were defeated by the SLA forces and three SLA members, a lot of Kamajors, including the son of the High Priest and Chief Initiator, and some civilians were killed. Three days later, the SLA forces were transferred to Mile 91 (Yoni Chiefdom, Tonkolili District),[1310] leaving the way open for the Kamajors to settle in the town and erect checkpoints. Soon, they began harassing and ill-treating civilians; any person found having a link with a member of the SLA member was targeted and killed. Kamajors also cleared out what was left in the Sieromco Company during an operation they named "Operation clear all".[1311] Some months later in the south of the District, at Gbessebu (Kamajei Chiefdom), SLA forces killed a Kamajor while they were going to Pelewahun (Kamajei Chiefdom).

In February 1997, tired and hungry RUF forces entered Kawama (Kori Chiefdom) on a food finding mission. They asked civilians to cook for them and took away civilians' property. They also took with them five strong men to carry the load and three young girls between the ages of 15 to 18 years; since that time, their fate remains unknown.

Since they had taken control of Moyamba Town, in around August 1996, Kamajors had been mistreating the civilians in the town. Indeed, for the inhabitants of Moyamba Town, the only difference between the Kamajors and RUF forces was that the Kamajors were in the towns, while RUF forces were in the bush. In February 1997, Kamajors from Moyamba Town went to Korgbotuma, where they beat the Village Chief for two days and forced him to swallow stones, as a result of which he died. The villagers were then taxed Le 400 as a contribution to the Kamajors, who burnt the houses of those who did not pay. Kamajors also stole most of the remaining property in the town, including zinc from the houses and zinc recently provided by an International NGO. Civilians were forced to give money and rice every two weeks and whoever did not do so was killed.

Sometime between January and May 1997, RUF forces attacked Mano (Dasse Chiefdom) but were repelled by Kamajors from Bonthe District who had deployed in the chiefdom in late 1996. This attack prompted the chiefdom elders to initiate their own Kamajors and civilians were asked to contribute a small amount of money for the initiation ceremonies. A Kamajor administration was

[1310] Around this time, SLA forces were deployed at Mile 91, where fighting with the CDF was also reported.
[1311] Later during the year, in November, the Sieromco Director contracted Executive Outcomes to protect a team sent to evaluate the damage at Mokanji: Africa Energy & Mining, 11 September 1996. Executive Outcomes was a mercenary company hired by the Government of Sierra Leone in 1995.

put in place in the chiefdom and the following positions were established and filled: Chiefdom Ground Commander, Deputy Chiefdom Ground Commander, Section Commanders, Patrol Commander and Welfare Officers (AG). The Welfare Officers were generally civilians appointed by Kamajors to act as a liaison between the civilians and the Kamajors.

Shortly after the Coup on 25 May, which saw the Armed Forces Revolutionary Council overthrow the government and seize power, RUF forces from Bumpeh Chiefdom left their camp and went to Freetown to join the AFRC regime.[1312] However, they later returned to Rotifunk, the headquarter town, and took away the zinc from the remaining houses. RUF forces brought the zinc to Waterloo (Western Area),[1313] where they met their business partners. All the Kamajors from the chiefdom assembled at Mokkebi, ready to attack RUF/AFRC forces if they came back, which they did two days later and were attacked by the Kamajors.[1314]

After the Coup, the AFRC forces made an announcement over the radio that Kamajors should lay down their arms and surrender to the nearest Police Station, which the Kamajors in Moyamba District did not do. RUF/AFRC forces established checkpoints from Rotifunk (Bumpeh Chiefdom) to Mabang (Ribbi Chiefdom, at the boundary with Port Loko District) and on the highway, as they knew there were Kamajors in Bumpeh Chiefdom. Nevertheless, the Kamajors continued their attacks, and after few months, they had succeeded pushing the RUF/AFRC forces beyond the Mabang Bridge, thus controlling Ribbi, Bumpeh, Kongbora and Kayima Chiefdoms.

From May 1997 until January 1998, the RUF/AFRC forces killed a number of civilians travelling on the Taiama (Kori chiefdom) to Bo (Kakua Chiefdom, Bo District) highway, during which time they also took a lot of property from the travellers. Men were particular targets, as the RUF/AFRC forces alleged that any man in Kamajei and Kori Chiefdoms was either a Kamajor or a Kamajor supporter. Kamajors from Kamajei Chiefdom, together with some Kamajors from Mongere (Valunia Chiefdom), also ambushed vehicles they claimed to belong to AFRC members. The stolen property was taken to Gondama (Kamajei Chiefdom) and to Mongere. Civilians in this area were therefore caught between the two fighting factions.

On 5 June 1997, RUF forces from Kailahun District and en route to Freetown to join the AFRC regime raided the town of Senehun (Kamajei Chiefdom). They took a lot of property from the civilians, as a result of which civilians fled the town. On 7 June, RUF/AFRC forces entered Moyamba Town, although it had been under Kamajor control since August 1996, when Kamajors forced the SLA forces out of town. RUF/AFRC forces killed 12 civilians and took away property, leaving the same day and promising they would come back.

Around 16 June, RUF/AFRC forces entered Yoyema (Kaiyamba Chiefdom), where RUF forces had been repelled around August 1996. They told civilians they had come to thank them for voting for

---

[1312] It is not clear whether an attack on the camp took place in 1996 and, if it took place, whether the RUF forces went back to the camp afterwards.

[1313] There are two Waterloo Towns in Sierra Leone, one in the Western Area and one in the north of Fakunya Chiefdom.

[1314] The outcome of this battle and any casualties could not be ascertained.

the Sierra Leone Peoples Party (SLPP). They burnt down many houses in the town and killed a tremendous number of civilians.

Since the Kamajors had been in control of Kagboro, Timdel and Bagruwa Chiefdoms, in the south of the District, since late 1996, there was a shift in their organisation. At this time, the Kamajors were identified in two different categories: the "old" and the "new"; it was believed that most of the havoc on civilians was created by the new Kamajors, most of whom had been initiated after the RUF forces made their last attack on the chiefdoms. Thus at this time both old and new Kamajors from Kagboro reorganised themselves and, having taken control over an area, began to harass not only civilians but also their own colleagues. For example, starting in June, a base commander from Sembehun (Bagruwa Chiefdom) used to visit Shenge (Kagboro Chiefdom). On these occasions he and his men would loot the town and harass the inhabitants. On one occasion he killed two civilians visiting Shenge and left their bodies near a bridge at Sembehun. One of these civilians was a trader, carrying US dollars to the value of Le 11,000,000, which was taken away by this Kamajor commander. During these raids, this Kamajor commander also threatened some Kamajors from Kagboro Chiefdom at gunpoint. On another occasion, Kamajors based at Mossanda (Timdel Chiefdom) went to Mokobo in Kagboro Chiefdom where they took some cattle away.

Kamajors at Shenge and elsewhere also made cages constructed with different kinds of thorns, where suspected "rebel" collaborators and civilians or Kamajors who violated their laws were imprisoned. Civilians were flogged with sticks and forcefully pushed into the cages, the floors of which were also lined with broken bottles. The CDF forces also had another form of punishment for civilians known as "FM": a thin nylon rope was tied on two short equal sticks and then wrapped either on the two wrists or above the elbows. It was continually rolled until the nylon was squeezed into the body, injuring veins and muscles as the circulation of blood stopped in the affected areas. When the person was released, usually either their hands were broken or very swollen, which often led to partial deformity. These forms of punishment (FM and cages) were found in almost all the chiefdoms in the District where CDF were based. For example, at Mano Junction (Kagboro Chiefdom), two members of a church were accused of preaching against the Kamajors and were put in the cage into which hot ashes were poured; Kamajors referred to this as "a jet is bombing".

CDF members in other chiefdoms continued their harassment of civilians, inflicting sexual, physical and mental violence. In fact, this period was described by some civilians as the peak of the CDF activities in the District, with Kamajors being described as "having spoiled their mandate". People who defied the Kamajors' authority were often killed. For example, at Banta Chiefdom, three youths who went to purchase gari at Gbangbatoke were arrested for not paying due respect to the CDF command. Two of them were killed and the third was severely beaten before being released. This harassment led to an incident in Gbangbatoke in September, during which civilians threw stones at Kamajors and told them they would take care of their defence themselves.[1315] At Dodo Bridge (Bagruwa Chiefdom), summary executions were carried out. Checkpoints were established and travel cards issued to civilians. A civilian without such a card was considered to be an RUF member and was dealt with accordingly.

[1315] AFP, 26 September 1997.

In Banta Mokele Chiefdom, Kamajors also passed laws civilians had to abide by, presided over cases and acted as Chiefs. The Kamajors' behaviours in Kamajei Chiefdom (north-west of the District) also began to change after the signing of the Abidjan Peace Agreement and they were described as being the "chiefs". They decided cases and punished people they found guilty. Town Chiefs and Section Chiefs were molested by young Kamajors, civilians were maltreated and sometimes, were put the cages made of sticks and thorns. In other cases, women were beaten publicly, particularly when they refused to marry a Kamajor.

In Dasse and Kowa Chiefdoms, civilians recounted that the checkpoints, originally set up by the Kamajors to search for RUF members and weapons, were now used to harass civilians and drivers, asking them for money and taking their property. Cages made of thorns were built at these checkpoints and were used as prisons or guardrooms. On one occasion, a student coming from Bo had his shoes and his money taken away at Mano (Dasse Chiefdom). As he wanted to talk, he was a hit with a rifle one Kamajor was carrying.

RUF/AFRC activity in the second half of the year continued with numerous attacks on different towns and villages. During the night of 25 June 1997, RUF/AFRC forces attacked Mokonde, south of Kori Chiefdom near Njala University. As it was dark, it was difficult for people to see where they were going when they tried to escape and many drowned in the Taia River. Others were shot and killed by the RUF/AFRC forces. RUF/AFRC forces went to Njala College and stole a lot of property. Before leaving, they captured some civilians to carry the load; one of them was later shot and killed when he said he was too tired to carry the load. RUF/AFRC launched subsequent attacks on Mokonde and its environs throughout the year, almost without exception on a hit and run basis.

In the north of the Chiefdom, at the boundary with Yoni Chiefdom (Tonkolili District), RUF/AFRC forces entered Negeleboiya at night sometime in July. They gathered the civilians who did not manage to escape at the Court Barrie and began calling people's names. Those who were called had to lie down and then the RUF forces then cut their throats; 40 men were killed that night in this way.

On 28 June 1997, RUF/AFRC forces attacked Moyamba Junction (Fakunya Chiefdom) and villages on the road leading to Moyamba Town. Houses were burnt at Kpangbama and Ngandorhun while civilians were killed between Kpetema Junction and Waterloo. Sometime the next month, a large number of RUF/AFRC forces went from Moyamba Junction to Moyamba Town (Kayima Chiefdom). They captured 11 commercial vehicles at Moyamba Junction and mounted an anti-aircraft gun on one of the vehicles, which they used to fire at towns and villages they passed on their way to Moyamba Town. They burnt down several houses at Kpangbama and Ngandorhun (Fakunya Chiefdom). Kwellu (Fakunya Chiefdom) was fiercely attacked, as it was an important initiation centre. Despite stiff resistance from the CDF, between four to eight civilians and one CDF member were killed during the battle and eight houses were burnt down. The RUF forces reached Moyamba Town around mid to late July and dislodged the CDF forces after a stiff battle.

Moyamba District in a whole and Moyamba Town in particular, was a target for the AFRC when it came into power in May 1997 due to the earlier rejection of SLA forces by civilians in the District. During their short stay of eight days in Moyamba Town, the RUF/AFRC forces killed almost all the young men they found; women, children and even livestock were also killed. They hunted people who had fled into the bush and killed them. Section Chiefs and elders were targeted and killed, including one prominent Section Chief. His death terrified all the chiefdom elders as well as the young men, as a result of which many young men volunteered to join the Kamajor society to defend their chiefdoms.

After eight days in the town, RUF forces returned to Moyamba Junction with all the property they had taken. The RUF/AFRC settled in Moyamba Junction, which led to the harassment of civilians, who by then were mostly living in the bush. One group of RUF/AFRC members was everyday going to the bush to take away civilians' property. During this period, women and girls were constantly sexually harassed.

Two days after the RUF/AFRC forces had left, Kamajors returned to Moyamba Town, sending messages to people in the bush telling them to come back to town. Civilians were screened for RUF members or collaborators when they came out of the bush and every household was taxed Le 2,000 to contribute to the feeding of the Kamajors. The Kamajors conducted a house-to-house search and took away any property that had not been burnt or stolen by the RUF/AFRC forces. The Government agricultural office was also looted. As many civilians left the town and found refuge in the nearby village of Korgbotuma, the Kamajors went there and threatened to kill civilians who would not come back to the town. On their way back, two civilians were shot and killed by Kamajors.

Kamajors imposed their authority on everybody. They used a building on Coromboya Road as their secretariat and established laws and decrees. Chiefs were prevented from exercising their powers and were molested, beaten or tied up. Kamajors exercised all the powers normally vested in different official bodies and fulfilled the tasks of chiefs, judges and policemen. They set up tribunals and presided over cases. Civilians were continuously harassed, for all the non-initiates were treated with disrespect. Wealthy civilians were targeted and all their money and valuables were taken away, often at checkpoints. On one occasion, four Kamajors killed a trader and burnt down his compound. In another incident, a civilian was killed at a checkpoint for Le 500. Women were sexually harassed and forcefully became the "wives" of Kamajors. RUF/AFRC members, if captured, were killed. Kamajors also killed civilians, on the allegation that they were collaborators. The way they qualified the collaboration was so wide that relatives of RUF/AFRC forces were killed, even if they had nothing to do with their relatives in the RUF/AFRC: having the same name as an RUF or AFRC member was sufficient to be "washed", i.e. killed. On one occasion, an employee of the District Office was accused of being a "Junta" collaborator and beheaded at Sembehun Road.

Kweilu (Fakunya Chiefdom) became the centre of administration in the chiefdom and cases were directed to the CDF leaders based in the town. The head of the CDF initiation process and his assistants presided over all cases. RUF members captured at the war front were brought to the town and were killed. On one occasion, a civilian alleged to be a "rebel" collaborator was arrested at

Falaba Gbondma and was hit with a knife and severely beaten before he was taken to Kwellu, where he died. Other civilians were killed on the same grounds, including one man from Madina and one man and his son from Monyanga. Cages made of thorns were built, where civilians and Kamajors who did not respect the laws the Kamajors had established were imprisoned. The local authorities, including Paramount Chiefs, Section Chiefs and Town Chiefs who did not want to be initiated no longer had any control or power.

On 10 December 1997, the CDF launched a successful attack on the RUF/AFRC forces at Moyamba Junction (Fakunya Chiefdom). Five RUF/AFRC forces were killed and the town was captured by the CDF. This attack was the first of series of battles for the control of Moyamba Junction, where RUF/AFRC forces were based and Waterloo, where Kamajors were based. Ultimately, Kamajors would keep the control of Waterloo and would also dislodge the RUF/AFRC from Moyamba Junction.[1316]

The RUF/AFRC forces launched a counter-attack on 16 December, reinforced by RUF/AFRC forces from Bo and Camp Charlie.[1317] A helicopter gunship was also brought by the RUF/AFRC forces, which they used to overpower the CDF, leaving one of them dead. The RUF/AFRC forces captured two other CDF and killed them. Nevertheless, the CDF captured a lot of weapons from the RUF/AFRC forces. On 25 December 1997, the CDF again attacked Moyamba Junction and captured the town. However, on 27 December the RUF/AFRC forces launched a counter-attack and recaptured the town, killing one member of the CDF. On 31 December, the Kamajors finally chased the RUF/AFRC forces out of Moyamba Junction, forcing them to leave a lot of arms and ammunition behind.

Once the Kamajors consolidated their control over the whole Fakunya Chiefdom (they already had control over Kwellu), they increased their pressure and harassment of civilians, establishing laws that civilians had to abide by. Those laws, among others, prevented civilians to pound food in mortars at night and forbad them from giving the Kamajors bananas or any food containing banana. As in Kwellu, cages of 2 ½ feet nigh and 3 ½ feet wide and made of thorns were built and used as prisons. The punishments for not obeying the laws were varied and ranged from being fined to receiving lashes, being imprisoned in the cage and going "round the kabba"[1318] seven times, asking for forgiveness, during which the Kamajors would encircle the violator and give them lashes while they went around seven times.

The last major attack on the town of Njala (Kori Chiefdom) was on 23 December 1997, while Kamajors were carrying out the operation "Black December". RUF/AFRC forces burnt houses from Mokande to the College and occupied Njala for seven days. They killed civilians and captured

---

[1316] In December, an increase in Kamajor activities was reported, despite the declaration of a ceasefire on 22 October as part of the Conakry Peace Plan: Sierra Leone Humanitarian Situation Report 19 November - 2 December 1997.

[1317] This camp was located in the outskirts of Mile 91 (Yoni Chiefdom, Tonkolili District).

[1318] The kabba is a cube-shaped building in Mecca, which Muslims believe was built by Abraham for the worship of Allah. When going on Hajj, namely the journey to Mecca, pilgrims begin by going seven times around the kabba.

and raped a lot of young girls and women in the town. Surrounding villages like Pujehun and Bambubu (both in Kori Chiefdom) were also attacked at this time. The RUF/AFRC forces then went south along the main road to Mano (Dasse Chiefdom), chasing civilians who had found refuge in the bush. The "sorquehun", bush camps, were ransacked and property was taken away. On the walls of some houses, the forces wrote the names of some of their commanders in blood.

In December 1997, the CDF high command announced over the radio the commencement of the "Black December Operations", namely that no vehicle should travel to Freetown. This operation was designed to cut off the AFRC forces in Freetown from the rest of the country. The CDF in the District stopped all vehicles and boats from travelling to Freetown and severely punished those who did not obey the announcement. For example, a defaulting vehicle, which did not stop as requested was fired on at Bengeh (Bumpeh Chiefdom), killing two people.

e) Events in 1998 to 2001

After they were driven out of Freetown during the first week of February 1998, RUF/AFRC forces left Moyamba District, although little information was recounted on this departure, except the following incident. RUF/AFRC forces attacked Korgbonuma (Kaiyamba Chiefdom) from four different points and battled with the CDF in the town, defeating the CDF and capturing the town. The RUF/AFRC commanders informed the civilians that their mission was to carry out "Operation no living thing" in the town and its environs.[1319] The forces stayed in the town for eight days, during which they killed a lot of civilians, took property and burnt down houses in the town. Two days after their departure the CDF took over the town and ordered all the people in the bush to return to the town even when they had no where to sleep since almost all the houses were burnt.

In early 1998, Kamajors from Bo District came to Rotifunk (Bumpeh Chiefdom) and told the Kamajors from Bumpeh Chiefdom that they had received instructions from the CDF High Command to reinforce those already deployed at Rotifunk, in order to prevent the RUF/AFRC forces retreating from Freetown using the Mabang Bridge (Ribbi Chiefdom, at the border with Port Loko District). Those Kamajors soon took control of the township and the Kamajors from Bumpeh Chiefdom went under cover, for they had less arms and ammunition than the recently arrived reinforcements. One month after they had arrived, the elders of the chiefdom met at Moyamba Town to find a way to move out the Kamajors from Bo District. It was agreed that more men should be initiated, so an initiator was brought to perform initiation ceremonies at Bellentin. Within two weeks, he had initiated over 400 men and one woman. Those new initiates, equipped only with bladed weapons, drove out the Kamajors from Bo. Nevertheless, the new Kamajors established checkpoints on the highway and took money from drivers at those checkpoints. Drivers who did not want to pay would be beaten or their vehicle damaged. On one occasion, one driver who could not give Le 10,000 as requested had two of his tyres shot out.

ECOMOG forces deployed in various areas of the District in February 1998 and ensured the security of the District, notably by setting up checkpoints that they operated together with

[1319] "Operation No Living Thing" was the name of the operation carried out by the RUF/AFRC forces retreating from Freetown, during which atrocities committed against civilians reached unprecedented levels. It was mostly carried out in the Northern Province and in Kono District.

Kamajors. In Kamaje. Chiefdom, for example, they set up checkpoints at the headquarter town of Senehun and at Lonporga. However, Kamajors who assisted the ECOMOG forces at those checkpoints were still mistreating civilians. Vehicles suspected of carrying RUF or AFRC members or goods without proper documents were detained at those checkpoints and passengers were forced to remain there and sleep on the ground. Women who openly opposed the activities carried out at those checkpoints were stripped naked and forced to lie on the ground. The situation worsened when the ECOMOG forces left the checkpoints in the hand of the Kamajors,[1320] who would only dismantle those checkpoints in November 2001.

Immediately after the RUF/AFRC forces were pushed out of power in early 1998, an internal fight occurred between different factions of the CDF. Kamajors operating in the Southern Province accused the Gbethies, who were active in the Northern Province, of supporting AFRC members in their fight against Kamajors. A group of Gbethies from neighbouring chiefdoms in Tonkolili District attacked the Kamajors base at Gondama and Fogbo (Kori Chiefdom). Nobody was killed during the attack but houses were burnt by the retreating Gbethies. Five days later, the Kamajors launched a counter-attack on the Gbethies at Pateful (Gbonkolenken Chiefdom, Tonkolili District). The situation was finally resolved through the intervention of the elders.

On 29 March, a letter issued by the CDF headquarter was circulated to all Kamajors in the District, ordering that since the Sierra Leonean President had now been reinstated, the Kamajors should let the Chiefs assuming their functions and stop presiding over issues. However, Kamajors from the chiefdoms in the south of the District, Kagboro, Timdel, Bagruwa, Banta and Banta Mokele Chiefdoms continued to affirm their authority and to maltreat civilians and authorities. CDF in Moyamba Town (Kaiyamba Chiefdom) also continued to rule as chiefs and to control the live of civilians, as they had done in 1997. For example, around 5 March 1998, a young woman moved from Foyah to Matta Gelema in Banta Chiefdom to sell cassava leaves. At a checkpoint on her way, she was asked by a Kamajor to show him her pass. The woman told the Kamajors that her father was a Town Chief and that they did not know about this system of pass. Kamajors replied by saying that Kamajors were now the chiefs and authorities and that they were not respected by the civilians, who treated them with over-familiarity. They took her cassava bag away and detained her for two hours before she was freed. Her father, the Town Chief, reported the matter to the Ground Commander to no avail, as the Ground Commander told him he had no time for reports, for he knew his men were doing a good job.

In Kagboro Chiefdom, by 1998, the CDF had established checkpoints along the road going through the middle of the chiefdom at Yoyema, Gondama Junction, Talia and Tawovahun. Vehicles were checked for guns and "rebels" or "rebel" suspects. Anyone caught as a "rebel" or "junta" soldier or who was suspected to be such by the Kamajors was immediately carried away and "washed", a term the CDF used for killing. People were killed at the checkpoints very often, sometimes for money or other property. In other places where the CDF had checkpoints, people who were not from that chiefdom were often singled out to be victims.

[1320] It could not be ascertained when ECOMOG forces exactly came in the District, nor when they left Kamajei Chiefdom.

The CDF frequently beat women and one commander in particular travelled around the chiefdom harassing young men and women and molesting the elderly. From Bauma to Blama and from Mamboma to Senehun, this commander was well known for this type of behaviour. On one occasion, he ordered his boys to torture a civilian whose daughter was alleged to have been in love with an RUF/AFRC member. In another incident in Mokebay Section, Kamajors killed a lady who had come from Bumpe to buy fish. They removed her body parts for rituals, as they allegedly believed that the ritual murder would prevent their "evil deeds" from been exposed. Several other civilians were killed afterwards. Other civilians killed included one man from Yorgborfore, one from Mbawoma, one from Metiba and one from Bumpetoke. A Kamajor cut off the ear of a woman from Bonthe District with a cutlass and chewed it. The woman latter suffered severe pain from the ear. Another Kamajor declared one day that any civilian not abiding by their laws would be killed and eaten raw. In Timdel Chiefdom, at Morkandor, one civilian was beaten with orange sticks covered in thorns, as he failed to be his contribution for the feeding of the Kamajors. He was them asked to contribute with three bushels of husk rice or would be killed. The deputy Town Chief of Morkandor was severely beaten because he refused to act as a town crier.

In April or May, a schoolteacher riding his bike between Mokonde (Kori Chiefdom) and Pelewahun (south of Kamajei Chiefdom) was caught by Kamajors who had established a checkpoint at Pelewahun. The man was dragged in the bush, had his stomach cut open and his intestines removed. The Kamajors then set the body on fire, taking his bicycle and his two months salary he had just received. This killing was carried out because one of the Kamajors wanted to take his revenge on this schoolteacher, the new partner of his ex-girlfriend. Police officers from Taiama (Kori Chiefdom) investigated the matter and the four Kamajors who killed the schoolteacher were arrested, put in prison and tried in the High Court in Bo. Following this arrest, the other Kamajors left Pelewahun.

In 1999, some incursions were carried out in the District by RUF/AFRC forces based in Tonkolili District. Those attacks were, however, limited to villages in Fakunya Chiefdom, along the border with the Northern Province. Sometime in March 1999, RUF/AFRC forces based in Tonkolili District launched a series of attacks on villages on the Fakunya/Yoni boundary, mainly for searching for food and other items. One serious attack was made at Mataradegba, one mile from Rogboya, by the RUF forces from Mile 91 in late March 1999. It was a silent attack and they entered the town without discharging their weapons. Sixteen people were locked in a house, which was then set on fire and set ablaze. The RUF forces also shot and killed another five people. They then went to Rogboya, where they met with stiff resistance from the CDF forces in the town. On their retreat, they fell in a CDF ambush, six of the RUF forces were killed and a lot of their arms and ammunition captured. On 13 April 1999, the RUF forces launched another attack on Rogboya and succeeded in capturing the town. They were, however, soon repelled from the town by CDF from other towns nearby. On their way back to Tonkolili District, they had a battle with some Kamajors, which left over 40 RUF/AFRC members dead. This was to be the last battle between the CDF and RUF forces in Fakunya Chiefdom.

During the same period, some RUF/AFRC forces coming from their base at Okra Hills (Koya Chiefdom, Port Loko District) crossed into the north of Ribbi Chiefdom, mainly chasing civilians in

the camps they had built in the bush.[1321] They took away the rice and burnt a farmhouse near Makabie before heading for Makabie, where they abducted one man. This man was told to deliver the message to the inhabitants of Makabie that they would come back again to the village, as one of their boxes of cigarettes had been stolen. They further added that anyone they caught would be either mutilated or killed, depending on their will. When they came back to the village, they took some property away, burnt the houses and abducted one man, who they later killed.

The inhabitants of Ribbi Chiefdom, north-west of the District at the border with Port Loko District, were in total disarray at this time because of one group of CDF, who were opposed to the Gbethies from Port Loko District and who were inflicting a lot of violence on civilians in the chiefdom. On 24 March 1999, Kamajors and Avondos came to Bradford,[1322] the headquarter town of Ribbi Chiefdom and began to shoot indistinctly.[1323] One civilian was caught escaping and was accused by the Kamajors of being a "rebel". Those Kamajors and Avondos told the civilians they had come to Ribbi because they knew they had been RUF/AFRC forces in the chiefdom. Some civilians were killed, accused by the CDF members of selling food to RUF/AFRC members. Throughout May and April, the two groups deployed in the town and went to the surrounding villages, killing civilians and burning houses. For example, they went to Rogbonkol, burnt 10 houses and killed 20 people; at Mothankey, they killed one woman and took away her two children and all her property. They also crossed the Ribbi River and went to Bathpon (Koya Chiefdom, Port Loko District). On their return to Bradford, the Kamajors and Avondos met a deaf woman in her garden and asked her what she was doing there. The woman told them that since they were "soldiers" – because they were wearing military uniforms – they should not disturb her. The CDF members told the woman they were going to kill her, as they said she was inhabited with devil spirits. The Avondo commander[1324] ordered his men to kill her, so she was shot and killed.

The CDF members then moved to Makabie, where they established a checkpoint on the highway leading to Freetown. Any civilian caught speaking Temne was accused of being a Gbethie collaborator, who were their targets at this time. Anybody thus accused was forced to lead them to the place where he was living and all his property was taken away. The inhabitants of Makabie were gathered, accused of being "rebels" and threatened with death; they were not, however, killed and the Town Chief was forced to pay Le 15,000 instead. Civilians were told that they could not go anywhere without the permission of the CDF members and that as long as they remained in the town, the civilians were responsible for their feeding. It was alleged that the main purpose of the CDF members was to steal their property and that the allegation of collaboration was a pretext. Some CDF members then left the town and went to Rosint Loko, where they abducted civilians, subsequently releasing all but one. The captured civilian who was not released was killed, as he failed to lead the Kamajors to the Gbethies. He was hit with a bladed weapon on his face and as he was

[1321] Okra Hills was the base of the West Side Boys, a fighting faction that emerged from the RUF/AFRC forces in late 1998: see the analysis for Port Loko District for more information.

[1322] It is not clear where those CDF members came from. It seems that the Avondos came from Taima (Kori Chiefdom) while the group of Kamajors came from Kongbora and Bumpeh Chiefdoms.

[1323] It seems that there were no Kamajors operating in Ribbi Chiefdom before this incident.

[1324] Both the Avondos and the Kamajors had their own commanders, although they carried most of these actions together.

wiping away the blood, the Kamajor commander told him not to waste his blood as he was thirsty and wanted to drink it. The man was then shot and killed; he was later buried by civilians from Makabie. A report on this incident was made to the ECOMOG forces deployed at Songo (Western Area). ECOMOG forces arrested the CDF members but released them shortly after.[1325]

The CDF members returned to Ribbi Chiefdom and resettled first at Mo Lamina and then at Mo Goba, from where they raided the surrounding villages, harassing civilians for their property. One truck belonging to the International Labour Organisation was stolen in Moyamba village (Ribbi Chiefdom) and used by the CDF members to carry the property they were stealing. At Massampa, for example, they entered the town shooting their guns and killing one student. They looted the town and burnt five houses. At Sueu, they shot the Chiefdom Speaker, stripped him, tied him up and took him to Bumpeh Chiefdom, where they allegedly had their main base. At Ronfunk (Bumpeh Chiefdom), one of the commanders wore the fingers of the late Chiefdom Speaker on a necklace around his neck. The CDF members went back to Moyamba village (Ribbi Chiefdom), burnt 19 houses and captured two traders, whom they later killed. Other incidents included another attack on Bradford, where they took a significant sum of money from traders and another attack on Sueu, where they killed one woman and took away her property. CDF members also went to Mabang, after the RUF/AFRC forces had left the bridge,[1326] and killed a lot of civilians and harassed anybody using the bridge.[1327]
The Kamajors stayed in Bradford for a while, forcing civilians to bring them food and money and to work for them, harvesting palm nuts. These actions continued until the Government announced that all the fighting factions had to stop hostilities.[1328]

By May 1999, some commercial vehicles used the alternative highway from Freetown to Bo, through Moyamba, without encountering any attack, although the highway was not yet reopened for traffic.[1329]

Probably in 1999 or 2000, Kamajors from Bumpeh Chiefdom battled with Kamajors from Kagboro Chiefdom, for one lady trader from Bumpeh Chiefdom had been beaten and her money taken away by Kamajors at Ribbi (Kagboro Chiefdom). The Kamajors from the two chiefdoms were later reconciled through the intervention of the Paramount Chief of Bumpeh Chiefdom and elders of Kagboro Chiefdom.

Following the Freetown invasion in January 1999, a peace accord marking the end of the conflict and known as the Lomé Peace Agreement was signed on 7 July in the Togolese capital. Pursuant to this accord, the disarmament, demobilisation and reintegration (DDR) process was formally launched by the President of Sierra Leone on 20 October 1999 during a ceremony at Wilberforce

---

[1325] No more details were available on this arrest.
[1326] RUF/AFRC forces were in Koya Chiefdom (Port Loko District), on the other side of the bridge.
[1327] No further information was available on this incident.
[1328] A ceasefire was signed in May 1999. No more information was available on what exactly happened in the chiefdom following this announcement.
[1329] Sierra Leone Humanitarian Situation Report 1 - 17 May 1999.

Barracks, Freetown and began properly on 4 November 1999.[1330] Five demobilisation centres were opened at Lungi (Port Loko District), Port Loko South, Port Loko North, Kenema and Daru (Kailahun District). In early 2000, UN peacekeepers from the Guinean contingent were deployed at Moyamba Town.[1331]

On 10 March 2000, the National Committee for Disarmament, Demobilisation and Reintegration (NCDDR) identified two more sites, one of which was at Levuma (north of Kongbora Chiefdom).[1332] However, disarmament started at a slow pace and was halted temporarily in May 2000, as fighting were still going on in the Northern and Eastern Provinces and peacekeepers were abducted by RUF/AFRC forces. Although Moyamba District was not directly concerned by these events, it seems clear that the CDF members would not disarm as long as the other fighting factions were still carrying out armed operations. The DDR process would be given a new start in November 2000 when the Government of Sierra Leone and the RUF signed a ceasefire in Abuja, Nigeria on 10 November 2000. On 4 May 2001, those parties would meet again in Abuja, Nigeria to review the cease-fire. Further to this meeting, those parties held monthly tripartite meetings under the Joint Committee on DDR and decided on an accelerated schedule for the completion of the disarmament process. During the fourth meeting of the Joint Committee on DDR in Kenema on 10 August 2001, it was agreed that the next stage of disarmament was to take place simultaneously in Moyamba and Koinadugu District, between 15 and 30 August.[1333] However, disarmament was not complete by 31 August, mainly for logistics reasons.

In a symbolic disarmament ceremony in the town of Moyamba on 20 October 2001, CDF combatants and their senior commanders handed over more than 50 weapons to UN peacekeepers, in the presence of the Special Representative of the Secretary General in Sierra Leone.[1334] At the end of the seventh meeting of the Joint Committee on DDR on 9 November, disarmament was declared complete in Moyamba District.[1335] On 30 November 2001, a Nepalese Battalion of peacekeepers was deployed in Moyamba Town and Rotifunk (Bumpeh Chiefdom), at which time the war officially came to an end in Moyamba District.[1336]

3. Conclusion

Moyamba District was the last District of the Southern Province to be attacked by RUF forces. The first incursion into the District was launched in early January 1995, at a time when NPFL forces, originally fighting alongside the RUF from 1991, had long since withdrawn to Liberia. This first wave of attacks was carried out from Bo District and in the aftermath of a series of attacks on major

---

[1330] The launch of the DDR process was delayed as it was meant to start within six weeks of the signing of the Lomé Peace Agreement.

[1331] IRIN West Africa, 12 April 2000. On 22 October 1999, the UN Security Council had adopted Resolution 1270 approving the deployment of 6,000 armed peacekeepers alongside the 260 unarmed military observers. Their number would increase over the subsequent months.

[1332] IRIN West Africa, 17 March 2000.

[1333] UNAMSIL press briefing, 14 August 2001. At that time, the disarmament was complete in Port Loko and Kambia Districts. As of that date, 1,500 CDF members had disarmed in Moyamba District.

[1334] UNAMSIL press briefing, 23 October 2001.

[1335] UNAMSIL press briefing, 9 November 2001.

[1336] Sierra Leone Humanitarian Situation Report 06 - 30 November 2001.

towns in Bo District. Attacks on Moyamba District were subsequently carried out by RUF forces who settled in the District but also from the neighbouring Districts of Bonthe and Bo in the Southern Province and Tonkolili in the Northern Province.

The spreading of RUF forces into Moyamba District was one of the latest developments of a new phase of the conflict, which started in late December 1993 in the south of Kenema District. From this date on, RUF forces took to the bush and adopted guerrilla warfare tactics, progressing to Districts so far unaffected and by 1995, had established positions in all the Districts.

In March 1995, it was clear that the ultimate goal of the RUF forces who attacked Moyamba District was to reach Freetown. To this end, they progressed through the District using the highway that leads to Songo in the Western Area, systematically attacking the major towns located on this highway. It was only when their progression to Freetown was stopped that they settled in the District and established a strong base in the north.

As in the other Districts of the Southern Province, Kamajors progressively halted the actions of the RUF forces from the beginning of 1996. The initiation of youths and local hunters, members or not of the CDUs, started in early 1996 and developed throughout the year. Bonthe District played an active role in the development of Kamajors throughout Moyamba District, as many men from Moyamba District went to Bonthe District for initiation also because Kamajors from Bonthe District went to Moyamba District to fight the RUF forces.

The chiefdoms in the south of the District were under Kamajor control earlier than the chiefdoms in the north. By late 1996, Kamajors had taken control of the southern chiefdoms and no more RUF attack was reported in those areas. This was probably also due to the fact that around this period, Kamajors had already dislodged RUF forces from Bonthe District. The situation for the chiefdoms in the north of the District was far different. Although their main base, Camp Fol Fol was destroyed in late 1996 by Kamajors, the RUF forces and, shortly after, RUF/AFRC forces were present in many of the chiefdoms in the north, wreaking a lot of havoc on civilians. At this time, both Port Loko and Tonkolili Districts, which adjoin Moyamba District to the north, were also infiltrated by RUF and RUF/AFRC forces.

Following the ECOMOG intervention in Freetown in early 1998, the actions of the RUF/AFRC forces were concentrated in the Northern and Eastern Provinces. Free from RUF/AFRC incursions, the Kamajors affirmed their control of the security of Moyamba District and expanded this control to civilians and local authorities. In this regard, the pattern of actions in Moyamba District at this time would converge with what happened in the other Districts of the Southern Province.

d. Pujehun District

1. Introduction

Pujehun District, with its headquarter of Pujehun Town, is one of the four Districts of the Southern Province, the other three being Bonthe, Bo and Moyamba Districts. It is bordered on the east by

Liberia, on the northeast by Kenema District (Eastern Province), on the northwest by Bo District and on the west by Bonthe District. At its southern edge is the Atlantic Ocean.

There are 12 chiefdoms in the District:

Chiefdom	Headquarters
Barri	Potoru
Gallinas Peri	Blama
Kpaka	Massam
Makpele	Zimmi
Malen	Sahn
Mano Sakrim	Gbonjema
Panga Kabonde	Pujehun
Panga Krim	Gobaru
Peje	Futa
Soro Gbema	Fairo
Sowa	Bandajuma
Yekomo Kpukumu Krim	Kariu

The main rivers flowing through the District would prove to be of strategic importance during the conflict. The Mano River that flows on the eastern edge of Makpele and Soro Gbema Chiefdoms constitutes the natural border between Sierra Leone and Liberia. The entry point to the District is located in Soro Gbema Chiefdom, at the Mano River Union Bridge, Bo Waterside, which was a joint venture between Guinea, Sierra Leone and Liberia. Control of the bridge would be of great importance for the RUF/NPFL and later on for the RUF forces, as it allows easy penetration into the District and the transport of supplies from Liberia. Accordingly, throughout the conflict, the RUF forces would mainly be based in the east of the District. The Moa River originates from the ocean between Gallinas Peri and Soro Gbema Chiefdoms, following more or less the border between those two chiefdoms through Barri Chiefdom before reaching Kenema and Kailahun Districts, thereby isolating Soro Gbema and Makpele Chiefdoms from the rest of the District. Other rivers located in the south of the District and of lesser strategic importance would be used by the fighting factions, mainly the RUF forces, to move within the District.

Crossing the Mano River Union Bridge, there is only one motorable road linking Fairo (Soro Gbema Chiefdom headquarters) to Sulima in the south (Soro Gbema Chiefdom) and to Zimmi in the north (Makpele Chiefdom Headquarters). Furthermore, this road to Zimmi is the only way to reach Pujehun Town, other than by using bush paths. From Zimmi, it continues westwards to Potoru (Barri Chiefdom headquarters), Futa (Peje Chiefdom headquarters) and Bandajuma (Sowa Chiefdom Headquarters). Bandajuma is located on the main road that links Pujehun and Bo Districts, starting in Pujehun Town and leading to Koribondo and Bo Town (Bo District). From Potoru, an alternative road passing by Gallinas Peri and Kpaka, the two central chiefdoms, goes to Pujehun Town.

The small number of roads providing access to other Districts is an important factor in how the RUF/NPFL forces would attack surrounding Districts. To go to Kenema District in the north-east, there are only two alternative roads, through Makpele Chiefdom or through Peje Chiefdom. Two roads also allow the penetration of Bo District, the main one being a highway passing through Panga Kabone and Sowa Chiefdoms, while the second one leaves Pujehun Town to pass through Malen Chiefdom in the west. There are no motorable roads linking Pujehun District with Bonthe District in the south-east; accordingly, this District would not be affected during the first years of the war, as access was achieved only later through Bo District.

The main economic activities of the District consist of mining, fishing and cash crops, notably coffee and cocoa plantations. In some chiefdoms, primarily in Makpele Chiefdom, the main economic activity is diamond mining.

Pujehun District, at the border with Liberia was concerned by the conflict as early as March 1991 when Revolutionary United Front (RUF)/ National Patriotic Front for Liberia (NPFL) forces crossed the border at the Mano River Union Bridge into Soro Gbema Chiefdom. From this first incursion, the conflict would affect the District through three discernable phases.

The first phase, which ran from 1991 to 1993, was first marked by the first incursion in 1991, where almost all the chiefdoms and major towns, including Pujehun Town, were attacked by RUF/NPFL forces within one month. This first incursion was characterised by widespread violations committed by RUF/NPFL forces. Those forces would follow the same pattern upon entry to a village: they would gather the civilians, identify themselves as "freedom fighters" coming to redeem Sierra Leone from the corrupted All People's Congress (APC) regime and depose and replace the local authorities, setting up basic administrative structures. Their arrival and stay in a place was accompanied by the infliction of physical and mental violence on the people of the village, as well as the abduction of members of the population, including children, for use as forced labour, as soldiers, as cooks and as "wives". RUF/NPFL forces also engaged in widespread theft and property destruction, notably the burning of houses. However, from July to September 1991, SLA forces, assisted by foreign troops, dislodged the RUF/NPFL forces from most of their positions, pushing them back to the Liberian border. This SLA offensive and control of the District was nonetheless soon accompanied by violence inflicted on civilians, in particular those labelled as collaborators with the RUF/NPFL. Attacks, probably carried out by remnants of RUF/NPFL forces, were however still recorded at the end of 1991 and in 1992. At the end of 1992 and beginning of 1993, RUF forces launched a powerful attack from Liberia, established a stronghold in Soro Gbema Chiefdom and started spreading across the District. This second incursion was, however, less successful than the first one as they were soon defeated in most areas by SLA forces. While in control, SLA forces continued to inflict great havoc on civilians, killing a lot of alleged collaborators, chasing civilians for their property, destroying some property and engaging in mining activities in the east of the District.

The second phase spanned from 1994 to May 1997, during which time the RUF forces succeeded in spreading throughout the country, shifting their tactics away from direct confrontation with the SLA to bush warfare, during which they mainly staged ambushes. At this time, thousands of civilians had fled the District for a refuge camp in Bo District. Starting in 1996, newly initiated Kamajors, initially

operating in collaboration with SLA forces, engaged the RUF forces and by 1997 had succeeded in taking control of most of the RUF positions across the country, which led thousands of Internally Displaced Persons (IDPs) to resettle in the District. However, their control was also accompanied by harassment of civilians, including constant requests for food and the taking of property. Physical violence was also inflicted, in particular on those they identified as being RUF collaborators.

The third phase of the conflict started in May 1997, when a military regime – the Armed Forces Revolutionary Council (AFRC) – seized power in the capital and concluded at the end of 2001, when the disarmament process was complete for Pujehun District. Shortly after the Coup, RUF forces who had been living in the bush for some months joined the AFRC and Kamajors in the District went underground. During their stay in the District, the RUF/AFRC forces imposed great harms on civilians in general and on alleged Kamajors collaborator in particular, including physical violence, killing, rape, abduction for use as forced labour, soldiers 'or "wives" and stealing and destruction of property. Starting in October, Kamajors regrouped and intensified their fighting against those combined forces, gaining more and more ground; by March 1998, following ECOMOG deployment in the District, the RUF/AFRC forces were repelled from the District. From this date onwards, the District remained under control of the Kamajors, who imposed their authority in all aspects of life, restricted the movement of the population by establishing checkpoints, replaced the local authorities and themselves administered the District, increased their violence against all civilians and engaged in mining activities. This would continue until the completion of disarmament at the end of 2001.

2. Factual Analysis

a) Events in 1991

On 28 March 1991, RUF/NPFL forces crossed the Mano River Union Bridge[1337] at Jendema (Soro Gbema Chiefdom), 7 miles from Fairo. They then headed for Malema, where they seized weapons from the SSD store, before heading for Fairo. From Soro Gbema Chiefdom, the RUF/NPFL forces would then head for Pujehun Town (Panga Kabone Chiefdom, in the east of the District), passing by Makpele, Barri, Peje, Sowa, Kpaka and Gallinas Peri Chiefdoms, leaving behind some forces to settle in each of those areas. A few days after the RUF/NPFL forces crossed the Mano River Union Bridge, the RUF and NPFL leaders paid them a brief visit at Bo Waterside, allegedly to check that the forces had crossed the river and to receive food items and furniture taken from the Police Barracks at Jendema.[1338]

At the time of this incursion, SLA forces were deployed in the District, chiefly in Fairo (Soro Gbema Chiefdom), Zimmi (Makpele Chiefdom), Potoru (Barri Chiefdom) and Pujehun Town (Panga Kabone Chiefdom).

[1337] The control of the Mano River Union Bridge, a joint venture between Sierra Leone, Liberia and Guinea, would be of great importance as it allows penetration of the territory of Sierra Leone from Liberia.

[1338] During the first weeks of the conflict, many reports mention the visit of the RUF leader to Pujehun and Kailahun Districts, although it appeared that he spent more time in Kailahun District than in Pujehun District, while the NPFL leader is only mentioned as being present at Bo waterside.

At Fairo (Soro Gbema Chiefdom), a short battle took place with some SLA forces and SSD members who were posted there.[1339] The house of the Paramount Chief, occupied at the time by SLA forces, was burnt down and the first killings of civilians and taking of their property was recorded at this time. Gunshots were heard in the town until night fell. The following morning, the civilians were gathered in the Court Barrie and addressed by the RUF/NPFL forces, who told them they should not be afraid, as they had come to redeem the civilians from the APC regime. However, a few days later, the RUF/NPFL forces killed one civilian who refused to give them food at Jendema. At Sulima, in the south of the chiefdom, they also killed one civilian, allegedly because he questioned them about the previous killing. Following this incursion, civilians from Wai, a town located on the main Fairo-Sulima road in the chiefdom, fled the town; some went to Liberia, first hiding their property, as they had heard from fleeing civilians that the RUF/NPFL forces were stealing food and any other items that took their interest. However, those who fled Sierra Leone did not find a safer haven in Liberia, where a civil war was raging; while in Liberia, the people who had fled the war in Sierra Leone were harassed by NPFL forces, who took their property and sexually assaulted their daughters and wives.[1340]

After they took control of Malema and Fairo (Soro Gbema Chiefdom), two training camps were opened in those towns to train conscripts on how to use weapons. The RUF/NPFL forces first went from village to village to get people to join their movement, but when they realised that few young people were joining them, they forced villages as a whole to contribute and to give some of their inhabitants for training, threatening them with the destruction of the village if they refused. In this way, the RUF/NPFL forces recruited many young boys and girls and whoever refused to join or tried to hide during training was killed on the spot. Furthermore, those newly conscripted members were told to point out houses where young people had not volunteered to join, after which the RUF/NPFL forces looted and then burnt them. This situation led many families to give one of their family members to join the movement. RUF/NPFL forces also chased people who were hiding in farm huts in the bushes, raiding them at night, stealing their food and other valuable items and capturing young boys and girls. While the boys were conscripted into the fighting forces, the girls were used for sexual purposes. On one occasion, in the area of Malema, a five-months pregnant women was raped by five RUF/NPFL members and, as a result, had a miscarriage. In another incident, also in the Malema area, one girl was raped during a night raid. That same night, the commander of that RUF/NPFL forces told the people that the RUF leader had told them in Liberia that all the Sierra Leonean women were their wives and all the property they could find was also theirs.

The RUF/NPFL forces nominated a former candidate in the 1982 elections to be the chairman of their war council in the chiefdom. Following the 1982 general elections, a fight had erupted between

---

[1339] The SLA forces were only 10, together with five SSD members, and had little ammunition, mainly only to defend themselves.

[1340] Since 1989, the NPFL had been waging war against the then President, Samuel Doe, who would be killed by a splinter group of the NPFL in 1990. Also in 1990, Economic Community of West African States (ECOWAS) sent some Economic Community of West African States Monitoring Group (ECOMOG) forces to assist the Liberian Government to end the war. As part of this mission, ECOMOG based some forces at Lungi, Sierra Leone's international airport to the north of Freetown.

the partisans of the two political groups contesting the elections and many civilians were killed and much property destroyed. The nomination of the war council chairman for the chiefdom recalled these events in 1982 for the civilians of Soro Gbema, as the newly appointed chairman was the candidate in the 1982 election who had not been elected to represent the Pujehun east constituency in Parliament.[1341] Some supporters of the man who was elected chairman and leader of the Ndorgbowusui group, saw this nomination to the war council as an opportunity to take revenge for atrocities committed against their families almost 20 years ago. For this reason, they voluntarily nominated some of their children to join the RUF/NPFL forces. Thus, civilians who were not members of the Ndorgbowusui group were particularly targeted during the RUF/NPFL presence in the chiefdom in 1991.

In late March 1991, civilians fleeing the RUF/NPFL advance in Soro Gbema Chiefdom crossed the Moa River that flows on its west edge and took refuge in Gallinas Peri Chiefdom, at Gbanahun, returning to their chiefdom a week later.

Zimmi,[1342] the headquarter town of Makpele Chiefdom, and the surrounding villages are diamond-rich area. On 3 April, RUF/NPFL forces entered the town and established a base there that became their main one for the District. During their stay in the chiefdom, up to December 1991, the RUF/NPFL forces attacked many villages, where they followed the same actions upon taking control of the different villages. The RUF/NPFL forces would enter the town and gather the inhabitants at the Court Barrie, where they would introduce themselves as the Revolutionary United Front, their purpose being to remove the APC Government from power and liberate Sierra Leone. At this meeting, or soon after, they would depose the Town Chief and replace him or her with their own Town Commander, who was sometimes appointed from the civilian population. While in the town, the RUF/NPFL forces would destroy property; take food and other items; force civilians to work for them, such as by cooking and fetching water; tie civilians up; kill people; and abduct people, both adults and children. The following incidents are examples of the attacks carried out and the violence inflicted on civilians in the chiefdom, most of them taking place in April.

Between April and December, Gbaa was burnt three times, virtually all the property in the town was taken and some people were killed. On 9 April, the RUF leader visited the town, gathered hundreds of civilians for a meeting and stated that RUF were peacemakers, coming to free people from slavery. Zimmi became a main base in the District and beyond, in the south-east, and the RUF leader had a lodge reserved for him there. At Palima, on 25 April, RUF/NPFL forces fired on a car full of police officers being driven into the town, as a result of which the driver and one police officer were killed. Cattle and poultry were also taken from Palima and brought to Zimmi. In the same month, RUF/NPFL forces, nine in number, attacked Vaama Kortu and entered the town accompanied by gunfire. The sheep and goats of the village were taken away. During the same attack, two women were raped and three boys (two aged 18 and one aged 15) were taken away; their

[1341] It is accordingly not a coincidence if the RUF/NPFL nominated somebody who opposed at one time to the APC regime representative.

[1342] Zimmi is a strategic town for many reasons because, aside from its location in a diamond mining area, it is the first major town to be reached when crossing the border from Liberia and it allows further inland advances in the east of Kenema District.

fate still remains unknown. At Sembehun, a group of 15 RUF/NPFL forces took property from houses, including furniture and other belongings, and forced inhabitants to carry the loads to the RUF base in Zimmi. Those who did not obey the order were beaten, tied up, forced to roll and look at the sun and eventually carried the load at gunpoint. Goats and sheep were taken away, as well as two sewing machines and a bailing machine belonging to a diamond dealer, carpentry tools and blacksmith's equipment. Fifteen houses were burnt down at this time.

At Njabaama, also in April 1991, a woman was raped in the presence of her husband and another woman was taken to be the "wife" of one of the RUF/NPFL forces coming from Liberia. That same day, the village was burnt down in retaliation for the inhabitants not welcoming the RUF/NPFL forces. Household property, furniture and money were taken. On 22 April, a group of seven RUF/NPFL forces entered the village of Gbahama and appointed a 24 year-old man as the Town Commander. This newly appointed Town Commander, who was unable to refuse this appointment, was told to mobilise the civilians to operate checkpoints. Women were told to cook for the RUF/NPFL and eight people were forced to carry a load comprised mainly of coconuts to Zimmi. This continued until June, by which time most of the civilians had managed to leave the town and found refuge in Liberia. At Gbeakor, 27 RUF/NPFL members entered the town, instantly killing seven people. The Town Chief was deposed and a new Town Commander was appointed. Before leaving, the forces took with them all the cattle and poultry they could find.

At Ngombu, in June 1991, 70 houses were burnt and 42 kitchens and 15 toilets were destroyed by a group of 30 RUF/NPFL members. Diamond mining towns were also visited, such as Gbahama in April 1991, where property was taken and civilians were used to carry the loads. In this town and others, such as Baguihun, the RUF/NPFL forces engaged in mining activities and stole everything that was in the offices of the mining company. Daar-es-Salaam, a town north of Zimmi on the bank of the Mano River, was at this time hosting a camp for thousands of refugees from the Liberian war. In April, the camp was attacked and all the property belonging to various NGOs and UNHCR was taken; fleeing civilians died, drowning in the Moa River.[1343] It appeared that the RUF/NPFL forces had registered in large numbers as refugees in the camp, so that they would have easier access. Daar-es-Salaam became a training camp, known as the second Camp Zogoda.[1344] Wonde, another border town hosting a refugee camp, was also visited in April 1991; the RUF leader came to the camp and asked civilians to join the RUF. It appeared that only few of them did in fact join and a lot of refugees left the camp, leaving their few belongings in the hands of the RUF/NPFL forces. Due to these constant attacks, many civilians left the chiefdom, the majority of them going to Liberia.

On their way to Pujehun Town, in early April 1991, RUF/NPFL forces[1345] coming from Zimmi passed by Moala (Barri Chiefdom), located on the west bank of the Moa River. After Moala, they

---

[1343] No more information could be obtained on this event, either from the records or open source materials.

[1344] Zogoda, meaning "land of freedom" is a generic name given to training bases, like "Camp Lion" in other places. Other camps called Camp Zogoda were to be found at different times in Kenema and Kailahun Districts. This camp in Pujehun District was called "second Camp Zogoda", because the first one was established in Kailahun District.

[1345] These forces were armed with berretta guns, AK47s, single barrel rifles, RPGs and machetes and were dressed in military attire or with headbands with "RUF" written on it.



headed for Potoru (Barri Chiefdom headquarter), which is at a junction on the main road to Pujehun Town (Gallinas Peri Chiefdom) from Kenema District.[1346] In both towns, they introduced themselves as "freedom fighters" coming to save people from the corrupt APC regime. On arrival, they searched for SLA forces and gathered the civilians in the Court Barrie. While some of the forces were addressing the inhabitants, telling them they were not going to steal anything or take their women as wives, others were parading in the towns, entering houses in search of food and money. Local authorities were deposed and new Town Commanders were appointed. At Moala, three people were killed with berretta guns, allegedly because they were reconnaissance/spies, since they run from the RUF/NPFL forces. During one night, some women were taken from their husbands. At Potoru, a Fullah man was killed for refusing to give them his sheep. Ten other civilians were also killed, accused of being reconnaissance and, for two of them, for refusing to hand over their bags; at least one man was shot in the head with an AK47 and two were beaten to death with a bladed weapon. Checkpoints were mounted where cards called "pass" were issued, which allowed civilians to move through the chiefdom. During their stay in the town, women and underage girls were sexually assaulted. All this violence led many people to leave the town for Sowa Chiefdom and Bo District.

From Potoru, some of the RUF/NPFL forces (a group of 25 to 30 men) went to Waima, four miles from Potoru. After calling the inhabitants for a meeting, they undertook a house-to-house search, removing the people they found and shooting some of them. Those forces were speaking a number of different languages, but the majority language was Liberian. Before leaving the town, they abducted girls under 15 years-old and then headed for other villages in the chiefdom, including Korumahun and Dendegahun, where the same kind of attacks took place.

From Barri Chiefdom, some RUF/NPFL forces went to Peje and Sowa Chiefdoms, relatively small chiefdoms located to the west of Barri Chiefdom,[1347] while others probably went to Pujehun Town (Panga Kabone Chiefdom) through Gallinas Peri and Kpaka Chiefdoms.[1348] At Futa (Peje Chiefdom), on or around 17 April 1991, around 100 RUF/NPFL members gathered the civilians in the Court Barrie; those who refused were severely beaten with sticks and gun butts and some were killed. This first group of RUF/NPFL forces were joined the next day by another group,[1349] who merged before dividing into two groups: while one went to Bandajuma (Sowa Chiefdom, west of Peje Chiefdom), the other group went back to Potoru, allegedly to join other RUF/NPFL forces before their attack on Pujehun Town.

[1346] Potoru is the necessary entry point for Kenema District from the south-west, whereas Zimmi allowed penetration from the south-east.

[1347] Two main roads leave Potoru, one going to Peje and Sowa Chiefdoms and beyond to Wunde Chiefdom (Bo District) while the other one links Potoru to Pujehun (Panga Kabone Chiefdom), through Gallinas Peri and Kpaka Chiefdoms.

[1348] Information gathered concerning Kpaka Chiefdom tends to demonstrate that RUF/NPFL forces used this chiefdom as a transit point, using the main highway from Potoru to reach Pujehun Town. Accordingly, RUF/NPFL forces must have passed through Gallinas Peri Chiefdom where the highway lies in the north, although no information was recorded on this.

[1349] It could not be ascertained where this second group came from.

The RUF/NPFL forces then proceeded to Bandajuma (Sowa Chiefdom), where SLA troops were posted. Those SLA forces advised civilians to go indoors while RUF/NPFL forces were approaching. However, after a one-hour battle, RUF/NPFL forces entered the town, forced the inhabitants at gunpoint to gather at the Court Barrie, paraded in the town and killed some civilians who attempted to escape or who refused to go to the Court Barrie. Some civilians accused of being SLA members who would go and call their colleagues were killed, while others were beheaded. It appeared that the RUF/NPFL forces then left the town[1350] and SLA forces arrived in the town, but RUF/NPFL forces returned with a mounted anti aircraft gun while the inhabitants were busy burying their dead. The SLA and the RUF/NPFL fought all day, with some casualties being reported on both sides. The SLA forces were unable to repel the RUF/NPFL forces and ordered the civilians to leave the town and to go to Kenbondo (Jiama Bongor Chiefdom, Bo District[1351]) for safety. One week later, the SLA forces, reinforced by ULIMO, were eventually able to dislodge the RUF/NPFL forces from the town.

Repelled from Bandajuma, RUF forces concentrated on Futa (Peje Chiefdom) and Potoru (Barri Chiefdom), where they trained people who had joined willingly as well as those conscripted by force. They remained scattered in those two chiefdoms until the major SLA attack in August 1991. Some of the RUF/NPFL forces who had been repelled from Bandajuma went to Jeoma (Sowa Chiefdom). Civilians from the upper part of the village were gathered together and the men were forced to go into the veranda of the first house on the road from Bandajuma and Pujehun Town, while the women and children were put in a school compound. The RUF/NPFL forces shot at the men gathered in the veranda and 26 of them died; two managed to escape to the bush after pretending to be dead beneath the corpses.[1352]

In mid April 1991, a RUF/NPFL group, different from the one that took control of the aforementioned chiefdoms, entered Gbanahun (Gallinas Peri), two miles east of Bumpeh. This group was coming directly from Soro Gbema Chiefdom (located to the east of Gallinas Peri Chiefdom[1353]) and came mainly for the purposes of finding food, as they did not stay in the village nor did they go to Bumpeh, which is a bigger town. At Gbanahun, nevertheless, they appointed a Town Commander who was asked to provide food for them. After eating, the RUF/NPFL forces looted the shops of the village and forced young people to go with them to their base to carry the stolen property, which included domestic animals. Fullah people were targeted and two men were severely tortured. On their way back to their base in Soro Gbema Chiefdom, they passed by Bomi (Gallinas Peri Chiefdom), where they shot dead one man they accused of being a SLA member and again abducted young people to carry the property they had stolen. Those young boys from the two villages were then conscripted and when they came back to the chiefdom, they returned as members of the RUF/NPFL forces.

[1350] The RUF/NPFL forces apparently left the town when they heard the noise of a truck coming to the town, thinking it could be SLA reinforcements. The truck however did not pass by Bandajuma.

[1351] At this time, SLA forces were deployed at Kenbondo, their main base in Bo District.

[1352] No details could be obtained on what happened to the women and the children.

[1353] The Moa River is more or less the natural border between those two chiefdoms.

On their way to Pujehun Town on 17 April 1991, RUF/NPFL forces coming from Sowa Chiefdom passed by Koranko (Kpaka Chiefdom), reaching the headquarter town of Massam the following day. At Koranko, this RUF/NPFL group composed of 10 men dressed in black t-shirts and military trousers entered the town firing indiscriminately; they gathered the people and told them they should obey their laws forbidding raping and telling lies, which were punishable by death. The RUF/NPFL forces appointed a Town Commander and a secretary. Poultry from the village was taken and cooked for the forces. The next day, five of the RUF/NPFL members, followed by reinforcements from Potoru (Barri Chiefdom), went to Massam and, as in other villages, followed the procedure of holding a meeting in the Court Barrie, introducing themselves, appointing Town Commanders and so on. They slept in the town, mounting checkpoints to ensure their security. One man who was accused of being an APC sympathiser had his property taken away. One teenage girl was taken away to be a "wife"; her whereabouts remain unknown.

RUF/NPFL forces advanced further towards Pujehun Town, only a few miles from Massam, and laid an ambush between Massam and Yonni (Kpaka Chiefdom, at the border with Panga Kabone Chiefdom), killing one SLA member[1354] who was riding his bicycle to Massam to check about the rumour of an attack on the town. A reinforcement group of RUF/NPFL forces came from Potoru (Barri Chiefdom) to Yonni and headed for Pujehun Town, which they captured between 19 and 20 April 1991. By then, following the death of the SLA member in the ambush between Massam and Yonni, the few SLA members stationed at Pujehun Town had left the town. A Ministry of Social Welfare employee on his way home in the centre of Pujehun failed to stop when requested to do so by RUF/NPFL forces, so they followed him to his house. There, they asked for the keys of his motorbike and, when he refused, one of the RUF/NPFL members shot and killed him with an AK47 then took the key from his pocket. Other civilians were killed for trivial reasons, such as one man, killed because he was allegedly an APC sympathiser, although he was killed before he had time to answer the question whether he was or not. On another occasion, RUF/NPFL forces killed a petty trader who had refused to give them his motorbike. The petty trader's shop was also looted, together with other shops in the town that were broken into and looted.

Checkpoints were established to prevent civilians from escaping and the RUF/NPFL forces undertook the familiar gathering and address. Other meetings would be held during the time of their stay in the town, including one that took place four days after their arrival. At that meeting, the RUF/NPFL forces declared that the premises of a bank were now used to be as a "task force" office, revealing they were taking direct orders from the Head Office at Zimmi (Makpele Chiefdom) and requesting elders and other literates to work for them on administrative matters. One week later, as the elders complained about the starvation of the civilians, a system of "pass" was put in place, allowing civilians to move within the area under RUF/NPFL control.

Also in April, prior to the capture of Pujehun Town, Gallinas Peri Chiefdom was again visited by small groups of RUF/NPFL forces coming from the south of Barri Chiefdom. On their arrival in Bumpeh, they pointed guns at civilians, threatened to kill them if they did not join them and beat some of them, returning on the same day to Barri Chiefdom. As with the first incursion from Soro

[1354] At this time very few SLA forces – 10 in number – were based at Pujehun Town.

Gbema Chiefdom, the elders decided to report the matter to the few SLA forces posted at Pujehun town, but no action was taken. RUF/NPFL forces came back to Bumpeh and Gbanahun, having learnt that the matter had been reported to SLA forces at Pujehun Town. At Konia (Gallinas Peri Chiefdom), one person suspected of having a link with the SLA forces was killed by the RUF/NPFL commander. Near Fonikoh, a man on his bicycle was killed after having refused to stop. Three people were killed at Blama Massaquoi and on his way back to Moala (Barri Chiefdom) with his men, the commander killed two more people at Fonima for running away when they saw the forces approaching.

From Pujehun Town, some RUF/NPFL forces boarded a car and a motorbike headed towards Gbandapi, a trade fair centre, passing through Najay. Gbandapi, in the south of Panga Kabonde Chiefdom, is located on the bank of Malemie River, which joins the Wanjei River flowing to Bonthe District. In all the villages along the road to Gbandapi that they visited, RUF/NPFL forces gathered the inhabitants, asked for weapons and enquired about the presence of SLA forces. They also established checkpoints, appointed a Town Commander, who was to send a daily report to the area commander,[1355] and told the civilians to bring food including rice, poultry, goats and sheep to Pujehun Town.[1356] Punishments for failing to bring food included beating with sticks and gun butts and the order to roll on the ground or swim in dirty water in a gutter.

The RUF/NPFL forces followed the Malemie River with speedboats to attack Benganie, which is the largest town in Mano Sakrim Chiefdom, albeit not the headquarter town. A meeting was summoned, checkpoints mounted, travelling passes issued, a Town Commander appointed and a green flag raised, meaning that the chiefdom was under RUF/NPFL control. The commander who mounted the green flag that day made it clear to the civilians that no other commander had the right to occupy the town and its environs without his consent, which would lead to internal fighting in May.[1357] Since it is located by the ocean, Benganie inhabitants were regularly asked to provide salt - a valuable and expensive commodity at this time - to forces stationed at Gbandapi and to those coming from time to time by boat.

Again in April, the RUF/NPFL forces from Pujehun Town proceeded further west to Malen Chiefdom, which shares boundaries with Bonthe District on the south-west and Bo District on the north-west. Before their arrival, people from the chiefdom had already fled to Bagbo Chiefdom (Bo District), upon hearing of the attack on Pujehun Town. The RUF/NPFL forces arrived in the chiefdom headquarter of Sahn on 24 April, when they summoned a meeting at the Court Barrie, asking for the Paramount Chief. When he arrived, the RUF/NPFL forces[1358] told the Paramount Chief that he should join them and exhort his people to do the same, while other RUF/NPFL members were looting property in the village and establishing checkpoints. An 11-year-old RUF/NPFL member called "child soldier" handcuffed the Paramount Chief. The first civilian to be

[1355] This information was reported specifically for Najay town, but is illustrative of general practice at this time.
[1356] The civilians would carry the food on their heads to the next village, where new people would take the load to the next village until it reached Pujehun Town.
[1357] See below for more details on this infighting.
[1358] The commander of these forces was speaking a Liberian Creole, which led people to identify him as a NPFL member.

killed in this chiefdom was a man riding his motorbike from Jimmi (Bagbo Chiefdom, Bo District) to Taninahun (Malen Chiefdom) who did not stop and accordingly was considered to be a member of the SLA or SSD. The RUF/NPFL forces then departed for Pujehun Town, taking with them the motorbike of the man they had killed.

At this time, a place in Gadorhun (Malen Chiefdom) known as Kuwait, due to the valuable items that could be found in the town, was used to launch attacks on Bagbo Chiefdom in Bo District.

On 18 May, following the announcement over the BBC that the Paramount Chief from Malen Chiefdom had fled with his family between 9 and 10 May,[1359] RUF/NPFL forces came back to the chiefdom from Pujehun Town. Those RUF/NPFL forces coming in two trucks and armed with AK47s, bladed weapons and sticks, went straight to Taninahun in the north of the chiefdom, where they shot and killed the Town Chief with an AK47. They then went to Sahn, where they tied up prominent elderly people with bush ropes, forced six elderly women to sit on the floor in the Court Barrie, shot and killed some civilians, including women and children, raped one women and took her away, together with her son. Fifteen houses were burnt, including the Paramount Chief's compound. At Fonikor, near Sahn, nine civilians were killed with AK47s by RUF/NPFL forces looking for the Paramount Chief's mother. From that day until July 1991, the RUF/NPFL forces remained in control of the chiefdom.

During their stay at Massam (Kpaka Chiefdom), RUF/NPFL forces forced young men to manage checkpoints for them while others were used to carry their loads, as the forces were expanding their control to surrounding villages, like Manjama, Nyayahun and Bendu, stealing food and domestic animals. In May, a training base was opened at Gobaru, two miles from Massam, where a lot of school-going children were conscripted. A herbalist and fortune teller performed rituals during the training that were believed to make members invulnerable.[1360]

In May, an RUF/NPFL commander together with some of his forces arrived at Benganie and started stealing property. On hearing this news, the RUF/NPFL commander who had earlier warned civilians that no other commander should come to the town without his consent sent some troops, who captured the commander and the other members who carried out the looting. The captured commander tried to escape but was re-captured and brought back to Benganie, where he was publicly disgraced, tied up and seriously beaten. The other boys were taken to Gbandapi (Panga Kabone Chiefdom) for further interrogation, but their fate remains unknown. In late May, a similar incident took place and two commanders who had been stationed at Benganie were punished[1361] by the same commander as the previous time for sabotaging the administration he had set up in the village. In early June, another commander with his troops came to Benganie and, stating he was a

[1359] The Paramount Chief allegedly fled through Bum Chiefdom (Bonthe District) to give information about what was happening in Pujehun District to the authorities in Bo Town.

[1360] It is reported that the belief in the powers of this person attracted many school children and other youths who decided to join the movement.

[1361] The two commanders were requested to fight bodily as enemies and as one was much younger, this one was then beaten by the commander. The two men were then undressed, ordered to dig two holes, which were filled with pepper, and ordered to put their genital organs in the holes.

good dancer, ordered the civilians to dance. Everybody was obliged to attend the dance, except the elderly, all doors had to stay open and the dance itself was organised so that the men were to lead the dance, followed by drummers and then by women at the end together with the RUF/NPFL forces. One man who defied the order and went to bed was severely beaten and tortured. When the dance started, the men at the front realised that the women at the back were being raped by the RUF/NPFL forces. This dance continued for four nights until the RUF/NPFL forces left the town.

By late June, SLA forces, together with United Liberation Movement for Liberia[1362] (ULIMO) forces, recaptured Dandabu (Panga Kabone Chiefdom), on the highway linking Pujehun Town and Bandajuma (Sowa Chiefdom) and then Bo Town (Kakua Chiefdom, Bo District). As this town was the first one to be recaptured in the chiefdoms located to the west of the Moa River and as this town is on the road that goes to Bandajuma, it is highly likely that the SLA forces, reinforced with ULIMO forces, who recaptured those chiefdoms came from Bandajuma (Sowa Chiefdom). Within two months, the SLA and ULIMO forces were able to dislodge the RUF/NPFL forces from all the chiefdoms located on the west bank of the Moa River.

On or around 14 July 1991, combined SLA and ULIMO forces successfully repelled RUF/NPFL forces from Pujehun Town and its environs, in particular Gobaru, Yonni and Massam (Kpaka Chiefdom). The RUF/NPFL forces withdrew to Bumpeh (Gallinas Peri Chiefdom). Following this attack on Pujehun Town, a curfew from 4:00pm to 6.00am was imposed in the south of Panga Kabone Chiefdom in the villages along the road leading to Gbandapi. Inhabitants from Najay saw a truck loaded with RUF/NPFL forces passing by their village without stopping. Two days later, SLA forces boarded a jeep and pursued the RUF/NPFL forces into Gbandapi, returning to Pujehun Town the same day. The retreating RUF/NPFL forces then passed by Benganie (Mano Sakrim Chiefdom), where one civilian had his slippers and tape recorder stolen. The next day, another batch of disgruntled and hungry RUF/NPFL forces previously based at Yonni (Kpaka Chiefdom) arrived in Benganie, requested civilians to cook for them, looted the houses and forced young men to carry the loads. One day, probably in August, youths from the chiefdom went to Pujehun Town to tell the SLA and ULIMO forces they had learnt that an RUF/NPFL commander who was hiding in the bush with his wife and daughter had recently asked a civilian for accommodation. ULIMO forces arrived in the chiefdom in search of the commander and killed the civilian who had hosted him. In late August, ULIMO forces tied up young people accused of being RUF/NPFL collaborators, as a result of which two of the young people died.

SLA and ULIMO forces successfully attacked RUF/NPFL forces at Gobaru (Kpaka Chiefdom, near Pujehun Town) on 14 July 1991. Some retreating RUF/NPFL forces passed by Largo (Kpaka Chiefdom) and one of them forced a woman to have sexual intercourse with him, threatening to kill all the other women of the house if she refused. While at Gobaru, the SLA and ULIMO forces requested the civilians to come to the town, for screening and registration purposes. However, molestation of civilians was at its highest peak during this time, as young people were undressed and beaten with gun butts; the screening test was so stringent, a lot of young men were killed accused of

[1362] This fighting faction, composed mainly of supporters of the late previous Liberian President, Samuel Doe, emerged in May 1991 to fight the NPFL.

being RUF member without much investigation.[1363] Women and girls were also alleged to be the wives of the RUF/NPFL forces. Night searches for RUF/NPFL members were also instituted. In one incident, during such a search, a man who hid under his bed after SLA forces had knocked on his door was killed, on the allegation that he was a "rebel". In early August, as the number of civilians coming to the town was increasing and as a lot of people had already been killed during the screening process, SLA forces required civilians to assist in the screening process and established an action group composed of three SLA member and six civilians. As food coming from an international NGO was provided at Gobaru, Yonni and Massam, SLA forces mounted checkpoints at Massam to enhance security, particularly because RUF/NPFL forces were still present in the District, on the east side of the Moa River (Soro Gbema and Makpele Chiefdoms). At those checkpoints, young people were screened and on one occasion, on 21 August, one man was killed as documents were found in his bag demonstrating he was a secretary for the RUF/NPFL forces. Civilians were also required to operate checkpoints for the SLA forces, especially at night. As the SLA commander was replaced sometime between September and November, the situation changed slightly as civilians were no longer required to operate checkpoints and those suspected of belonging to the RUF/NPFL were thoroughly investigated.

On 18 July, four days after the recapture of Pujehun Town, 28 members of the SLA and ULIMO forces drove the few remaining RUF/NPFL forces out of Malen Chiefdom, with ULIMO forces killing one RUF member at Sahn. However, 47 men and children were also killed by ULIMO and SLA forces. Most of them were shot with AK47s and one man was killed with a knife, accused of having been trained by RUF/NPFL forces when they took control of the chiefdom after the Paramount Chief had left. Twenty members of the Sierra Leone Police (SLP) were then deployed in the chiefdom.

Repelled from Pujehun Town in July 1991, RUF/NPFL forces resettled in Bumpeh (Gallinas Peri Chiefdom). A checkpoint was established at Koni Junction, ¼ mile west of Bumpeh, and civilians from the surrounding villages were forced to operate it. During their one-month stay, RUF/NPFL forces harassed and beat civilians and raped girls. For example, civilians who refused to take their turn at a checkpoint were given 100 lashes each. The rate of killing increased at this time and there are reports of a practice whereby RUF/NPFL forces made people form a line and killed the 10th person in the line. A camp was opened to train young boys and girls who had been conscripted. It is reported that over 100 civilians were killed during the RUF/NPFL stay for not collaborating with them. Among those people killed were one woman who had come to buy palm oil and was accused of being a spy for SLA forces and a man who was killed because he was coming from an area behind the front line and accordingly was considered to be an SLA collaborator.

Those RUF/NPFL forces were reinforced in late July by two groups crossing the Moa River, both of whom killed civilians on their way to Bumpeh. At Gbanahun, the first group shot and killed six civilians who had previously quarrelled with an RUF/NPFL child soldier. The other group that crossed the Moa River near Saama killed one man who failed to offer them his cassava leaves.

[1363] It is however reported that the ULIMO were more abrupt in screening and killing young men than SLA forces.

On 3 August, RUF/NPFL forces resisted an attack from combined SLA/ULIMO forces who, after a fierce battle,[1364] went back to Pujehun Town, from where they had come. After this battle, the RUF/NPFL resettled in Saama, south of Bumpeh, where they frequently mistreated civilians at their newly-established checkpoints. These forces often sought out women and girls who were still virgins and raped them and civilians' valuable items and food were stolen. In one incident, all the inhabitants were told to undress, form two lines - one for men and one for women - and dance until nightfall. Women were later raped and those who refused to have sexual intercourse were killed. At this time, the forces were under the command of NPFL commanders. However, by the end of August 1991, combined SLA and ULIMO forces successfully dislodged the RUF/NPFL forces from the chiefdom, which was declared a "rebel- free area".

Until August, it is unclear who was in real control of Potoru (Barri Chiefdom), whether it was the RUF/NPFL forces or the SLA forces who, throughout April and May, claimed to have retaken the town from the RUF/NPFL forces.[1365] However, the only attack that is reported by civilians, possibly because it was the major one, took place in August in Potoru and other places in Barri Chiefdom; this freed the chiefdoms from any RUF/NPFL presence. Accordingly, although they may have been exchanges of control of the town and skirmishes between SLA forces and RUF/NPFL forces from April to August, because this period is characterised by the RUF/NPFL periodically crossing the Liberian border and both SLA and RUF/NPFL forces launching sporadic attacks on the other fighting faction, two periods can clearly be identified for Peje and Barri Chiefdoms: from April to August/September, when RUF/NPFL were present in the chiefdoms and from August/September, when SLA forces took control of the chiefdoms.

During the SLA attack on Potoru (Barri Chiefdom) in August, during which SLA forces were armed with anti aircraft guns, RPGs, hand mortars and AK47s, about 30 civilians and 42 to 45 RUF/NPFL members were killed and about 15 houses were burnt. From Potoru, RUF/NPFL forces were pursued to Moala, on the bank of the Moa River, where RUF/NPFL forces managed to cross the river towards Makpele Chiefdom, together with a number of civilians.[1366] SLA forces also went to Peje Chiefdom to dislodge the remaining pockets of RUF/NPFL forces, taking those forces they captured to Potoru.[1367] SLA forces began to patrol Barri and Peje Chiefdoms, sometimes falling into ambushes laid by the few RUF/NPFL small groups who had not been dislodged.

Under SLA control, any person suspected of being a "rebel" or a "rebel collaborator" was maltreated and some were killed. Youths from different chiefdoms, accused of being RUF/NPFL members, were brought to Bandajuma (Sowa Chiefdom), where they were killed. The Paramount Chief of Barri Chiefdom was arrested, stripped, beaten, thrown into a military truck and taken to the

[1364] Both fighting forces had the same kind of weapons, including AK47s, AK56s, RPGs, hand grenades and "local" guns.

[1365] See, for example, BBC, 19 April 1991; there were also additional reports on this in April.

[1366] It is reported that the RUF/NPFL forces convinced civilians to go with them in Liberia so that they would not be killed by the SLA forces. This statement may also refer to what happened in other places such as Kailahun District where retreating RUF/NPFL forces succeeded in taking with them a large number of civilians by telling them they would be considered as RUF/NPFL collaborators by the SLA forces who would accordingly kill them.

[1367] It was not disclosed what happened to those captured RUF/NPFL members.

military base at Bandajuma (Sowa Chiefdom). At the base, he was accused of having harboured RUF/NPFL forces in his compound; his fate remains unknown. By the end of 1991, civilians who had fled to the bush and to the nearby District of Bo had resettled and resumed farming activities in Barri, Sowa and Peje Chiefdoms.

In September 1991, people staying at Bo Waterside were requested by the retreating RUF/NPFL forces to go onto the Mano River Union Bridge, which led to over 2,000 people gathering there. The civilians were forced to stay on the bridge for two days and nights, without access to food. Some children died and youths were killed when, authorised to leave the bridge, they headed for Sierra Leonean territory.[1368] It is believed that it was following this RUF/NPFL forces attempt to contain advance of the SLA and Guinean forces that those SLA and Guinean forces[1369] retook control of the bridge, thus cutting off the supply route for the remaining pockets of RUF/NPFL forces in the District. During their stay in Soro Gbema Chiefdom, SLA and ULIMO forces killed any suspected RUF collaborator, although they could escape death once arrested if their family gave money and/or women to the SLA forces. Valuable items were also taken from civilians during this period and transported to Freetown.

Activities resumed on 3 September 1991 in Gallinas Peri Chiefdom, when RUF/NPFL forces crossed the Moa River and came to Bopon, 15 miles south of Bumpeh, as they saw that there was no SLA deployment along the Moa River. In Bopon, they killed one prominent man, cut off his head and displayed it at the Gondema checkpoint in Soro Gbema Chiefdom. Three miles from Bopon village, they killed the 15 inhabitants of a farmhouse, including a pregnant woman whose stomach was split open and the foetus removed. After that killing in the farm, SLA soldiers took control of the whole chiefdom and reinforcements were sent to the various crossing points along the Moa River. No RUF/NPFL incursion was felt for the rest of the year, until April 1992.

In late 1991, as fighting on the east bank of the Moa River was taking place, SLA forces based on the west side appealed to the Paramount Chiefs of Kpaka, Panga Krim and Panga Kabonde Chiefdoms to give them young men to help them maintaining the security of the chiefdoms.

b) Events in 1992 –1995

The number of incidents for 1992 to 1994 drops considerably when compared to 1991,[1370] which is instructive of how Pujehun District was affected by the war. By 1992, SLA forces together with ULIMO forces had driven most of the RUF forces out of the District. The RUF, together with NPFL forces, nevertheless came back to the District from the Liberian border in late December 1992, when they established their stronghold in Soro Gbema chiefdom.

[1368] It is not clear from the records who killed those civilians, whether it was SLA or RUF/NPFL forces, and open source information does not clarify the matter. Accordingly, to say that the RUF/NPFL forces used the civilians to protect themselves from the SLA forces is an inference gleaned from the records, although it was not expressly stated.

[1369] According to the Agence France Presse, the bridge was retaken on 6 September 1991: 06 September 1991.

[1370] Thus, the number of records for 1992 represents 1/5th of the records for 1991, 1993 – 1/6th and 1994 and 1995 together 1/10th.

Therefore most of the fighting as such was concentrated in the east, at the Liberian border, which may account for the fewer number of incidents during this time period. In addition, in 1993, most of the residents of the District were advised to go to Gondama camp, which may also explain the scarcity of the incidents of this period. However, beginning in 1992, there were increasing incidents of violations committed by SLA forces.

Events in 1992

Although SLA forces claimed to have recaptured Zimmi (Makpele Chiefdom) in August 1991,[1371] it appears that Makpele Chiefdom came under SLA control only in January 1992, when SLA forces took over Daar-es-Salaam, the easternmost point of Pujehun District on the border with Liberia, and many other towns in the chiefdom. RUF/NPFL bases became SLA bases; Zimmi camp and Baquima were now under their control. SLA forces were also based at Gofor in the south of the chiefdom along the road that goes to Soro Gbema Chiefdom, where they brought poultry and other domestic animals they had found in the villages they had visited.

However, SLA forces began to harass and mistreat civilians from the beginning of 1992. Sexual assaults are reported, such as a woman from Joporwahun who was raped by an SLA member while she was at Zimmi. SLA forces chased civilians for their food, restricted their movement and forced them to work for them, including by hunting or fishing. SLA forces also engaged in mining and at Gbojibu, which became one of their mining villages, they set 13 houses on fire as they did not want to have civilians in their midst. This drove civilians to regional towns like Kenema or Bo or to Liberia.

In January 1992, following the appeal of the SLA commander to the Paramount Chiefs of Kpaka, Panga Krim and Panga Kabone Chiefdoms, youths[1372] from all these chiefdoms, some of them being local hunters, gathered in Pujehun Town (Panga Kabone Chiefdom) to receive summary training and some ammunition for their barrel guns. Shortly after, they were sent to Bumpeh (Gallinas Peri Chiefdom), located a few miles from the Moa River. SLA forces used underage children to carry arms and ammunition to the warfront. Furthermore, not only did the SLA forces take money and food items from the population in what they called the "war effort", they also took other property, including drums of palm oil, furniture and other household items. These items were believed to be transported to Freetown by SLA trucks and other trucks they had seized from civilians.

The killing of alleged collaborators was ongoing; the standard SLA practice was to tie up alleged RUF collaborators and to throw them off the Yonni Bridge (Kpaka Chiefdom) or to execute suspects at the Makibi Bridge in Pujehun Town (Panga Kabone Chiefdom). For example, SLA forces beheaded a man in the Sambo section, allegedly because he had given meat to the RUF forces.

In 1992, SLA forces were well established in Panga Krim Chiefdom, which forced the RUF forces into hiding. However the presence of the SLA forces was heavily felt by the civilians, as the SLA

[1371] AFP, 19 August 1991.

[1372] The term 'youths' in Sierra Leone could refer to anybody aged up to their mid to late 30s, although it probably does not include anyone under 14.

forces ill-treated the civilian population. For example, civilians who had previously been appointed to any position by the RUF, which they could not refuse or they would be killed, or who had been forced to join the RUF were punished by the SLA forces. Common punishments included amputations of the hands and ears, the plucking out of eyes, putting people in a bag and then setting the bag on fire, taking them to the river and drowning them and shooting and killing them.

In May 1992, RUF/NPFL forces crossed the Moa River and launched a series of attacks on different towns in Gallinas Peri Chiefdom. By the end of the month, civilians reported that the chiefdom was under their control. However, it appeared that in 1992, most of the RUF/NPFL forces had been chased out of the District and only pockets of forces were still active, mainly laying ambushes. Indeed, following the successful attacks on RUF/NPFL positions by the SLA and ULIMO forces in 1991 and the SLA control over Makpele Chiefdom in January 1992, the major RUF attacks in the District took place in December 1992 and 1993. Accordingly, those attacks on Gallinas Peri could be considered not as highlighting a massive operation for the control of the chiefdom but rather as sporadic actions carried out by isolated pockets of RUF forces. Thus in May, apparently taking advantage of the disorganisation of the SLA forces,[1373] RUF forces attacked Kakayama, where they battled for two days with SLA forces. An SLA truck with human and logistical reinforcements fell into an ambush, but there were no fatalities. The SLA forces then retreated to their other base at Saama, which - overpopulated with civilians fleeing the previous fighting - was later attacked on 3 May 1992. Some civilians were killed in the crossfire and others were captured by the RUF forces. The Town Chief of a nearby village was captured and later killed by the RUF forces, who left his body at one end of the town. Within the same month, another RUF group attacked another SLA position at Njala.

Kpaka Chiefdom was fairly quiet during this period, with only two incidents reported. Probably before the overthrow of the Government of J.S. Momoh on 29 April, RUF forces who had crossed the Moa River attacked many villages, including Gedeyama, Saama Peri, Kpetema and Mamboma, looting, killing and abducting civilians.[1374] Similarly to what happened in Gallinas Peri Chiefdom, these actions were probably raids from some isolated groups of RUF forces. In June, unidentified armed men attacked Massam (Kpaka Chiefdom) in the early hours of the day but were repelled by some SLA forces who claimed that they fought armed men they could not identify.[1375]

In October 1992, SLA forces counter attacked and retook some positions in Gallinas Peri Chiefdom, although Saama remained an RUF base. SLA forces based at Bumpeh encouraged civilians to come back and resettle. Some civilians were killed, mainly for the purposes of taking their property. For example, one Fullah businessman was killed by an SLA member who took away his belongings, namely a gold wristwatch, a gold chain, some money and a bicycle. The SLA member who carried out this killing was arrested by the SLA commander to whom the killing was reported and sent to Freetown. In November, the youths gathered at Bumpeh to help the SLA forces repel the RUF forces from their chiefdom. Those youths, who brought single barrel guns and various

[1373] Although SLA forces were based at Bumpeh, Kakayama and Saama, the command position on the SLA forces was just changing hands at this time.

[1374] No details could be obtained on these incidents.

[1375] Fatalities – if any – were not reported.

bladed weapons, were dispatched by the SLA commander in two groups, one heading to Saama where the RUF forces were based. On their way to Saama, they fell into an RUF ambush, during which some of them were killed while others were captured by the RUF forces.[1376]

RUF forces regrouped and returned in December 1992 to capture Soro Gbema Chiefdom, which became their stronghold. This attack led to a massive exodus of civilians crossing the Moa River. Towards the end of December 1992, inhabitants of Barri Chiefdom saw a large number of civilians from Soro Gbema Chiefdom crossing the Moa Rover and passing by their chiefdom. Those civilians, disclosing that an attack had taken place in Soro Gbema Chiefdom where many civilians were killed and houses were burnt, did not settle in Barri Chiefdom but continued their journey to find a safer haven. Civilians from Potoru heard three days later that the RUF forces were also in Makpele Chiefdom.[1377]

Events in 1993

In January 1993, RUF forces crossed the Moa River and launched attacks on all the chiefdoms located on the west bank of the river. Thus, they attacked Saaquehun village (Gallinas Peri Chiefdom), 12 miles north of Bumpeh, where they killed 12 people, burnt many houses and abducted many civilians.

On 13 January 1993, well-armed RUF forces attacked Potoru in Barri chiefdom,[1378] shelling the town. Over 30 people were killed, some having their throats cut with bayonets. The forces used Potoru to attack other villages in the chiefdom, such as Waima and Kundowahun, and to make raids on Peje and Sowa Chiefdoms. In Peje Chiefdom, villages like Bumpeh and Quiva came under attack and civilians described this wave of attack as a "full-scale offensive", "a fearful battle, worse than ever". Over 100 civilians were killed and 30 houses burnt in Bumpeh, most of which were populated with civilians. During these attacks, young girls were raped and a lot of civilians were abducted. Indeed, throughout their stay in these areas,[1379] the RUF forces raped women, including rapes by many men of girls under 15, killed people for not supporting them and abducted people on a daily basis, including young boys who were abducted for the purposes of recruitment. As a result, civilians left the chiefdoms and went to Gondama camp.

Also in January 1993, an unspecified number of RUF forces[1380] attacked Massam (Kpaka Chiefdom) and on the same day, moved on to Yonni (Kpaka Chiefdom) and to Pujehun Town (Panga Kabone Chiefdom). Since this attack took place on the day of the weekly trade fare at Gbandapi (south of Panga Kabone Chiefdom), most of the women were not in Pujehun Town and the surrounding villages, which led to the abduction of many children. The SLA forces based at Pujehun Town left the town and the RUF forces occupied the town.

[1376] It could not be ascertained where the second group went.

[1377] No more information could be gathered on these attacks.

[1378] Some of those forces were speaking in Liberian language.

[1379] As for Sowa Chiefdom, conflicting information concerning Bandajuma where the SLA was stationed did not allow us to ascertain what happened in this town.

[1380] It is reported that some of them had their faces masked for fear of recognition.

Civilians from the chiefdoms where these attacks took place were advised by the SLA forces to go to Koribondo (Jiama Bongor Chiefdom, Bo District), a major SLA base in Bo District. At Koribondo, an international NGO provided assistance to the displaced people who were advised by the SLA commander to go to Gondama, at the border between Kakua and Tikonko Chiefdoms (Bo District), where the Pujehun District Development Association had secured a land to build a camp. By March, registration started in the camp for proper food supply and each household was to build a booth before they could be registered. By the end of April, civilians from all the chiefdoms of Pujehun District were to be found in the camp.[1381] Again, in February 1993, the SLA forces exhorted the civilians from Gallinas Peri Chiefdom to go to Koribondo (Jiama Bongor Chiefdom, Bo District) for their own safety. When they arrived at Koribondo, the civilians were advised by the SLA base at Koribondo to go to Gondama.

However on 28 January, coming from the direction of Dandabu (north of Panga Kabone Chiefdom), SLA forces recaptured Pujehun Town, which by that time had been under the control of the RUF for two weeks. In March 1993, the SLA recaptured Blama Massaquoi (Gallinas Peri Chiefdom) and rescued over 260 civilians who were being held captives by the RUF forces after a fierce battle in Tongie. In late March, RUF forces retook Pujehun Town overnight, armed with heavy machine guns but SLA forces successfully counter attacked four days later on 30 March.[1382] In early June 1993, other unsuccessful attacks were launched on Pujehun Town, allegedly by hungry RUF members, which did not challenge SLA control over the area.[1383]

Civilians began having doubts about the SLA forces; starting in 1993, there appeared to be "much understanding" between the RUF forces and the SLA forces. Indeed, civilians found that any time there was a RUF attack on a village or settlement, the SLA forces based in Pujehun Town would not go there until they heard the RUF had left the area. On their arrival, they would take away the any property left by the RUF forces and bring it to Pujehun Town, sometimes by truck and sometimes by forcing civilians to carry the load. Civilians also understood that during attacks on SLA bases, the forces stationed there would only shoot in the air and then run away, leaving their arms and ammunition behind them. Civilians further noticed that those kind of incidents happened especially after SLA forces had received deliveries of arms and ammunition and food rations. Civilians who dared to question the behaviour of the SLA forces and their efficiency in repelling RUF attacks were killed.

In May 1993, SLA forces, SSD members and ULIMO forces launched a successful attack on Potoru (Barri Chiefdom). After a three-day battle, the RUF forces were repelled from the town and had spread throughout the chiefdom. During this attack, some civilians were killed. After they recaptured Potoru, ULIMO and, to a lesser extent, SLA forces killed up to 70 civilians whom they suspected of being "rebels" or "rebel collaborators" and burnt the houses of many people they

[1381] This camp was made up of makeshift mud and thatch huts without sewage or proper ventilation. Living conditions would start becoming catastrophic and the death toll would soon be very high, between 50 and 80 deaths per month: BBC, 16 September 1993.
[1382] AFP 26 March 1993 and BBC 1 April 1993.
[1383] BBC, 3 June 1993 and 5 June 1993.

suspected of hiding suspected "rebels" or "rebel collaborators". Furthermore, civilians were used to carry supplies for the SLA and, accordingly, some of them were killed during ambushes laid by RUF forces. From May 1993 to 1994, SLA positions in these chiefdoms came under persistent attacks.

Those in the RUF High Command in Soro Gbema Chiefdom were members of the late Ndorgbowusui Group. However, others who were not members of this group volunteered to be recruited for the RUF, which led to dissention among the RUF ranks. When orders were given, they refused to follow them or, if they were forced to carry them out, it was not in the best interest of the commanders. The rivalries between these two RUF groups, each of them giving allegiance either to Solomon Demby or to Hon. Mannah Kpaka, led to much destruction of property and killing of civilians in Soro Gbema chiefdom. For example, one group carried out the massive destruction and burning of Malema and Fairo, the two major towns in the chiefdom, while the other group burnt down Wai and surrounding villages. In any village where either group felt there were supporters of the other group, they would wage war on those communities. Furthermore, as the Demby supporters were known for being wealthy, constant ambushes were staged along the main roads of the chiefdom.[1384]

The population of Makpele Chiefdom suffered continuous looting and property destruction by the SLA forces, who had begun to engage in mining activities that would continue until after the 1996 elections. For example, at Palima in 1993, the roofs were taken from the Court Barrie, the mosque and other houses. By early 1993, most of the civilians had fled to camps (including the Gondama camp in Bo District, which was opened in January 1993), to larger towns such as Kenema and to Liberia. The SLA forced those who remained to mine for diamonds, bring the SLA forces food and give them money for food.

Thus, by August 1993, RUF forces were entrapped in Pujehun District by SLA and ULIMO forces whose main bases where in Pujehun Town (Panga Kabone Chiefdom) and Gofor (Makpele Chiefdom). The remaining RUF forces controlled only a region of marshland and tropical forest on the Atlantic coast,[1385] where they staged ambushes. On 28 August, some RUF forces laid an ambush at Golahun, nine miles south of Pujehun Town (Panga Kabone or Kpaka Chiefdom), and opened fire on ICRC personnel. Two ICRC nurses were killed and a third one, together with the two Gambian drivers, was wounded.[1386]

Events in 1994

At the end of January and following the renewed RUF attacks, notably in Kenema District, the Government of Sierra Leone declared "total war" against the RUF.

Despite the SLA presence in Zimmi, RUF forces attacked Palima (Makpele Chiefdom, 1.5 miles from Zimmi) in April 1994, by passing the SLA forces. Thirty-two people were abducted and

[1384] None of those events could be specifically dated and happened sometime between 1993 and 1995 when the Government of Sierra Leone sent a delegation to the Mano River Union Bridge.

[1385] AFP, 16 September 1993

[1386] AFP 28 August 1993 and 29 August 1993.

brought to their stronghold in Soro Gbema Chiefdom, where they stayed over two years, being trained as RUF member or used to work for the RUF forces, mainly as fishermen.

In 1994, RUF forces were occupying most of the villages in Barri Chiefdom, looting, raping, killing and abducting. These forces began spreading to Kenema District.[1387] However at that time, most of the population of these chiefdoms had fled to the bush or to Gondama camp.

Events in 1995

At the beginning of the year, the Sierra Leonean Government sent a delegation to the Mano River Union Bridge (Soro Gbema Chiefdom) to negotiate a cease-fire with the RUF. This was the second round of talks between RUF forces and the NPRC regime, the first one taking place in December 1994.[1388] For one of these meetings, the delegation composed of Government representatives and prominent people was airlifted to the crossing point at Bo Waterside from Monrovia and crossed the bridge towards the Sierra Leonean side, at Jendema (Soro Gbema Chiefdom) without seeing any RUF forces. RUF forces appeared shortly after and abducted them, threatening to kill them. It is believed that those people remained in the hands of the RUF forces until 1998 when the District was cleared of any RUF presence.

In 1995, SLA forces were still in control of Zimmi (Makpele Chiefdom) and harassment of civilians continued. In one incident, 25 people from Palima were undressed and taken to Zimmi, where they were forced to push a truck loaded with SLA forces.[1389] Palima (Makpele Chiefdom) was again attacked by RUF forces in October 1995 but this time, the forces came from Tunkia Chiefdom in Kenema District. Two people were killed and some houses looted.[1390] Thus, civilians from Makpele Chiefdom were caught between RUF attacks and SLA harassment. All the houses and other facilities (including kitchens and toilets that had been built by UNHCR) at Palima were destroyed by both the RUF forces and the SLA forces, although more destruction was done by the SLA forces.

Notwithstanding the relatively scarce information related to this period, it appears that Pujehun District together with the Mokanji Hills (Moyamba District) and the north of Bonthe District had become a stronghold of the RUF.[1391]

c) Events in 1996 – 1998 and beyond

These years are marked by the progressive initiation of Kamajors in the District. As with other Districts in the south, from the time of their initiation until the May 1997 Coup, the Kamajors together with SLA forces were successful in containing and repelling RUF forces from their

---

[1387] More detail is needed on these incidents.

[1388] This second round of talks failed as the RUF turned down NPRC's offer of peace: Communiqué Inter Press Service, 3 January 1995 and 11 January 1995. In April, the NPRC Chairman proposed an immediate cease-fire and negotiations to the RUF, which was rejected by the RUF. Amnesty International Report 1996.

[1389] No more details could be obtained on this incident.

[1390] Although no more details could be obtained on this incident, it has to be borne in mind that Palima is 1½ miles from Zimmi and accordingly, the reported attacks on Palima, could reveal an attempt of the RUF forces to overrun the SLA forces based at Zimmi.

[1391] BBC, 20 February 1995.

positions. Shortly after the Coup on 25 May, the Kamajors went underground and reassembled; from the end of 1997, they were successfully engaged in driving the RUF/AFRC forces out of the District.

CDF initiations began in late 1995 or early 1996 in Gondama camp in Bo District. It is reported that the catalyst for the commencement of initiations was the attacks on Gondama Camp and the heavy casualties suffered there. In early 1996, the first CDF members moved to Pujehun District to reinforce the SLA forces stationed there. All chiefdoms represented in the camp were to appoint a certain number of men from their chiefdom as Kamajors, in proportion to their size and population. The initiation rite was performed in Bo Town. All the adults in the camp had to contribute Le 500[1392] or the equivalent in bulgur for the initiation to take place. In the early stages, the new initiates, equipped mainly with bladed weapons and single barrel guns, were under the command of the chiefdom authorities but they soon came under the command of a National Coordinator, with District Coordinators.[1393]

Following the general elections in February 1996, people started leaving the camps and the bush to resettle in their villages. Displaced people who had found refuge in Bo District and refugees from Liberia began to be repatriated in the District. However, in May, Kamajors found over 100 civilians dead in Bendu (north of Malen Chiefdom), mainly aged over 50 years old. The RUF forces who killed those civilians also captured teenagers from the town and took them to Camp Libya in Soro Gbema Chiefdom.[1394] In late August 1996, AFP reported that tens of thousands of people left Gondama Camp as the "rebel war dies down"[1395] and it was believed that people had returned to 10 out of the 12 chiefdoms of the District. Makpele and Soro Gbema Chiefdoms, at the Liberian border, were the two chiefdoms where resettlement remained impossible for security reasons. Those people who resettled in the District nevertheless still received food distribution in Bo District until this distribution began also in Pujehun District later in the year.

During the period leading up to May 1997, the Kamajors, together with SLA forces, repelled RUF forces in many areas, allowing for relative tranquillity and continuing resettlement. People tried to engage in farming activities, being supplied with seeds and basic agricultural equipments by NGOs and UN Agencies. However, this collaboration between SLA forces and the Kamajors soon started to deteriorate. In Barri Chiefdom for example, quarrels over the dismounting of checkpoints arose and checkpoints mounted by SLA forces were destroyed by Kamajors. This led the SLA forces to leave the chiefdom, which was then under Kamajor control only until the May 1997 Coup.

In Gallinas Peri Chiefdom, the first attack the Kamajors launched against the RUF was in Blama Massaquoi and they continued fighting until the chiefdom was declared a "rebel free area" around

---

[1392] This should be placed in the context of Sierra Leone's position at the bottom of the Human Development Index: between 1991 and 2000, 57% of the population lived on less than 1 USD (2.000 SLL) per day and 74.5% lived on less than 2 USD (4.000 SLL) per day: see UNDP Human Development Report 2003, http://www.undp.org/hdr2003/indicator/cty_f_SLE.html, last visited on 30 December 2003.

[1393] See section [X] for a more detailed explanation of the formation of the Civil Defence Forces.

[1394] Xinhua News Agency and AFP: 9 May 1996.

[1395] AFP, 22 August 1996.

November 1996. Thus, from November 1996 until May 1997, the chiefdom was under Kamajor control. Kamajors from Soro Gbema Chiefdom passing through Gallinas Peri Chiefdom reached their chiefdom sometime between August and October 1996. In Barri Chiefdom, the Kamajors first joined the SLA forces based at Potoru, the chiefdom headquarters, while RUF forces were scattered mainly in the north of the chiefdom, between Vaama and Baiama. Following attacks on RUF camps, Kamajors obtained arms and ammunition that were more sophisticated than the ones they had so far.

However, the Kamajors in Makpele Chiefdom, in particular the 23 Kamajors based at Manjama, engaged in massive mining activities, the junior members undertaking mining for the most senior ones. Mining equipment was taken away from civilians, who were forced to feed the Kamajors, go hunting and fetch wood and water. No respect was paid to the chiefdom authorities and the Regent Paramount Chief had no control over the Kamajors. The movement of civilians was restricted and harassment of civilians was frequent; their houses were searched, property was confiscated and farms were harvested by the Kamajors for their own purposes. Civilians from this village went into hiding, as they could no longer withstand this situation. At Vaama in 1996, Kamajors argued with SLA forces, allegedly because both groups wanted to have access to the resources of the villages, namely food, money and women. The two groups fought, the Kamajors being equipped with single barrels guns and the SLA with automatic rifles and RPGs, as a result of which the Kamajors left town. SLA forces from Zimmi visited Ngombu, close to Zimmi, as they heard Kamajors had gathered there to fight them. As they arrived in the town, they started shooting, thus preventing people from giving explanations, as a result of which seven civilians were killed. Before leaving, those SLA forces took some furniture for Zimmi.

Kamajors based at Madina (Makpele Chiefdom) also engaged in the same behaviour towards civilians, who were forced to contribute to the Kamajor's activities by providing money, bulgur, rice and palm oil. Toobu (three miles from Zimmi) was also visited by Kamajors and in April 1997, they took away bicycles, bailing machines, a power saw, Le 1,000.000 and other property.[1396] Civilians made a report to the head Kamajor at Zimmi but no action was taken. Until the May Coup, more initiations took place for youth of the chiefdom and almost all the villages suffered similar kinds of harassment.

In late December 1996 following the signing of the Abidjan Peace Agreement, more than 8,000 people who had been captured two years earlier by RUF forces were released in Soro Gbema Chiefdom, allegedly on the directive of RUF High Command.[1397] During this period, it appeared that RUF forces were ordered by their High Command to regroup and encamp at Camp Libya, located in a dense rainforest on the Moa River, which was practically their only remaining stronghold in the District after the Mano River Union Bridge and Sulima (both in Soro Gbema Chiefdom) had been recaptured.

In Soro Gbema Chiefdom, before the May Coup in late 1996 or early 1997, Kamajors drove many RUF forces out of the chiefdom. At Felo Mano and other places in the chiefdom, the Kamajors

[1396] Those Kamajors "dressed carefully" and "behaved like RUF or SLA forces".
[1397] BBC, 28 December 1996.

discovered arms stores and an airstrip was also found at Felo Mano. This information was transmitted to the Sierra Leone Government through the SLA and SLP based at Zimmi (Makpele Chiefdom) and the arms and ammunition were airlifted to Freetown in 1997.[1398] The Kamajors fought to retake the whole chiefdom up to Jendema, at the Liberian border. Many RUF forces fleeing to Liberia were caught and killed on the Mano River Union Bridge, which has been described as the "Kamajor slaughter site", where many RUF members were tied up and thrown alive in the Mano River.

After the Coup in May 1997 and the merging of the RUF with AFRC forces, the CDF were defeated in many areas and went into hiding. They operated from underground, refusing to obey the AFRC leader's general order to lay down their arms and to report to the nearest police station. Instead, initiations continued took place; in Sowa Chiefdom, for example, 150 young men were initiated.[1399]

From May 1997 until they were repelled from the District in 1998, the combined RUF/AFRC forces imposed great harms on civilian population in general and on suspected Kamajors or Kamajors collaborators/sympathisers in particular. For example, three days after the overthrow of the Government, AFRC forces burnt down compounds belonging to Kamajor commanders in Zimmi (Makpele Chiefdom). Other houses were looted, including those of two Limba people. In Sowa Chiefdom, AFRC forces accused civilians of being Kamajors, killing many of them. The RUF/AFRC forces went on patrols in Sowa Chiefdom and established themselves in the chiefdom headquarters of Bandajuma. RUF/AFRC forces then commenced patrols in Bandajuma, as they knew the chiefdom was initiating Kamajors, attempting to prevent the Kamajors from establishing themselves in the chiefdom headquarter. The Bo-Pujehun Highway, which passes through Sowa Chiefdom, was constantly patrolled at night and houses along the highway were set on fire. Youths who were found during these patrols were killed by the combined forces, who accused them of being Kamajors. These constant patrols led civilians once more to flee their villages to go in their settlements in the bush, called "sorquehun".

Women were sexually abused and in Pujehun Town, one woman died as a result. The practice of padlocking the private parts of women is also reported.[1400] In Galinas Peri Chiefdom, in December 1997, RUF/AFRC forces coming from their main base in Pujehun Town (Panga Kabone Chiefdom) entered Blama Massaquoi, fully armed with automatic rifles and an anti-aircraft weapon mounted on vehicle. They burnt down the house of the CDF commander using an RPG, as a result of which other houses nearby were also burnt. The RUF/AFRC forces took supplies from returnees to the

[1398] According to the records, ECOMOG from Freetown and Kenema would have come to the site of these discoveries and air lifted the ammunition to Freetown. However, no ECOMOG forces as such were to be found in these towns. The key person probably referred to foreign troops such as Guinean or Nigerian who have been fighting with SLA for a long time. Furthermore, the reference to Kenema should probably understood as Kenema District and not Kenema Town, as no presence of such foreign forces was reported for Kenema Town.

[1399] According to the OCHA report for 16-21 July 1997, in many parts of Pujehun District, "local military commanders have good relations with Kamajors and do not support AFRC" but from the information collected from key people, this could not be confirmed.

[1400] This information was related in such general terms and no more details could be obtained.

chiefdom, mainly seed rice and other seeds, and continued to steal property throughout the chiefdom, in particular at Saahn Massaquoi, before returning to Pujehun Town.

Whenever they lost men at the battlefront, RUF/AFRC forces killed a number of civilians similar to the number of men they had lost. For example, in late 1997, in Gofor (Makpele Chiefdom), RUF/AFRC forces placed 20 people in a house and set fire to it. The reason advanced for this was that these people were coming from a place where the Kamajors had previously ambushed and killed RUF/AFRC forces.

The Kamajors regrouped their forces and more initiations took place, initiating often children below the age of 15.[1401] Starting late 1997, Kamajors attacked RUF/AFRC forces' positions. In October 1997, RUF/AFRC forces in a four-truck convoy fell into an ambush near Fairo in Soro Gbema Chiefdom. Kamajors killed those caught in the ambush, together with the civilians who were travelling with them, because the Kamajors considered them to be collaborators. According to those Kamajors, those civilians used to lead the RUF/AFRC forces and show them the Kamajor hiding places. Between late 1997 and March 1998, many villages were burnt down in Soro Gbema Chiefdom by both Kamajors and RUF/AFRC forces to prevent the other fighting faction from settling there.

ECOMOG forces based in Liberia were carrying weapons sent by the CDF National Coordinator through the Mano River Union Bridge to the CDF District Coordinator, who in turn distributed the items to the Kamajors in the District. ECOMOG was also supplying the Kamajors with medicine and the wounded forces were transported to Tieni in Liberia by helicopter, where there was a base at that time.[1402] Whenever arms and ammunition were seized at battlefronts, they were taken to the District Coordinator, who reallocated them as required.[1403]

In November 1997, the Kamajors repelled most of the combined forces from Sowa Chiefdom. While fleeing, the RUF/AFRC forces burnt 30 houses in Bandajuma and set many villages along the Bandajuma-Koribondo (Bo District) highway on fire. Nevertheless, the Kamajors took control of the area and people came out of the bush where they had been hiding.

[1401] According to the Sierra Leone Humanitarian Report for 29 October-18 November 1997, "[…] insecurity in Bo, Pujehun and Bonthe districts has also increased due to clashes between the military and the Kamajors. It seems that there is a clear difference between newly-recruited Kamajors, who have access to automatic weapons and apparently operate outside the authority of chiefdom representatives, and the traditional Kamajors who are carefully screened and respect traditional chiefdom structures. Aid Agencies operating in the Southern province are being increasingly harassed by some groups of Kamajors and are currently being prevented from accessing areas to the South of Bandejuma on the Bo-Pujehun highway. This is a source of concern as there are known pockets of malnutrition in parts of Bonthe and Pujehun districts." Sierra Leone Humanitarian Situation Report 29 Oct - 18 Nov 1997. REG. NO. 97/0390.

[1402] Indeed, it seems that Kamajors had a base on the Liberian territory.

[1403] It is alleged that some of these weapons were sold for money by the CDF District coordinator and were thus kept out of circulation to the Kamajors. Furthermore, some weapons would have been given to civilians who were not Kamajors for them to benefit from the disarmament program. This information was also revealed during the TRC (Truth and Reconciliation Commission) hearings in Pujehun Town in June 2003.

On 20 to 22 December 1997, Kamajors from Gbandapi (south of Panga Kabone Chiefdom) moved to Pujehun Town in a bid to recapture the town from the RUF/AFRC forces. During this first attempt, the Kamajors were repelled and sustained heavy casualties. A few days later, on 27 December, RUF/AFRC forces from Pujehun Town went down to Gbandapi, burning houses and looting food items on their way; 23 houses were burnt down at Najay. This counter-attack would mark the first step of a series of reprisals against civilians by the Kamajors. On 8 January 1998, three Kamajors came to Najay, where they fired many shots, burnt down one house and arrested two men gathered for the morning prayer at the Mosque whom they accused of collaborating with the RUF/AFRC forces, taking them to Bonthe District.[1404] Other Kamajors later returned to the town, stripped naked six civilians and beat them, on the same grounds. On 15 February, Kamajors killed the Chief Imam of the District and the Section Chief at Bayama (Panga Krim Chiefdom) by tying a rope around his neck and stabbing him many times before shooting him. These events prompted inhabitants from Najay to leave the village for fear of further reprisals but Kamajors found them in their hiding places and took away all their belongings, including food, domestic animals and money. As they were unable to stay any longer in the bush and as many surrounding villages refused to host them, these civilians went to Bassaleh, east of Najay.

Over 20 fierce and repeated battles took place between 28 May 1997 and late February 1998 to establish and maintain control of Zimmi (Makpele Chiefdom), which was a stronghold of the RUF/AFRC forces in the District. During the two first attacks[1405] launched by Kamajors coming from the direction of Gofor, civilians were killed. As the fighting intensified between Kamajors and the RUF/AFRC in June, the International Committee for the Red Cross (ICRC) sheltered over 1,000 civilians.[1406] In early July, Kamajors regrouped and launched a third attack, coming from the main road of the chiefdom, like the previous attack. This attack was unsuccessful although no casualties were reported. However, the RUF/AFRC forces burnt down houses of Kamajor supporters, which made them flee the town, leaving their belongings in the hands of the RUF/AFRC forces. During the fourth attack in early August, many civilians, RUF/AFRC members and Kamajors were wounded. Some of the wounded died in the bushes and the decomposing bodies were later discovered by civilians. While they took control, the Kamajors would control the town only for a very short period of time.[1407]

Inhabitants from Palima, half a mile from Zimmi on the road to Kenema District, deserted the town following the fourth attack and went to the bush for three weeks. They were discovered by the RUF/AFRC forces, who took the produce from the harvests to Zimmi. During the subsequent battles from September to December, houses were burnt down and civilians from Zimmi and the surrounding villages suffered heavy casualties; four Chiefs and 14 counsellors were killed, accused of being supporters of the Sierra Leone President. During this period, civilians also died from

---

[1404] What happened to those civilians was not specified.

[1405] During the second battle on 17 June, the key person recounts that he had the impression that when it came time for the battle, the Kamajors did not have central command.

[1406] Sierra Leone Humanitarian Report 24-30 June 1997.

[1407] According to Africa News, 25 August 1997, ICRC had to withdraw from its office at Zimmi.

starvation while others drowned in Mahoi River, trying to seek refuge in other areas.[1408] On 6 January 1998, another Kamajor attack left a lot of civilians dead.[1409]

Also in January, Kamajors went to Vaama (east of Zimmi) where they stole all the household property they could find and took some money from civilians. Before leaving, they set some buildings on fire and took away one civilian.[1410] Starting on 23 January, there was another attack described as a 'no retreat battle' that lasted for four days. At the end of the battle, during which both fighting factions used RPGs, there was a great deal of property destruction and a large number of bodies, both civilians and members of the fighting forces, were left on the streets. Following this, the Kamajors went back to Gofor. During the battle that took place on 1 February, the Kamajors were again unsuccessful in dislodging the RUF/AFRC forces from the town. Thirteen RUF/AFRC forces were caught by Kamajors and killed opposite the R.C. School on the Zimmi Fairo Road. Three of their "wives" taken by the Kamajors to Gofor, where they were used as sex slaves before being killed.

The final battle in Zimmi, which took place on 17 February, saw the Kamajors being assisted by ECOMOG forces and some SLA forces. Those combined forces blocked all the roads leading to the town and battled for three days with the RUF/AFRC forces who had not fled the town, which some had on hearing that Freetown was no longer under their control. Over 1,500 civilians used by the RUF/AFRC forces as sex slaves or as workers to do petty jobs like brushing the town, bringing food or water were freed by the Kamajors, who then made Zimmi their base. From Zimmi, Kamajors raided surrounding villages, taking property including household items and bicycles. They also harassed civilians in these villages because for the Kamajors, any civilians near Zimmi were RUF/AFRC collaborators.

After the ECOMOG intervention in Freetown in February 1998, the District rapidly became free of RUF and AFRC forces as the Kamajors took control of it. In Kpaka Chiefdom, for example, as they were cut off from Koribondo which used to be a stronghold in Bo District (Jiama Bongor Chiefdom),[1411] the remaining RUF/AFRC forces left the chiefdom in March.[1412] In early 1998, Kamajors from Sowa Chiefdom battled with RUF/AFRC forces at Jeoma and successfully repelled them. From this time on, civilians were forced to feed the Kamajors, the burden of which increased when Kamajors opened a new initiation base at Foindu. In Panga Kabone Chiefdom, Kamajors attacked the remaining RUF/AFRC stronghold in the District three times before eventually driving them out in March 1998, when the RUF/AFRC forces were cut off from their headquarters in Koribondo.

[1408] Also in September, the fight for the control of Tongo Field (Lower Bambara Chiefdom, Kenema District) intensified.

[1409] Hundreds of fatalities are mentioned, but this figure could not be confirmed. Also in January, serious fighting took place at Tongo Field.

[1410] Those Kamajors were described as acting like the "junta" i.e. the RUF/AFRC forces.

[1411] Following the coup in May 1997, the SLA base at Koribondo had become a stronghold of the RUF/AFRC forces as part of the general "transfer" of SLA bases and property to the AFRC.

[1412] No information was obtained for Kpaka Chiefdom after the departure of the RUF/AFRC forces. Kamajor harassment of civilians is reported in the same general terms as for the other chiefdoms, without relating any precise event.

During this period, Kamajors looted Pujehun Town (Panga Kabone Chiefdom), Yonni and Gobaru (Kpaka Chiefdom). However, after 1998, it is reported that Kpaka Chiefdom was relatively quiet as was Mano Sakrim Chiefdom, which did not suffer much from the Kamajors after May 1997, because they were fighting RUF/AFRC forces in other parts of the District.[1413]

Kamajors controlled the District by conducting patrols and mounted checkpoints, imposing the pass system in search of arms and ammunition and alleged "enemies". In Barri Chiefdom for example, up to 1999, Kamajors issued passes to travellers for a fee of Le 500, as a way to control the movement of people and to search for their enemies. This pass was only valid for a limited period of time and had to be renewed at the expiration of that period.[1414] Kamajors from Potoru explained to civilians that only Kamajors could travel without such a pass.[1415] Civilians were requested to show their pass that proved they were civilians and not RUF/AFRC members at any Kamajors checkpoints they passed through. Those checkpoints were also used to request money from drivers and passengers and to search passengers' bags. For example, from Zimmi (Makpele Chiefdom) to Jendema (Soro Gbema Chiefdom, Liberian border), eight checkpoints were mounted and four were established between Zimmi and the border with Tunkia Chiefdom (Kenema District).

The Kamajors systematically ill-treated civilians across the District, mainly as a reprisal for their suspected collaboration with the RUF and RUF/AFRC forces. The District Coordinator used to go from chiefdom to chiefdom to visit the Kamajors on the ground; such visits were witnessed, for example, in Barri Chiefdom. In particular, relatives of RUF/AFRC forces were humiliated, punished and killed. The Mano River was used to drown alleged collaborators; Jijama and Jembe (Soro Gbema Chiefdom) were two towns where this practice was carried out. Traditional leaders were deposed and their power seized, some of them being molested. Prominent people were killed, such as the Assistant District Officer, who was mistaken for an AFRC lieutenant, and the Chief Imam of Soro Gbema Chiefdom. Looting was also frequently carried out and on one occasion, when this was being done and civilians were being chased into the bush, the Kamajors stated that when the RUF/AFRC forces took away their property, they never grumbled or did anything, but now they were complaining when the Kamajors were taking their property. Houses, compounds and communities termed "unfriendly" were burnt down, as happened, for example, in Nanjay (Panga Kabone Chiefdom). The killing of civilians for whatever reason was mostly carried out along the Liberian border.

[1413] It appeared that in 1997, Mano Sakrim Chiefdom did not sustain much the presence of the RUF/AFRC forces, who were concentrated in other areas in the District.

[1414] On one occasion, Kamajors told civilians that the pass would be valid only for four days. This is however not a fixed limit as information from other Districts notes that the passes issued could be valid for other periods of time.

[1415] It is interesting to note that this system of pass together with the harassment suffered at checkpoints led some civilians to be initiated within the Kamajors society. This type of initiation was however different from the one the fighters to be had to go through, it was among other things much quicker. Furthermore, this type of initiation was mostly carried out once Kamajors were in control of the District and not previously while they were fighting RUF/AFRC forces.

The houses of relatives of RUF and AFRC members were broken into, damaged and burnt down. It was common practice to send alleged collaborators to "wash" in the river, which was a euphemism for drowning, or to put them in cages where they were tied with FM ropes, which are nylon ropes wrapped around two short sticks and which often lead to loss of circulation to the hands. For example, in Sowa Chiefdom, during the Operation called "Black December" carried out in December 1997, two civilians who pleaded with the Kamajors authorities to let some vehicles come in were arrested and tied with FM ropes. Another example is a woman from Bandajuma (Sowa Chiefdom) who was killed and her head displayed on a sharp stick, as she was suspected of being a collaborator with the AFRC. Thirty people were killed in Bomborhun (Soro Gbema Chiefdom) for failing to report to the Kamajors that RUF/AFRC forces had crossed the Mano River.

Women were sexually abused and some of them had their heads shaved. In addition, women were also forcibly married to Kamajors, unable to refuse or they would be killed. This information was given in general terms for Soro Gbema Chiefdom but could most likely be extended to the other chiefdoms under CDF control. It is interesting to note that this was rather controversial among the Kamajors as they believed that once covered with their traditional attire and protection, they could not be approached by any woman or they would no longer be protected. Accordingly, this was used as an argument to deny the assertion that some of them had committed sexual offences against women.

The Kamajors established laws, both for Kamajors and civilians, and anyone caught breaking these laws was punished, including by public flogging, being locked in a guardroom and, for the Kamajors, being required to give up their weapons. Such incidents happened, for example, at Potoru, the CDF headquarter in Barri Chiefdom. Offices were established in the villages and Kamajors intervened in domestic affairs. They would settle cases of debts and other disputes, including marital affairs. Civilians reported cases to them and not to the Government authorities, who had no power or control over the chiefdoms at this time. Fines were levied on those civilians found guilty and other type of punishments were carried out, such as putting people in pens of two feet high and five feet long, built with palm stalks and sharp pointed materials.

One former Kamajor relates how children between the ages of 10 and 15 were initiated when the fight for Zimmi intensified towards the beginning of 1998. Those children were sent to enemy zones and battlefronts to act as spies and some became fighters. Others were also used to mine diamonds for the leaders. Kamajors also embarked on forceful conscription of men. When things started to become difficult for the Kamajors, they asked civilians to contribute with food and money to the movement. The food was for the forces and the money was used to pay initiators and to buy weapons. Civilians were also used to carry arms and ammunition, food and property stolen by the Kamajors. Those who refused to carry out these orders were arrested, beaten, put in cages, tied up or fined. Children were used to transport gravel from the mining areas to washing sites. RUF/AFRC forces captured alive during battle by the Kamajors were either initiated into the



Kamajors or killed, depencing on the situation. Other punishments were applied to these captured enemies such as imprisoning them, stripping them, tying them up and putting them in cages.[1416]

Kamajors also engaged in mining in different chiefdoms such as Soro Gbema, Makpele, Gallinas Peri and Malen and it is reported that the District Coordinator was allocating forces for mining. It was said that these diamonds were given to ECOMOG to get ammunition, but doubt was raised over the destination of the gems as the District Coordinator was suspected of keeping diamonds for his own use. In 1998, at Famina (Soro Gbema Chiefdom), a group of five civilians caught by the Kamajors mining diamonds without their permission were killed.[1417]

In September 1998, at Zimmi (Makpele Chiefdom), Kamajors seized seven big trucks loaded with rice, sugar and other items coming from Liberia and en route to Kenema District. The trucks were parked opposite the police station, the SLP being unable to do anything. The passengers abandoned their loads and continued their journey to Kenema.

On one occasion, in October 1998, the killing at Zimmi (Makpele Chiefdom) of a man from Koya Chiefdom (Kenema District) accused of being a "rebel" led to a fight between Kamajors from Koya Chiefdom (Kenema District) and those from Makpele Chiefdom. The dispute was resolved through the intervention of the two CDF chiefdoms coordinators. Other incidents of friction between Kamajors were reported and in November 1998, some young men from Gallinas Peri Chiefdom decided to form their own society, allegedly with the assistance of the son of the Kamajor's High Priest. This decision to form a separate group of Kamajors concluded rapidly as, following the initiation, three of the young men who were to queue to test their bullet proof ability were killed and many others wounded when the initiator fired at them. The matter was reported to the police but no action was taken.

In mid October 1998, serious clashes occurred between CDF assisted by ECOMOG forces and some RUF/AFRC members accompanied by Liberian armed men at the Mano River in the south of Soro Gbema Chiefdom. According to the CDF Coordinator for Pujehun District and ECOMOG forces, those armed men were members of the Liberian Army, which was denied by the Liberian President. To avoid further incursions, the Kamajors created a buffer zone at the Liberian border by strengthening their forces in the border villages.[1418]

Discussions on the disarmament process began in December 1999, when the CDF National Coordinator together with the District Coordinator convened a meeting for Kamajors at Potoru (Barri Chiefdom). By April 2000, UNAMSIL forces were deployed in Zimmi and Joru and shortly after, at Pujehun Town, following ECOMOG withdrawal from the country. Possibly as a result of this, Pujehun District also became a transit area for refugees coming back from Liberia and

[1416] This was apparently done on the advice of civilians, which may refer to the fact that some civilians were appointed in the administration of the CDF in the Districts.

[1417] No further information is available on this incident.

[1418] This incident was related by AFP, 04 November 1998, and comes from Kamajors source; it was neither confirmed nor denied by independent sources.

originating from other Districts in Sierra Leone. A DDR camp was opened at Pujehun Town[1419] in May 2001 and in October, following a meeting of the Joint Committee on Disarmament, Demobilisation and Reintegration (DDR), comprised of the Government of Sierra Leone, UNAMSIL and representatives of the RUF, it was agreed that the remainder of the DDR process should be accelerated between 1 and 14 November.[1420]

At the end of 2001, SLA forces deployed alongside the Liberian border in Pujehun and Kenema Districts following intensified fighting of the Liberians United for Reconciliation and Democracy (LURD)[1421] forces in the west of Liberia.[1422]

Aside from this, there is almost no information available from the end of 1998, 1999, 2000 and 2001, as the District was under the control of Kamajors and ECOMOG forces and, later on, UNAMSIL troops. It appears that civilians were able to resettle in their villages and were mostly engaged in farming activities.[1423]

3. Conclusion

Pujehun District was an entry point to Sierra Leone for RUF/NPFL forces as early as 1991 and all the RUF incursions in the District were carried out following an east-west pattern, RUF forces first settling into the two chiefdoms bordering Liberia, namely Soro Gbema and Makpele before proceeding further west by crossing the Moa River. Accordingly, those two chiefdoms were the most affected, particularly because Makpele Chiefdom is the main mining area of the District.

The first major incursion in the District, carried out by RUF/NPFL forces was done in concert with a northern flank in Kailahun District; the RUF/NPFL forces rapidly scattered throughout the chiefdoms of both Districts. From the very start of the conflict, the headquarters of the RUF forces was, however, established in Kailahun District. Three motorable entry points into Sierra Leone were thus clearly identified, two in Kailahun District and one in Pujehun District.

The RUF/NPFL forces were repelled from Pujehun District in the middle of 1991, while some chiefdoms in Kailahun District remained under RUF/NPFL control. At that time, Pujehun District came under SLA control, with the RUF/NPFL forces being limited to launching sporadic actions in the District.

[1419] Following a meeting between the Government of Sierra Leone and the RUF at UNAMSIL headquarters, Freetown, it was agreed between the parties that DDR camps should be opened as a matter of urgency in Lunsar, Makeni, Kamakwie, Masingbi, Koidu, Kailahun, Alikalia, Pujehun and Bonthe, in addition to the existing ones in Port Loko, Bo, Moyamba, Kenema and Daru: UNAMSIL press release, 15 May 2001.

[1420] IRIN West Africa, 12 October 2001. Furthermore, disarmament for the whole country was scheduled to be complete by 30 November 2001. During this disarmament period in November 2001, over 2,000 CDF members demobilised: UNAMSIL Press Briefing, 20 November 2001

[1421] The LURD was a fighting faction engaged in the Liberian conflict and challenging the authority of the Liberian Government. This group had been fighting the Liberian Government since 1998.

[1422] Sierra Leone Humanitarian Situation Report 01 - 31 December 2001.

[1423] The situation was radically different for the Districts of the Northern Province and for Kono District where RUF/AFRC activities were still ongoing, with high fatalities among the civilian population.

In late 1993 and in 1994, RUF forces launched a second massive incursion from the Liberian border and spread across Pujehun, Kenema and Kailahun Districts, before continuing further westwards, establishing positions in the whole country by 1995. As such, Pujehun District was for the second time under RUF control, although for a longer period this time. This RUF presence in the District led thousands of civilians to flee the District and go to IDPs camps in Bo District, encouraged by an SLA that was being gradually defeated in the District. Accordingly, Pujehun District was one of the most affected Districts in terms of displacement of population and of destruction of property.

From late 1995 and especially after February 1998 and the intervention in Freetown, the pattern of the conflict in Pujehun District differed from Kailahun District and was more similar to the other Districts of the Southern Province. This was due to the initiation and deployment of Kamajors, who were able to retake most of the RUF positions in the District, unlike Kailahun District, which was never completely under Kamajor control.

Following the ECOMOG intervention in Freetown in February 1998 and its deployment in the District, the RUF/AFRC who had stayed in the District during the AFRC regime pulled out and the retreating RUF/AFRC forces from Freetown did not settle at all in the District. Free from further RUF/AFRC incursions, the District was thus left under Kamajor control, as with the other Districts of the Southern Province, which deprived the RUF/AFRC forces of one of their main supply roads from Liberia. From 1998 until the completion of the DDR process, RUF/AFRC attacks were concentrated in the main mining areas of the District and in the areas where CDF members did not have constant and complete control, namely the Northern Province, Kono District, Kailahun District and the north of Kenema District.

Throughout the conflict, widespread violations were committed in the District, primarily by RUF/NPFL, RUF and RUF/AFRC forces, but also by SLA forces and Kamajors, especially once they firmly established their control and authority over the District. Those violations were directed against civilians and their property and included stealing and destruction of property, physical violence, sexual assault, killing and abduction for use as fighters, workers or "wives". Both the RUF forces and the Kamajors forces deposed and replaced local authorities and put in place basic systems of administration. Only a few cases of mutilation were however reported for the District, as most of the cases reported took place during a specific RUF/AFRC operation called "Operation No Living Thing" in the first months of 1998 and following the retreat of Freetown.

F. Western Area

1. Introduction

The Western Area is located in the far central west of Sierra Leone and adjoins Port Loko and Moyamba Districts on its eastern side; its western side is bounded by the Atlantic Ocean. Roughly two-thirds of the Western Area is a mountainous peninsula, along the north of which is located Freetown, the capital city of Sierra Leone. Freetown has been a major international port for merchant and military shipping for the best part of 150 years.

Unlike the rest of the country, the Western Area is not composed of chiefdoms, but is divided into four Rural Districts (RD) and a metropolitan area known as Greater Freetown.[1424]

Western Area	Main Settlements
Koya Rural District	Newton, Songo
Waterloo Rural District	Fogbo, Hastings, Kossoh Town, Newton, Tombo, Waterloo
Greater Freetown	Freetown and suburban areas
York Rural District	Goderich, Lakka, York
Mountain Rural District	Regent

Koya RD is in the far east of the Western Area and is bordered to the north by Koya Chiefdom (Port Loko District). Across the River Ribbi, which delimits the southern boundary of Koya RD, lies Ribbi Chiefdom (Moyamba District). The main motorable crossing point over the River Ribbi is located at Mabang, connecting the towns of Moyamba, Rotifunk and Bradford (all Moyamba District) to Songo, in the far east of Koya RD. This Moyamba route rejoins the main highway at Tiama Junction, giving travellers access to all major locations in the Southern Province. The RUF would use this route to enter the Western Area in 1995.

From Songo, moving inland, the main hard-surface arterial route from provincial Sierra Leone passes through the north of Koya RD and its main town, Newton. From Newton, the villages of Bath Comp and Fogbo are accessible by a road running south. Fogbo is a main transit point for goods and people westward across the swamp areas of the Calmont Creek and eastward to Shenge (Kagboro Chiefdom, Moyamba District) and to other locations up the Ribbi River. A large number of small settlements can be reached from the Newton-Fogbo road. Moving east from Newton, the main arterial route leads to Masiaka (Koya Chiefdom, Port Loko District) and on to all other major towns in Sierra Leone. Control of the stretch of road between Newton and Masiaka was a major strategic aim of all factions in the conflict.

Moving westward from Newton, the main highway leads to the town of Waterloo, and the Waterloo RD. The area between Newton and Waterloo is flat, highly fertile agricultural land. There is a large

[1424] Along with the SUDC area of Sherbro Island (Bonthe District), the Western Area is administered directly by the Government of Sierra Leone without the traditional structures found throughout Sierra Leone. This is a result of the early British administration, which did not extend its control over the provincial areas of Sierra Leone until the late 1800s, at which time it exercised authority mainly through the traditional structures already in place: see General Overview.

palm oil plantation at Banga Farm, also on the main highway. Waterloo is on the foothills of the mountainous Western Area Peninsula. It has a number of suburban areas, including Lumpa, Kossoh and Bassu Town to the south and Cole Town to the north. The Prince Alfred Road Bridge, over which the main highway runs, is a key point in the town. The harbour settlement of Pa-Loko is located directly north of Waterloo.

The main highway into Freetown runs through Devil Hole, Rokel and Hastings. On the flat area north of Hastings town and running down to the Sierra Leone Estuary is a hard-surface airfield. The Sierra Leone Police Training School is also located at Hastings. On the Kossoh Town–Hasting axis, a number of different routes into Freetown converge. The main highway continues into the east of Greater Freetown through Wellington and Kissy. From Kossoh Town, two routes lead into Freetown. The first leads through Mountain Rural District from Grafton to Regent. This winding, cliff edge road is made of broken asphalt. At Regent, the road splits again allowing access to Freetown's civic centre through Mount Aureol and to Freetown's west end through Hill Station. The alternative route from Kossoh Town leads through Allen Town to Calaba Town, where it runs parallel to the main highway. This road is also of extremely poor quality and passes through the busy and densely populated areas of Wellington, Low Cost and Portee.

Another road leaves Waterloo and runs south around the Western Area Peninsula into west Freetown. The road passes through the SLA's Benguema Training Centre,[1425] through to the harbour town of Tombo, which marks the southern-most point of Waterloo Rural District. The peninsular road loops around along the coast through to York, Sussex and Goderich in the York RD. From Goderich, the road passes straight into the Lumley and Juba Hill areas of west Freetown. The peninsular road is of extremely poor quality and takes around three hours to get from Freetown to Waterloo in a regular vehicle. The main highway route, through Hastings, takes only 20 minutes.

In 1991, the conflict that was taking hold in other areas of Sierra Leone had little impact on the Western Area except for troop movements to other areas of the country and the establishment of checkpoints – at which there were incidents of harassment of civilians and stealing of their property by the SLA – and defensive deployments in strategic areas, particularly in Waterloo. Following the coup in 1992, which saw the NPRC take power, harassment of civilians and stealing of their property by the SLA increased as more checkpoints were established. This also marked the beginning of Cleaning Day, according to which on the last Saturday of every month, people had to stay home during the morning hours and clean their houses: those caught on the streets would be punished by the SLA. However, these incidents were relatively few and there would continue to be little impact on the Western Area throughout 1992 to 1994.

Starting in 1995, the RUF began to extend their presence westward, at one point cutting off the main highway linking Freetown with the rest of the country and occupying much of Koya RD. There were a number of battles between the RUF on the one hand and the SLA and foreign forces on the other hand, with the SLA establishing more checkpoints in sensitive areas. Throughout 1995 there was an increase in violations committed against civilians, including killing, raping, abduction

[1425] The Benguma Training Centre was subsequently renamed the "Armed Forces Training Centre".



and looting primarily committed by the RUF, with some violations by the SLA and the Nigerian forces. Elections were held in early 1996, the run up to which was marred by incidents of violence including the first amputations (of thumbs) in the Western Area by SLA, who believed there should be peace before elections. There was little fighting in the Western Area in 1996, with SLA, Guinean and Nigerian forces deployed in strategic areas and the SLA continuing to operate checkpoints along major routes. Civilians were routinely harassed at these checkpoints and were punished for failing to produce identity cards, including being beaten, primarily by the SLA and the Nigerian forces. Towards the end of 1996, peace talks between the RUF and the Government resulted in the Abidjan Peace Agreement on 30 November 1996.

Nevertheless, the conflict only began to have a major impact on the Western Area on the magnitude experienced in the rest of the country in 1997. In May of that year, the AFRC launched a coup, as a result of which the elected government fled to Guinea. Soon after taking power, the AFRC invited the RUF to join them and a large number of RUF forces joined the AFRC forces already in Freetown and the rest of the Western Area. This period saw a massive increase in violations against civilians, with RUF/AFRC forces in particular targeting students representatives of civil society and journalists, especially after the commencement of broadcasting by the clandestine pro-government radio station, FM98.1 Radio Democracy. Civilians were beaten, raped, killed and arrested and detained without being charged, sometimes for up to a number of weeks. Despite the formation of an anti-looting squad by the AFRC, which saw the return of some stolen property to civilians, looting was widespread; civilians were searched and their property, most commonly food, was taken at checkpoints and in their houses. Civilians were also detained and forced to work for the RUF/AFRC forces, primarily undertaking domestic work such as cooking and cleaning. There was a large build up of foreign forces at this time and fighting between the RUF/AFRC and these forces would lead to massive internal population displacement as civilians fled the fighting. In the latter half of the year, first ECOWAS and then the UN Security Council imposed sanctions on Sierra Leone, including a travel ban on members of the RUF/AFRC.

Despite a ceasefire signed at the end of 1997, fighting continued with numerous violations of both the spirit and letter of the ceasefire. The instability in the city and the country at large prompted a military intervention by the Nigerian-led ECOMOG forces, reinforced by CDF and "loyal" SLA members, in February 1998, as a result of which the RUF/AFRC forces were driven from Freetown and the majority of the Western Area. The ECOMOG intervention continued to roll back the RUF/AFRC from every major town in Sierra Leone during March and April 1998. The Government returned from Guinea and sanctions were lifted, except those banning the import of weapons. For the most part, order was restored in the Western Area, although there were incidents of harassment of civilians, including the torture and killing of suspected RUF/AFRC members and collaborators by ECOMOG forces and the CDF. The middle of the year saw the commencement of a wave of treason trials against civilians and military personnel for their involvement in the coup in May 1997. The majority of those being tried were convicted, with death sentences and terms of imprisonment being imposed. Some of the military personnel, who had been court martialled, were executed in October while those who had been tried in civilian courts appealed their sentences and were still in detention awaiting the outcome of their appeals when the invasion of Freetown occurred on 6 January 1999.



Towards the end of 1998, RUF forces had begun attacking towns in the west of the Western Area, including the strategic town of Waterloo, which led to renewed fighting in these areas. This would be the prelude to the major attack on Freetown by the RUF/AFRC on 6 January 1999. Thousands of RUF/AFRC forces converged on Freetown, occupying various locations, killing and amputating hundreds of civilians, taking their property and burning their houses. ECOMOG forces with assistance from the CDF managed to repel the RUF/AFRC forces and by the end of January had regained control of the city, although the destruction wreaked on the city and the loss of human life during the brief RUF/AFRC stay would be tremendous. In the coming weeks, ECOMOG extended its control to the areas surrounding Freetown and in April, peace talks began in Togo that would lead to the Lomé Peace Agreement, signed on 7 July 1999. That Agreement included a power-sharing arrangement for the elected Government and the RUF as well as a blanket pardon and amnesty for all combatants for all acts committed in pursuit of their objectives. From the time the AFRC and RUF leaders returned to Freetown in October 1999 until May 2000, the Western Area was mostly quiet.

In 2000, UNAMSIL began deploying across Sierra Leone and implementing the disarmament, demobilisation and reintegration program agreed to during the Lomé peace talks. On 8 May, there was a large demonstration outside the house of the RUF leader, which resulted in the deaths of some of the protestors and the capture and detention of the RUF leader, accused of violating the spirit and letter of the Lomé Agreement. From then, UNAMSIL deployment continued in the Western Area, which remained quiet until the war was officially declared over in January 2002.

2. Factual Analysis

a) Events in 1991

At the beginning of 1991, around 2,000 members of the SLA were sent the southern border of Sierra Leone with Liberia to prevent the incursion of forces from the Liberian war into Sierra Leone. These would be reinforced by three truckloads of SLA forces dispatched from Freetown on 25 March 1991 and 1 April 1991.[1426]

In early 1991, the conflict broke out in the Eastern Province of Sierra Leone. The Government of Sierra Leone requested the assistance of Guinean and Nigerian troops to prevent RUF forces from entering Freetown and other large towns. Responding to this request, checkpoints were established between Waterloo and Tombo (both Waterloo RD) along the road running from the north to the south in the middle of the Western Area towards the border with Port Loko and Moyamba Districts. Waterloo is of strategic military importance, due to its location on the highway leading from Freetown to the rest of the country and its proximity to Freetown.

The Nigerian forces operated the checkpoint at Madina, whilst the others at Tombo and Russell (Waterloo RD) were operated by the Sierra Leone Army (SLA). SLA forces stationed at these checkpoints required people who were unable to produce their identity cards to pay them money. If

[1426] Xinhua General Overseas News Service, 25 March 1991 and UPI, 2 April 1991.

civilians did not have money, SLA forces would punish them. For example, some were forced to clean up a particular area and others were forced to lie down on the ground and stare at the sun.

Following news of the first incursions, the Government of Sierra Leone – in 1991, the All Party Congress (APC) – was quick to mobilise political support for the war effort. The then President received gifts of food from representatives of the Fullah and Indian communities and entertained a gesture of solidarity from the Sierra Leone Judiciary.[1427]

In addition, the Government of Sierra Leone made requests for assistance to various foreign governments, including those of the US[1428] and the UK. Officials from both governments publicly stated they were considering how to assist.[1429] The US provided a variety of direct assistance to the Government of Sierra Leone. First, the US Government flew in an undisclosed amount of light weapons and ammunition.[1430] A further shipment of materials was reported as scheduled to arrive by US Air Force cargo plane by 9 August 1991. Also in August 1991, a 15-member US Army mobile training team commenced a program of training in communications, medical care, equipment maintenance and setting-up effective command structures for non-commissioned SLA officers at the SLA's Benguema Training Centre. In September 1991, the US Government also agreed to provide $500,000 to the Government of Sierra Leone to support the continuing involvement of the SLA in ECOMOG, then operating in Liberia. Freetown was one of the key logistic points for the 7,000-strong ECOMOG peacekeeping force stationed in Liberia.

On 13 April, the Governments of Guinea and Nigeria sent 700[1431] military personnel and accompanying hardware to Sierra Leone.[1432] The Nigerian forces arrived on 16 April 1991,[1433] at which time the Government of Sierra Leone cut air, sea and land transport links with Liberia, restricting incoming flights to Freetown to humanitarian and military traffic.[1434] Following the visit of delegation of Nigerian military officials to Freetown, a further 500 Nigerian forces arrived on or around 29 April 1991[1435] and were posted to strategic locations in the Freetown area including Lungi International Airport[1436] (Kaffu Bullon Chiefdom, Port Loko District) and the power station.

In May 1991 a camp for Liberian refugees was established near Waterloo town (Waterloo RD). On 6 May 1991, around 3,000 Liberian refugees were repatriated to Liberia from Freetown aboard the Nigerian vessel, the *River Adada*. Over the weekend of 4-5 May, the same ship had ferried an undisclosed number of Nigerian soldiers from Lagos.[1437]

[1427] BBC, 15 April 1991.
[1428] UPI, 9 April 1991.
[1429] Independent, 7 May 1991.
[1430] AFP, 8 August 1991.
[1431] Number initially undisclosed, reported as 700 by Xinhua on 29 April 1991.
[1432] Xinhua, 13 April 1991.
[1433] AP 16 April 1991.
[1434] AP, 16 April 1991.
[1435] These forces were under the command of the field commander of ECOMOG in Liberia: Xinhua, 28 May 1991.
[1436] A short distance away (7 minutes by helicopter) from Freetown, north over the Sierra Leone River.
[1437] AFP, 6 May 1991.

b) Events in 1992 - 1994

In mid-April 1992, a group of low-ranking members of the SLA Tiger Unit, armed with an anti-aircraft gun mounted on a military truck, moved from Kailahun District to Freetown. They by-passed the SLA base at Mile 38 (Koya Chiefdom, Port Loko District) and used the Moyamba-Rotifunk-Mabang (Moyamba) route to Freetown through Songo town (Koya Chiefdom, Port Loko District), south-west of the Western Area. These forces continued along the main highway and when they arrived in Freetown., other SLA forces stationed at the Benguema Training Centre were made aware of this unusual military movement.

On 29 April, the Kailahun group of SLA members overthrew the APC Government and established a military junta known as the National Provisional Ruling Council (NPRC). Led by 25 year-old Captain Valentine Strasser, the NPRC suspended the Constitution of Sierra Leone and imposed a State of Emergency. An SLA Major from the Benguema Training Centre was arrested and detained in Pademba Road prison when he tried to persuade those leading the coup to reverse their actions. The ousted President fled to the Republic of Guinea, where he was later granted asylum, as 50 SLA troops acting for the NRPC stormed the presidential offices at State House, in the centre of Freetown. Lungi International Airport was temporarily closed to air traffic and international telex and telephone lines were reportedly disabled.[1438]

The US Government airlifted 300 expatriates out of Sierra Leone and issued a warning advising against travel to Sierra Leone. The French Government sent a frigate into Sierra Leonean waters to assist with further evacuation of expatriates should the situation in Sierra Leone deteriorate.

On 30 April 1992, the NPRC leader made a broadcast over national radio on the Sierra Leone Broadcasting Service citing corruption and incompetent governance as the reasons for the coup.[1439] Later in the day, around 700 students marched through Freetown in support of the NPRC coup.[1440] In Freetown on 5 May 1992, students and trade unionists staged a much larger march in support of the NPRC. [1441]

A number of foreign Governments, including Nigeria, Japan and Ghana, were quick to recognise the NPRC as the Government of Sierra Leone. Cooperation between Nigerian troops and the SLA against the RUF continued.

Following the NPRC coup, SLA forces in Waterloo (Waterloo RD) and surrounding areas broke into shops and residences on the Calmont Road, stealing civilian property and loading it onto military trucks. SLA forces attacked villages in the Koya RD near the boundary with Port Loko and Moyamba Districts. In these villages, which included Mafonikay, Nyamgba Town and Newton, SLA forces killed an unknown number of civilians, stole property and inflicted violence on many people.

[1438] AFP 30 April 1992.
[1439] BBC, 2 May 1992, transcribing SLBS, 30 April 1992.
[1440] BBC, 30 April 1992.
[1441] AFP, 5 May 1992.

SLA forces attacked the Waterloo Oil Palm Plantation and other farms in the Waterloo and Koya RDs, taking agricultural machinery, household furniture and other high value items.

During 1992, the SLA arrested an unknown number of people in Lumpa, near Waterloo Town. On a beach near Sussex village, along the peninsular road, the then Inspector General of Police and up to 12 other people were summarily executed on the suspicion of plotting a coup. It is alleged that their bodies were buried in a mass grave in that location.

During 1992, the NPRC declared that the last Saturday of every month would be National Cleaning Day. Between 06.00 and 10.00 only those on official business were excused the task of cleaning their compounds, residences and commercial properties.[1442] A variety of punishments were meted out to civilians who did not adhere to these rules. Civilians were beaten with belts, made to roll around on the floor, thrown into the gutter effluent and forced to quick-march 500 metres carrying a heavy rock on their heads. A common SLA punishment was termed Frog Jump, or "pumping". Civilians were made to perform squat jumps, crossing their arms one over the other and holding their earlobes between thumb and forefinger. This exhausting punishment could last for hours. Another gruelling SLA punishment was "making civilians fly"; civilians were forced to lie down on their backs with their legs held straight into the air, their arms outstretched across the ground.

Shortly after the coup, the SLA mounted five military checkpoints along a 15km stretch of the peninsula road running from Tombe to Waterloo Town (both Waterloo RD). SLA forces operating checkpoints continued to extort money from travellers.

In late December 1992, a special military tribunal created by the NPRC condemned to death an unknown number of people for their alleged involvement in a coup attempt in November 1992. The British Government condemned the executions[1443] and briefly suspended all economic aid to Sierra Leone.[1444] Between 9 and 16 January 1993, the NPRC declared a week of national repentance and prayers for those who had been executed.[1445]

On 18 March, NPRC security agencies arrested 7 civilians and 4 UK expatriates accused of plotting a coup. On 8 April, concerned with rumours of RUF movement towards the Western Area and a growing smuggling network, the NPRC banned movement of heavy vehicles on public roads between 19.30 and 07.00 every night. In Freetown, the ban stretched from 22.00 until dawn.

The Western Area was mostly quiet for the remainder of 1993 and throughout 1994.

[1442] Cleaning Saturday is still observed in Freetown to date.
[1443] AFP, 4 January 1993
[1444] AFP, 5 January 1993
[1445] Interpress, 7 January 1993

c) Events in 1995

In January 1995, the NPRC contracted Ghurka Security Guards,[1446] a private military company, to run a training program for the SLA and provide security at Camp Charlie, a key SLA base near Mile 91 (Yoni Chiefdom, Tonkolili District).

In March 1995, the RUF extended their reach further west, with RUF movement through Moyamba District towards the towns of Songo and Mile 38 (Koya Chiefdom, Port Loko District) putting pressure on the Western Area. In late April, RUF forces targeted locations on the high quality, asphalt highway leading through Waterloo (Waterloo RD) to Freetown. RUF forces gained a foothold in the bush areas of the southern half of Koya RD and managed to create a frontline spanning Joe Town (Koya RD) to Pa-Loko (Waterloo RD). This had the effect of temporarily cutting off the main highway, or at least making it too dangerous for civilian traffic. Nevertheless, RUF forces were unable to penetrate or bypass Waterloo. RUF attacks on locations on the unsealed, southern route around the Peninsula to Freetown were also unsuccessful.

In February 1995, representatives of the NPRC Government held a meeting at the Waterloo Community Centre, requesting that the local community provide auxiliary support to the SLA in preventing the infiltration of RUF forces into the Western Area. Guinean forces moved from Masiaka (Koya Chiefdom, Port Loko District) to Bassa Town (Waterloo RD), less than a kilometre from Waterloo Town (Waterloo RD), establishing checkpoints and numerous mortar positions facing towards Newton (Koya RD). The Bassa Town Primary School was used as an ammunitions dump for the Guinean contingent. SLA forces armed with light weapons were based at nearby Lumpa (Waterloo RD), in addition to a heavily armed SLA Tiger Unit in the grounds of the Peninsular Secondary School in Waterloo. To prevent the RUF moving from Pa-Loko through Cole Town into Waterloo, SLA forces were also deployed at the Prince Alfred Road Bridge.

Between 21 and 30 March 1995, the SLA established checkpoints along the north-south Newton-Fogbo road at Newton–Fogbo Junction, Magbathi and Bath-Comp (all in Koya RD, on the border with Port Loko and Moyamba Districts). Fogbo (Koya RD) is near the mouth of the River Ribbi and is a trading centre for fish and salt. It is also a transit point for inland traffic along the river and to points further along Sierra Leone's coast, with a large wharf to handle the inland river traffic. Before 10 April, an unknown number of heavily armed SLA forces deployed on foot to Fogbo Wharf, escorted by a military helicopter. The SLA forces were equipped with a mobile anti-aircraft gun and numerous RPGs. They established a command point in the house of the then Town Chief and confiscated village livestock to use as food.

Newton is an agricultural centre on flat, fertile land between Songo (Koya Chiefdom, Port Loko District) and Waterloo (Waterloo RD). The SLA forces stationed at Newton-Fogbo Junction patrolled the area between Newton (Koya RD) and Songo, mainly on a circular route running anti-

[1446] For background information see Cilliers, J & Mason, P (eds), *Peace, Profit and Plunder: The Privatisation of Security in War-Torn African Societies*, pp 129-33: http://www.iss.co.za/Pubs/Books/PeaceProfitPlunder/Chap7.pdf [Link alive: 7 January 2004].

clockwise from Newton, through Makoibundo, Mabange, Garahun, Kwama[1447] and Mile 6 (all Koya RD).

Between 8 and 11 April, RUF forces attacked villages in a triangular area sketched out by Songo to the east, Waterloo to the west and Fogbo to the south, establishing a base at Mashewureh (Koya RD), about 2 km north-west of Fogbo. There, they captured fleeing civilians, raped women and destroyed houses. RUF forces attacked and captured a number of villages adjacent to Songo, including Mokobech, Maferkalay and Mathonteh (all Koya RD). RUF forces attacked the village of Kwama to the north of the main Masiaka-Waterloo highway, killing 7 civilians and burning down an unknown number of houses. Shortly after this attack, SLA forces engaged a 58-strong RUF group on the main highway at Brima Junction (Koya RD).

RUF forces attacked Newton (Koya RD) on 9 April, moving from the villages of Ragberi and Magbafu to the south and Makoibundu and Garahun to the east, but were repelled by SLA forces stationed in Newton. On 11 April, RUF forces attacked Fogbo, where they raped a young mother, abducted an unknown number of civilians and stole civilians' livestock. The SLA forces deployed at Fogbo offered limited resistance; the RUF established a base and operated out from Fogbo and nearby Mashewureh.

Between 15 April and 20 April 1995, RUF forces advanced on Waterloo (Waterloo RD), moving through Nyamba Town[1448] and Joe Town (both Koya RD). They advanced to Pa-Loko, 10 km north of Waterloo, and to the Banga Farm palm oil plantation halfway between Newton and Waterloo. Between 21 and 22 April, RUF forces at Banga Farm came under heavy air attack from an Alfa Jet,[1449] which killed an unknown number of RUF members and civilians. On 21 April, RUF forces attacked Lumpa with RPG and AK-47s, but retreated to Pa-Loko following heavy mortar and other artillery fire by Guinean forces. During the RUF attack on Lumpa, civilians fleeing from Lumpa, Waterloo and surrounding areas were stopped by Nigerian forces operating a checkpoint at Rokel, about 4 km north-west of Waterloo on the main highway. At the checkpoint, Nigerian troops beat an unknown number of people with sticks and gun butts; saying "Let your brothers kill you", they turned the people back towards the Waterloo area, which was then under attack.

Over the weekend of 29-30 April, combined SLA and Guinean forces engaged the RUF in Pa-Loko and Joe Town, forcing their retreat by 3 May;[1450] shortly after, the corpses of RUF members could be seen floating in the Waterloo Creek. Between 3 and 7 May 1995, the NPRC Government contracted a South African based private military company called Executive Outcomes to replace the Ghurka Security Service.

In addition, around 600 demobilised Liberian militia, formerly from ULIMO-K, were concentrated in the area around Allen Town (Greater Freetown, Western Area), on the outskirts for Freetown's

---

[1447] Also spelled Quama.

[1448] Also called Yamba Town.

[1449] It is unclear whether the Alfa Jet was SLA or Nigerian.

[1450] AFP, 1 May 1995, 3 May 1995.



East end.[1451] RUF forces retreating from Pa-Loko moved towards Newton, ambushing civilian traffic on the Waterloo-Newton stretch of highway. A joint Executive Outcomes and ULIMO-K "Special Task Force" cleared this road of RUF activity.[1452]

Nigerian forces were stationed at Madina, along the peninsula road between Waterloo and Tombo (both Waterloo RD). On or around 2 May, an unknown number of RUF forces attacked Kerry Town (Waterloo RD), a village on the peninsula road. Civilians fled 2 km northwards from Kerry Town to Macdonald (Waterloo RD). Although no direct contact was made between SLA-aligned forces and the RUF, Guinean and SLA forces bombarded the area.[1453]

The beach village of Tombo, which had a large wharf, had increased in significance as a trading and passenger transit point following the RUF attacks on Waterloo and the main inland highway as well as the strengthened RUF control of Fogbo jetty and the northern chiefdoms of Moyamba District. At this time, the SLA and SSD were seeking out suspected RUF members and collaborators with increasing vigour, often beating and killing those they found. After 2 May, residents of Kerry Town captured a suspected RUF member and took him to the SLA base at nearby Tombo. Following interrogation by the SLA commanding officer, SLA forces took the man onto the beach, shot him and cut off his head and genitals. Residents of Tombo and SLA members danced the severed head around the village. After failing to set fire to the corpse using petrol, two members of the SLA tied weights to it and dumped it out at sea. Also after 2 May, unknown perpetrators captured and killed two suspected members of the RUF by placing burning car tyres around their necks.

On 15 December in Tombo, an SSD Sergeant shot dead two teenage boys and severely injured one other. The boys were on a boat, the pilot of which had refused to pay the Le500 levied on all boats entering or exiting the wharf.

d) Events in 1996

In early January, Strasser accepted offers from both the Organisation of African Unity and the Government of Burkina Faso to mediate between the NRPC and the RUF. Soon after, Julius Maada-Bio, the then Deputy Head of State, overthrew Strasser, claiming that he was planning to cancel the elections planned for 26 February 1996. Maada-Bio continued a policy of dialogue with the RUF. A nighttime curfew was imposed in Freetown from 16 to 23 January. On 24 January, the NPRC and the RUF announced a ceasefire, which was quickly followed by a 2,000-strong civilian peace march through Freetown.[1454]

Doubts about the durability of the NPRC-RUF ceasefire, concerns about voter registration and whether the National Electoral Commission would be sufficiently well-resourced prompted calls for the postponement of the Presidential and Parliamentary elections scheduled for 26-28 February. Nevertheless, on 9 February, 5,000 protestors marched through Freetown in support of non-

[1451] AP Worldstream, 11 May 1995.
[1452] It is not clear whether Executive Outcomes participated directly in hostilities.
[1453] Event reported by AFP, 2 May 1995
[1454] Xinhua, 24 and 26 January 1996.

postponement. A day later, grenades were thrown into the house of the Electoral Commission Chief, who was an advocate for non-postponement.

The Electoral Commission organised a national consultative conference at Freetown's Bintumani Conference Centre on the theme "Peace Before Elections or Elections Before Peace?". On 12 February, the majority of delegates participating in the conference voted in favour of non-postponement, while all 14 delegates from the RUF voted for postponement. On the same day, 43 Paramount Chiefs from the Northern Province adopted an 8-point declaration also supporting postponement pending substantive peace talks between the NPRC and the RUF. The SLA were generally in support of "Peace Before Elections" while the majority of the civilian population supported "Elections Before Peace."

Between 23 and 25 February, NPRC and RUF delegations commenced peace talks in Abidjan, Ivory Coast, chaired by the Ivory Coast's Foreign Minister. The talks were adjourned in the late hours of 25 February, the eve of elections, with RUF delegates still calling for their postponement.

Polling in the elections began at 07.00 on 26 February. A curfew was imposed overnight into the second day of polling. Shortly before the polling centres closed, at around 19.00, machine gun fire was reported on Pademba Road and at the Wilberforce Barracks in Freetown. News sources report that a 40-strong military unit dressed in blue uniforms assaulted the home of Maada Bio using RPGs and heavy machine guns.[1455] A polling station supervisor was shot dead while returning to his home. Also on 26 February, the National Reconciliation Commission was inaugurated. Polling continued on 27 February. The results of the Presidential election were inconclusive and a run-off election was planned for 15 March, despite RUF declarations on 1 March in Abidjan that they would not accept the results.

During and after the elections at Wilberforce Barracks and other military barracks, people's thumbs were held out by SLA forces and beaten because they voted. Heavy gunfire broke out near Kabasa Lodge to discourage the voting and have it cancelled, which was unsuccessful. The run-off election on 17 March, in which Alhaji Dr Ahmed Tejan Kabbah was elected President of the Republic of Sierra Leone,[1456] saw the cutting off of thumbs, marking the first amputations in the Western Area.

Meanwhile, Nigerian forces established a checkpoint at Jui Junction (Waterloo RD) in March 1996, since their commander was residing at the SSD quarters in the Jui SSD Barracks. At the same time, SLA forces established checkpoints between Waterloo and Freetown. Guinean forces established a base between Lumpa and Waterloo as a back up for SLA checkpoints mounted around that area. As in other places, both Nigerian ECOMOG and SLA forces harassed people passing through these checkpoints, inflicting punishment where people were unable to produce identity cards. Punishments included forcing civilians to clean up the checkpoint area and beating them with wooden sticks.

[1455] AFP, 28 January 1996.

[1456] President Kabbah was sworn in on 29 March 1996.

Peace talks continued in Abidjan. On 23 April, President Kabbah met with the RUF leader, continuing the peace negotiations commenced by the NPRC in late February 1996. Three joint working groups were established to draft the text of a peace agreement, hammer out details for encampment and disarmament and to work out the demobilisation process. On 15 May, talks yielded agreement on a ceasefire although by 19 May, the RUF leader was already calling for fresh elections during a visit to the Republic of Guinea. News reports indicate that removal from Sierra Leone of the South African private military company, Executive Outcomes,[1457] was an RUF precondition for a peace agreement.[1458]

On 3 July, around 20 senior SLA officers from the disbanded NPRC regime were removed from their positions in the SLA. On 10 July, the Sierra Leone Parliament re-activated portions of the Constitution that had been suspended by the NPRC in 1992. On 9 September, Government security agencies uncovered a coup plot against the SLPP government and arrested at least six SLA soldiers.

The Government of Sierra Leone and the RUF leadership signed the Abidjan Peace Accord on 30 November 1996. This provided for the immediate and total cessation of hostilities and the creation of a Committee for the Consolidation of Peace (CCP). Demobilisation of RUF and other militia would commence upon the identification of suitable sites and SLA units not required for the maintenance of general security would be returned to barracks. The CCP would examine options for restructuring the SLA and the SLP would be strengthened to ensure realistic police primacy. An international, neutral monitoring group would be deployed in the country and Executive Outcomes would withdraw within five weeks of the arrival of that group. By 30 May 1997, all other foreign troops would be removed from the country, consistent with the treaty obligations of Sierra Leone. The RUF would become a legitimate political movement and a blanket amnesty was granted to all RUF members in respect of actions taken in pursuance of the objectives of the RUF up until 30 November 1996. Provision was made to guarantee the civil rights of the RUF and for the creation of an independent National Commission on Human Rights to monitor and investigate alleged abuses.[1459]

e) Events in 1997

On 1 January, the Government commissioned into service a gunboat donated by the Chinese Government to combat poaching in Sierra Leone's territorial waters. The boat was able to carry around 200 security personnel and had been donated as part of a $20 million aid package agreed to by China in 1995.[1460] On 6 January, six SLA soldiers were sentenced to 10 years in jail for piracy,

---

[1457] The NPRC had contracted Executive Outcomes on or around7 May 1995 following the extension of RUF military operations into the Western Area.

[1458] Before 11 September, Executive Outcomes was reportedly contracted by Sierra Leone Ore and Mining Co (Sieromco) to secure bauxite mined in Moyamba: Africa Energy & Mining, 11 September 1996. The removal of Executive Outcomes from the country became a specific term of the Abidjan Peace Accord, signed between the Government of Sierra Leone and the RUF on 30 November 1996.

[1459] For the full text of the Abidjan Peace Accords, see http://www.usip.org/library/pa/sl/sierra_leone_10301996.html.

[1460] AFP, 2 January 1997 and Xinhua 1 January 1997.

having raiced a Spanish fishing vessel in 1996, attempting to abscond with $200,000 of fishing equipment.[1461]

On 30 January, Executive Outcomes completed a withdrawal that began with the signing of the Abidjan Peace Accord, removing around 300 personnel and heavy weaponry from Sierra Leone.[1462] Around a month later, Sierra Leone and Nigeria signed a new Status of Forces Agreement, redefining the legal status of Nigeria's forces in Sierra Leone and expanding Nigeria's training role from solely the SLA to other parts of the Sierra Leone armed forces.

In mid-March, there was a leadership struggle within the RUF, sparked by the arrest of the RUF leader in Nigeria on firearms charges. On 11 March, the Government of Nigeria confirmed the presence of the RUF leader in Nigeria, although they denied that he was under house arrest.[1463] They reversed this position a few days later, admitting that they had arrested him for the illegal possession of a firearm and detained him in a federal government guesthouse in Lagos.[1464] Spokespersons for the RUF leader insisted variously that he was in Nigeria on private business and also that he was discussing the Sierra Leone peace process with the Nigerian Government.[1465] Some days later, a senior RUF member declared himself to be the new interim leader, which was soon followed by the RUF taking into custody a number of its senior membership and the Sierra Leone Ambassador to the Republic of Guinea on 31 March[1466] and the issuance of a public statement that the RUF leadership had not been changed in any way.[1467]

On 7 April, 130 troops from Burkina Faso joined ECOMOG in Liberia. On 17 April, the UK agreed to train two battalions of SLA soldiers.[1468] On 28 April, it was announced that all civil militia groups in Sierra Leone were to be put under the command of the Nigerian-led ECOMOG force, reportedly to make them more effective and to facilitate their rapid demobilisation.[1469]

On 25 May 1997, elements of the SLA staged a coup d'etat and formed the Armed Forces Revolutionary Council (AFRC). The AFRC released over 700 inmates from Pademba Road Prison, including their leader, who was formally sworn in as Head of State on 17 June 1997.[1470] The AFRC immediately suspended the Constitution of Sierra Leone. President Kabbah escaped to the Republic of Guinea by helicopter.

The AFRC moved quickly to draw close to it popular personalities, political and civil society groups and organised labour groups. However, this failed to stave off a month-long strike staged by the Sierra Leone Labour Congress. Additionally, 50 members of the 80-seat Parliament met despite the

[1461] AFP, 6 January 1997.
[1462] AFP, 4 February 1997.
[1463] Xinhua, 11 March 1997.
[1464] He was later transferred to the Sheraton in Abuja.
[1465] AFP, 18 March 1997.
[1466] Including RUF delegates to the CCP, see AFP, 31 March 1997.
[1467] AFP, 31 March 1997.
[1468] APF, 17 April 1997.
[1469] AFP, 28 April 1997.
[1470] Xinhua, 17 June 1997,

suspension of Parliament, condemning the AFRC's action and demanded the immediate restoration of democratic order.

Immediately after the coup, the AFRC invited the RUF to share power. On 28 May, the RUF leader appeared on SLBS Radio, encouraging RUF solidarity with the AFRC. Part of his statement is worth quoting: "You will always get instructions from me through [the AFRC leader]. They are our brothers. Let no one fool you. You have to work with them to put the situation under control, especially in the western area. As you [sic] the field commander, instruct your other Commander ... to stand by for any reinforcement needed by [the AFRC leader] for any eventualities. We have to defend our sovereignty. You are to act on these orders immediately."[1471] On 30 May, the RUF declared their support for the AFRC on SLBS television and radio and on 1 June, the AFRC declared the RUF leader to be the Vice President of Sierra Leone.

In anticipation of a Nigerian led military intervention, the AFRC was quick to secure strategic locations around Freetown. This included Hastings, which was adjacent to the pre-coup Nigerian base at Kossoh Town[1472] and near an airfield. Accordingly, around 200 AFRC members entered Hastings and took over the Hastings Police Station on 26 May 1997. In the wake of the coup, there was a large build up of predominantly RUF forces in the Hastings area. Hastings, Waterloo and the SLA's Benguema Training Centre were concentration points for RUF combatants entering the Western Area. RUF forces entering the Western Area camped in public building in Waterloo (Waterloo RD), because the town residents refused to lodge them. In Waterloo, RUF forces occupied the Commercial Secondary School, the REC Secondary School and the SDA Primary School.

On 29 May, a further 500 RUF members arrived in Hastings, bringing the total to around 2,000, taking over the expansive Police Training School complex and the Kelly's Rural Vocational and Agricultural Secondary School. That same day, the leadership of this RUF group met with the Hastings village authorities and complained that they had not offered the RUF/AFRC their support. On 30 May, RUF forces set up five large checkpoints throughout Hastings, each operated by around 20 people. Civilians trying to leave the settlement had to pass through each checkpoint, where they were searched for food. The RUF forces also conducted house-to-house searches confiscating prepared foods from civilians and held an unknown number of civilians at the Police Training School, forcing them to collect wood and fresh water for the RUF commanders.

There were a number of random shootings and extensive looting in the Freetown metropolitan area around this time. For example, a large number of armed robberies were committed in Freetown on 25 May. The National Treasury building was completely gutted, most foreign exchange bureaus were looted and the Central Bank was damaged by fire as AFRC forces unsuccessfully sought access to the vaults. As the armed men roamed the city, attacking and looting residences, many people were raped and otherwise assaulted, including girls under the age of 14 and the wives and daughters of foreigners. The son of a prominent businessman was killed when he refused or was unable to meet

[1471] BBC Media Monitoring, 30 May 1997 transcribing SLBS, 28 May 1997.

[1472] Nigerian forces, and then ECOMOG, were based at Kossoh Town (Waterloo RD) from 1994 until 1999.

the demands from armed men for money. At an AFRC press conference on 28 May 1997, this was explained as an accidental shooting.

The AFRC took a number of largely inadequate steps to contain the widespread looting of civilian and government premises. These including creating an anti-looting squad with orders to shoot looters dead on sight and ordering the return to base of all SLA members who did not have proper deployment orders. On 9 June, the AFRC gathered property they had recovered at the Cockerill Defence HQ and invited civilians to search through it for their belongings.[1473]

On 25 May, AFRC forces looted tourist locations in the coastal York Rural District along the coastal, peninsula road. AFRC members from the SLA Juba Barracks in west Freetown and the SLA Engineering Mechanical and Electrical Battalion near the Guma Reservoir arrived in Sussex village and looted the Florence Diving Centre and Hotel. AFRC forces also confiscated boats from civilians at the Goderich fishing village and used them to transport looted fridges, TVs, fans and furniture from the Africana Hotel Complex at Tokeh Beach back to Freetown. The RUF would later lodge at Tokeh and Mama beaches, stealing fishing hauls and other food items from civilians. On 27 May 1997, RUF forces also entered villages in the Mountain RD, establishing checkpoints in Regent and Bathurst. On 29 May, RUF forces mounted a checkpoint at St Michael's lodge near Lakka Beach, extorting money and food items from passers-by.

The period immediately after the coup is also marked by a large military build-up of foreign forces within Sierra Leone, including Nigerian, Guinean and Ghanaian forces. A small Ghanaian contingent stationed in Monrovia entered Sierra Leone to evacuate Ghanaian nationals, referred to as "Operation Ogyefo". On 27 May, two boatloads of Nigerian forces arrived in Freetown also from Monrovia, reinforcing the Nigerian base at Kossoh Town (Waterloo RD). Additional troops were airlifted to Freetown from James Spriggs Payne Airbase, just outside Monrovia, Liberia.[1474] This build-up placed huge pressure on the AFRC, resulting in intense diplomatic activity to prevent further escalation.

The armoured vehicles attached to the Nigerian Army 2nd Mechanised Battalion had been loaded onto the NSS Ambe and previously shipped to Liberia.[1475] On 1 June, orders were given to the 2nd Mechanised Battalion and 231 Tank Battalion to perform two simultaneous actions in Freetown. The first was to move from Kossoh (in Waterloo Town, Waterloo RD) and take control of Hastings Airfield and the nearby Police College (Waterloo RD). The second was to capture the Kissy Port Terminal in east Freetown, which would allow the NSS Ambe to dock and offload the amour and supplies required by the Nigerians. The codename for operation would be "Sandstorm." However, the AFRC intercepted the transmission of the operational orders giving them ample prior warning of the Nigerian plans.

[1473] AFP, 9 June 1997.

[1474] AFP, 28 May 1997

[1475] This account of the Nigerian assaults on Freetown on 2 June 1997 owes much to Brig. Gen. R.A. Adeshina.

On 2 June, at 05.30, two ships[1476] anchored out at the Cape commenced mortaring the SLA Defence HQ at Cockerill in west Freetown. AFRC spokespersons were quick to dismiss this as a training exercise, but later announced that the Nigerian naval bombardment had caused between 40 and 100 deaths. However, the family of one person claimed by the AFRC to be a victim of the bombardment later revealed that he had in fact been ambushed and killed by unidentified armed men in another part of the city. His Peugeot car was stolen, his body dumped at the central mortuary and he was recorded as one of the victims of the day's fighting. Nigerian forces set up a command post at the Mammy Yoko hotel in Aberdeen,[1477] while US marines evacuated some 200 expatriates to the USS Kearsage,[1478] stationed in waters off Freetown.

Nigerian forces stationed at Mammy Yoko were isolated, overpowered and captured by the AFRC after running out of ammunition. On 4 June the AFRC released 300 Nigerian prisoners of war, after reportedly threatening to use them as human shields[1479] at the SLA Cockerill Defence HQ and Wilberforce in Freetown.[1480] RUF/AFRC forces were lodged in the Mammy Yoko complex until the ECOMOG intervention in Freetown in February 1998.

Meanwhile on 2 June, the Nigerian group moving towards Hastings (Waterloo RD) met with strong resistance from RUF/AFRC forces, who set up a defensive position at the Orogun Bridge and shelled Nigerian forces along their line of advance from Kossoh Town. With no mechanical support to clear debris dumped on the bridge by the AFRC, the Nigerian advance was delayed. Eventually, Nigerian forces moved further towards to Hastings, arriving at Allen Town. RUF/AFRC forces had taken positions in the surrounding hills and continued shelling. Without significant heavy weapons support and with ammunition supplies depleted, the Nigerians were unable to advance further. Nevertheless, it is probable that Nigerian advance units were briefly in possession of Hastings Airfield and with limited artillery support were able to damage RUF positions at the Police Training School and in the village itself. RUF casualties were evacuated to Benguema Training Centre.

In the evening of 2 June, the Nigerian advance was called off following successful negotiations between the AFRC, the ICRC and foreign governments. Nigerian forces retreated from Hastings Airfield and Allen Town, returning to their base at Kossoh Town. Nigerian forces continued to use Hastings Airfield to obtain supplies of medical provisions and food until 9 June, when the RUF took over the airfield completely. Between 3 and 9 June, Nigerian forces took full control of Lungi International Airport,[1481] although skirmishes with the RUF/AFRC continued throughout 1997. On

---

[1476] The NNS Ambe and NNS Ekun, joined on or around June 11 by NNS Aradu and NNS Ekpe: Xinhua, 11 June 1997.

[1477] The seaside location of Freetown's main hotels. Mammy Yoko would later become the Freetown Headquarters of the United Nations Mission in Sierra Leone (UNAMSIL).

[1478] Marines on the USS Kearsage evacuated over 1,200 expatriates between 25 May and 2 June 1997 both from Aberdeen and a collection point on a beach to the south of Freetown. See US Defence Department Briefing, 3 June 1997.

[1479] AFP, 3 June 1997 reports: "Sierra Leonean state radio repeatedly broadcast reports of 300 Nigerian soldiers being held as 'lucrative targets which would be targets for any possible Nigerian bombardment' of the city."

[1480] AFP, 3-4 June 1997.

[1481] AFP, 9 June 1997.

21 June, Ghanaian-led mediation between Nigeria and the RUF/AFRC led to the withdrawal of the four Nigerian warships from Sierra Leonean waters.[1482]

Throughout June 1997, RUF/AFRC forces began targeting students and prominent people in Freetown, including journalists, lawyers, human rights activists and others for their perceived lack of support for the RUF/AFRC coup. For example, RUF/AFRC forces beat up a prominent journalist when he told another journalist that he did not support the coup, as a result of which he went into hiding. Two students were arrested and tortured for failing to support the coup. One was held for over two months without charge, while the other was cut with a razor blade for possessing a National Union of Sierra Leone Students (NUSS) card. NUSS issued a statement condemning the coup and called for the reinstatement of the elected government. Another journalist was severely beaten by armed soldiers who accused him of hiding a government minister in his house. This journalist later fled the country after receiving death threats.

Also in June, AFRC officials arrested 15 people – seven civilians and eight senior SLA officers – on allegations that they were involved in a coup plot to reverse the coup. The detainees were ill-treated in custody and held for over six weeks without charge. The same month, the AFRC anti-looting squad caught two civilians who were alleged to have broken the curfew, cut off their genitals and limbs and left their torsos on the road as a warning to others.

July 1997 was marked by similar events. In addition, this was the month when the pro-democracy pirate radio station FM 98.1 came to the air, beginning broadcasting on 7 July 1997 from locations in the Republic of Guinea and possibly from within the Nigerian base at Lungi International Airport.[1483] Seven media workers and visitors were arrested at offices of a Freetown newspaper on the suspicion of being connected to the clandestine station. A woman at the office, who was seven months pregnant at the time, was physically and possibly also sexually abused by her captors; she died three weeks later from a miscarriage and massive bleeding. The other detainees were released after over a week in prison. In addition, RUF/AFRC forces shot a 22-year-old woman when she defended her right to listen to the radio station, which often broadcast anti-AFRC statements and speeches from the exiled President.

The advent of Radio Democracy (FM 98.1) also saw increased attacks on journalists in general. Journalists accused of writing subversive stories were arrested, as were vendors who sold the offending editions. Many journalists were arrested, including one who was arrested and detained for several days, accused of sending messages to the Sierra Leonean President in Guinea, while others fled the country. At the time, the Sierra Leone Association of Journalists (SLAJ) issued a statement protesting against the arbitrary arrest and detention of journalists as four media workers were held for activities deemed subversive by the AFRC.

People were also killed during this period for other reasons, including for the purposes of taking their property. For example, a civilian was killed in Freetown when a member of the AFRC

[1482] AFP, 21 June 1997.

[1483] On 18 May 1998, UK Foreign Secretary, Robin Cook, announced that the Foreign Office had provided £60,000 to support the clandestine radio station. BBC, 20 May 1998.

demanded he hand over an army belt that he was wearing. The RUF/AFRC forces killed another man when he told them that he had the right to move freely at night since there was no curfew in place. In addition, a trader was shot and killed near Kline Town on 6 July 1997 when a member of the RUF/AFRC opened fire at a person he was arguing with and missed. Youth in the area left the body in the road so that the AFRC Chairman could see for himself the work of "his boys".

In the Wellington area of Freetown, a businessman was robbed of thousands of dollars when armed men in uniform ransacked his home. He was then forced to watch as the RUF/AFRC forces raped his wife. In addition, a Ports Authority worker was arrested on 10 July 1997 on suspicion of being a supporter of the ousted government and was held for over four months at Pademba Road prison.

In the early evening of 12 July 1997, RUF/AFRC forces attacked Nigerian positions at Kossoh Town, but were overpowered and repelled by heavy gun and mortar blasts coupled with air support from an Alfa Jet. As a result of this attack, more civilians fled to the hilltop over looking Hastings and Kossoh Town. Around 450 houses were looted and partially destroyed by the contingent of the RUF based at Hastings village. Over 10,000 residents fled Hastings and sought refuge at nearby ECOMOG bases at Jui and Kossoh Town. Around Kossoh Town, ECOMOG expanded the territory under their control both to extend protection to these civilians and to block the main highway out of Freetown. Although most intense on 12 and 13 July 1997, skirmishes continued between ECOMOG and RUF/AFRC forces until 17 July 1997. ECOMOG's Kossoh Town and Jui positions were attacked again in August 1997. RUF forces moved from the Benguema Training Centre and attacked Jui, while others moved from Regent and attacked the ECOMOG base at Kossoh Town; both attacks were successfully repelled.

Between 17 and 18 July, a delegation representing the AFRC launched negotiations with the ECOWAS Committee of Five in Abidjan, resulting in a ceasefire. A second round of talks was held across 29-30 July 1997, after which the AFRC leader announced over SLBS that there would be a return to civilian rule in not less than four years.

The National Union of Sierra Leonean Students (NUSS) organised a pro-democracy demonstration on 18 August 1997. This met with an immediate and brutal response from the AFRC. Over 110 people, including 65 students, were arrested and detained for 12 days after the demonstration. Many of the detainees were seriously wounded with bayonets and cutlasses by the RUF/AFRC forces. In one case, the injuries were so serious that the prisons officials refused to accept the detainee for fear he might die. At least six female students were abducted and sexually abused by AFRC forces. One student was held captive for over a week and forced to go naked for the first two days of her captivity. In addition, the Secretary General of the Sierra Leone Teachers Union (SLTU) was arrested and beaten up, because striking teachers declared solidarity with the pro-democracy cause.

A Freetown lawyer and human rights activist was detained by the RUF/AFRC forces, beaten, tortured and forced to make a statement on the government radio, calling on students to go home. He was held incommunicado for over two weeks. A prominent female leader was also arrested a few days after the demonstration. She fled the country following her release from detention. RUF/AFRC forces captured a teacher who had participated in the 18 August demonstration at the



ECOMOG camp at Jui when she strayed on the main road. She was sexually assaulted by at least eight soldiers on the first day of her captivity then held at the Benguema Training Centre for over a week, during which she was repeatedly raped.

AFRC forces killed at least six peaceful demonstrators. Two of them were students, one of whom was shot. After he died, AFRC forces mutilated and ate his body in what was described as "ritual cannibalism", according to which RUF/AFRC forces allegedly believed that eating human flesh would give them "more courage".

Following the suppression of the demonstration, hostile activity against the press in particular was stepped up. Journalists who attempted to demonstrate were injured and detained at Cockerill Military headquarters. Two journalists required stitches after they were cut deeply on the back and head respectively with a razor blade. The men were held in a freight container at Cockerill for over 24 hours without food, water or medical attention. One SLAJ Executive member was arrested and also held at Cockerill in a freight container for several days for alleged participation in the pro-democracy protest. Armed forces attacked another SLAJ Executive member in his house, who subsequently escaped and fled to Guinea. Arrests and detentions of so-called Kabbah supporters continued. Three people - a teacher, a trader and a student - were all held without charge at the Pademba Road prison for several days on this basis.

The AFRC banned all movement of commercial and relief food to the estimated 30,000 displaced people sheltering at the Jui ECOMOG camp. The death rate from disease and malnutrition rose from 22 in June to 35 by the end of August 1997. AFRC forces laid anti-personnel landmines around the ECOMOG base at the Hastings-Grafton (Waterloo RD) road. In August 1997, disgruntled RUF members started taking private property from civilians passing through their checkpoint at the Boys' Society Compound in Regent (Mountain RD). They claimed that this was in lieu of the monthly salary that soldiers of the AFRC were receiving.

Calls for a trade embargo against the AFRC had been repeatedly made since June 1997. Nigerian forces had imposed a naval blockade on the Port of Freetown between 25 May and 21 June 1997, but were forced to back down by the AFRC's diplomatic overtures concerning return to civilian rule. On or around 2 August a Ukrainian vessel, the *Kapitan Modest Ivanov*, docked at Freetown Kissy Terminal (Greater Freetown) carrying 6,800 tonnes of rice;[1484] a number of other ships carrying fuel also docked successfully in Freetown, including a Chinese vessel carrying 28,000 tones of fuel on 3 August[1485] and a Panamanian vessel on 1 and 10 August.[1486] This was unacceptable to the Nigerian Government, primarily since it took considerable pressure off the AFRC to continue immediate negotiations.

[1484] Lloyds List, 2 August 1997.
[1485] AFP, 3 August 1997.
[1486] AFP, 24 August 1997.

However, on 29 August, at its 20th Annual Summit, ECOWAS imposed sanctions on Sierra Leone, effective throughout all ECOWAS member States.[1487] The ECOWAS embargo included military hardware, supplies and spare parts, petroleum and petrol-derived products. An export ban was also imposed. A travel ban was imposed on AFRC members and their families, in addition to a freeze on their assets. Moreover, ECOWAS formally expanded the mandate of ECOMOG to include the use of force to impose sanctions against Sierra Leone.[1488] Effectively, this gave legal backing to a complete navel blockade of the Port of Freetown and the prohibition of air-freight traffic. From this date, the Nigerian forces present in Sierra Leone operated under an ECOMOG banner. On the same day that these sanctions were approved, ECOMOG artillery at Lungi (Kaffu Bullom Chiefdom, Port Loko District) fired on two cargo ships moored outside the territorial waters of Sierra Leone as a warning not to enter. Aside from shelling incoming ships, ECOMOG forces at Lungi enforced the sanctions by shelling the Kissy Terminal and the Government Wharf in east Freetown. East Freetown is very densely populated, particularly around the port area, where there are a large number of marketplaces and slum settlements.

On 3 September, ECOMOG gunners fired across the bows of the Greek-registered *Proteus* as it entered the Port of Freetown, forcing it to anchor out at sea. This artillery barrage reportedly killed 15 people at Dove Cote market.[1489] The AFRC claimed that 50 people were killed across the eastern Freetown ward of Mabella, although there was intense scepticism about this number. Following these deaths, AFRC forces added further security to the Kissy Terminal. In the wake of the shelling, at least two Nigerian nationals resident in Freetown were killed; their corpses were mutilated and put on display along the streets of Freetown on 9 September 1997. ECOMOG Alfa Jets air raided Kissy Terminal on 7 September, reportedly destroying 10 moored vessels.[1490] The *Proteus* eventually entered the port, prompting an ECOMOG air sortie, which partially destroyed the boat. On 13 September, SLBS reported that ECOMOG Alfa Jets had bombed the oil tanker *Norvisco*, killing two members of the crew.[1491] ECOMOG air activity was met with anti-aircraft gunfire from AFRC positions across Freetown.

Over 200,000 people fled the area following this escalation of hostilities between ECOMOG and the AFRC, amid warnings from ECOMOG that the bombing would continue. The bombings also led some AFRC forces deployed in the port and other strategic locations to withdraw from their positions to safer locations the hilltops, leaving behind many arms and ammunition of various types. Later in the month, ECOMOG also announced that they would be patrolling the harbour area with gunboats.

[1487] Decision on sanctions against the junta in Sierra Leone, Twentieth Session of the Authority of Heads of State and Government, Abuja, 28-29 August 1997. Source: ECOWAS

[1488] Ibid. "Article 7. The sub-regional forces shall employ all necessary means to impose the implementation of this decision. They shall monitor closely the coastal areas, land borders and airspace of the Republic of Sierra Leone, and shall inspect, guard and seize any ship, vehicle or aircraft violating the embargo imposed by this decision."

[1489] AFP, 4 September 1997.

[1490] Xinhua, 7 September 1997.

[1491] BBC, 15 September 1997.

On 8 October, the UN Security Council unanimously gave its support to the ECOWAS sanctions regime, extending its provisions to all UN member States.[1492] Between 8 and 14 October, ECOMOG Alfa Jets destroyed a number of structures in the SLA Cockerill Defence HQ and silenced SLBS TV and radio by destroying a transmitter located on Leicester Peak, in the peninsular area of Freetown.

Around 8 October, RUF forces attacked and occupied the villages of Bathurst, Mongema and Charlotte (all Mountain RD) along the mountain road between Freetown and Kossoh Town, where ECOMOG were stationed. Civilians were forced to prepare food for the RUF forces, who established checkpoints in all three villages. A few days later, RUF/AFRC forces attacked the Kossoh Town ECOMOG base from four flanks. The clandestine pro-democracy radio station, FM 98.1, announced the impending attack, giving civilians a chance to retreat to safer locations. Two ECOMOG soldiers were captured, killed and their corpses strung up on trees by the RUF/AFRC forces. ECOMOG forces went on the offensive in a bid to repel these forces and capture all the surrounding towns and villages, including Kossoh Town, Grafton, Jui and other nearby coastal villages. This expanded ECOMOG control over movement to and from Freetown. RUF/AFRC forces retreated east to Yams Farm (Waterloo RD). ECOMOG strengthened their position around Hastings, allowing civilians to return to the village.

AFRC actions against civil society continued throughout October. Armed AFRC members beat a university lecturer who was wrongly assumed to be a relative of the exiled President and looted his house. Another 18 men and two women were taken from a house and held in the container cell at Cockerill on suspicion of being informants for the exiled Government. AFRC forces shot a journalist when he went to investigate the AFRC-inspired burning of the Presidential residence, torturing him as he lay wounded on the ground. Another journalist was arrested and thrown in Pademba Road Prison for alleged anti-AFRC activities. His sister-in-law and her 13-year-old daughter were both raped by the AFRC forces during a raid of their residence. In addition, three journalists were arrested within 24 hours of each other, accused of subversive activities; all were beaten at time of their arrest and detained in Pademba Road Prison. No formal charges brought against them. On 15 October 1997, a newspaper editor was arrested and severely beaten by AFRC forces. According to the Committee to Protect Journalists, the journalist sustained rifle butt wounds on his head, was blindfolded and taken to the notorious Sahr Sandi Army Camp[1493] near Regent (Mountain RD) and detained incommunicado with hard labour.

The AFRC shut down one of Sierra Leone's most popular newspapers during October, raiding their offices, arresting the editor and detaining him in Pademba Road Prison. All the newspaper's equipment and vehicles were seized. The AFRC spokesman told journalists that the paper had been banned. The intimication and harassment of journalists continued into November 1997, during which the Committee to Protect Journalists posted a special action alert on the Internet warning that the AFRC was circulating a "wanted" list of 13 journalists and called on all to condemn the flagrant attacks on press freedom by the AFRC. Nevertheless, the editor of another well-known Freetown newspaper was arrested on 21 November, tortured and left at the SLP Criminal Investigation

[1492] UNSC Resolution 1132 (1997).
[1493] Also known as "SS Camp".

Division cells for subversive activities. Many other editors and publishers were also arrested and detained for a number of days for subversive activities. This clampdown on journalists continued until December, at which time some journalists went into hiding after receiving death threats from the AFRC.

Civilians fleeing ECOMOG shelling in Kissy and the east end were forced to use the poor quality peninsular road leading through Tombo to Waterloo. This movement resulted in a major road traffic accident at a place called Comfort Bridge near York, during which 67 people were killed. RUF/AFRC movement to the inland provinces was also limited to this route. Checkpoints and security points at major locations like Tombo and St Michaels Lodge on the route were maintained by the RUF/AFRC.

The continuous shelling of strategic locations in Freetown, the effects of the embargo and the AFRC's inability to dislodge ECOMOG from Kossoh and Jui prompted them to continue the negotiations started early in the year. ECOWAS mediators, led by the then Nigerian Foreign Minister, hammered out a peace plan. This led to a ceasefire on 21 October 1997, followed on 23 October by the signing of the Economic Community of West African States six-month peace plan for Sierra Leone (23 October 1997-22 April 1998).[1494] The central provisions of this agreement were the maintenance of a ceasefire and the return of the elected Government by 22 April 1998. Other provisions included the hammering out of nationwide demobilisation and disarmament plans across December 1997 and the return of internally displaced persons to their places of habitual residence. ECOMOG and UN observers would supervise the implementation process, effectively requiring the deployment of ECOMOG forces throughout Sierra Leone.

Throughout December, numerous of violations of the sprit and letter of the ceasefire occurred across Sierra Leone. The CDF High Command implemented "Operation Black December", during which Kamajor units in Boama Chiefdom (Bo District) cut off all the highways and roads leading to the villages, restricting the movement of RUF/AFRC forces. Kamajors from Gorama Mende (Kenema District) also took part, cutting off stretches of the Kono-Makeni highway. In Pujehun Distric, Kamajors engaged RUF/AFRC forces around Pujehun Town (Kpanga Kagonde Chiefdom, Pujehun District) and in areas of Gbondapi (Panga Kabone Chiefdom, Pujehun District). In Bombali District, ECOMOG jets bombed positions outside of Makeni (Makari Gbanti Chiefdom, Bombali District), claiming that the ARFC was constructing an asphalt runway to allow arms supplies to enter the country more freely in violation of ECOWAS and UN sanctions. RUF/AFRC forces conducted violent food-finding missions in Koinadugu District, attacking civilians and stealing from residences in the towns of Mansofenia and Kurobonla (Neya Chiefdom, Koinadugu District).

On 21 December, the exiled President flew from Conakry to the ECOMOG base at Freetown International Airport to spur on the implementation of the peace process.

f) Events in 1998

[1494] Full text available at http://www.usip.org/library/pa/sl/sierra_leone_09231997.html.

Despite the Conakry Accord, RUF/AFRC attacks on ECOMOG and their harassment of civilians, particularly businessmen and other high profile people, became frequent in the city and its environs. This instability in the city and the country at large provoked the February 1998 military intervention by the Nigerian-led ECOMOG forces.

ECOMOG began preparations for an invasion of Freetown in mid-January, reinforcing the ECOMOG field artillery and concentrating its forces at Kossoh Town (Waterloo RD), in addition to flying training sorties over selected positions in Freetown. On 5 February, operational orders were given to ECOMOG to break out of Kossoh Town and take control of Freetown. Three major movements were planned. The Nigerian 2nd Mechanised Battalion was to move along the main Freetown highway to capture Freetown. Protecting its flank, the Nigerian 5th Mechanised Battalion was to advance towards Freetown through Upper Allen Town, Calaba Town and Portee (Greater Freetown) along the old Freetown highway, which eventually joins the main Freetown highway through a series of junctions at Kissy. The Nigerian 5th Mechanised Battalion would disperse within Freetown and capture strategic governmental and security institutions. The Nigerian 231st Tank Battalion was ordered to seize Waterloo and the Benguema Training Centre (both in Waterloo RD), heading away from Freetown.[1495]

Shortly before dawn on 6 February, the ECOMOG intervention began on three fronts. One front moved from Jui (Waterloo RD) towards Freetown; a second front moved from Hastings Airfield towards Waterloo. ECOMOG also opened a third front and moved from Kossoh Town through the hills to Regent (Mountain RD) and down into the Mount Aureol (Mountain RD) and Hill Station (Greater Freetown) entrances to metropolitan Freetown.

RUF/AFRC forces had blocked the road across Orogun Bridge with a large container, delaying the ECOMOG advance. ECOMOG fought several battles along the route into Freetown. At Portee Junction, a fierce battle was fought, forcing the RUF/AFRC to retreat towards the west end of Freetown and giving ECOMOG forces the upper hand to flush them out of Freetown on to the villages via the peninsular, the only safe exit from the city. There is very little detailed information about the conduct of the battle within the Freetown metropolitan area. It is clear that the RUF/AFRC put up stern resistance at the Kissy Terminal and used gunboats to fire on some ECOMOG advance units that reached the Connaught and Wharf areas of central Freetown. Eventually retreating from Kissy Terminal, RUF/AFRC forces booby-trapped and vandalised a considerable amount of the harbour machinery and equipment.[1496]

The ECOMOG group moving from Kossoh Town (Waterloo RD) into Freetown along the mountain road encountered landmines between Mortema and Charlotte village (both Mountain RD). RUF/AFRC forces also placed a large cargo container filled with sand across the single carriageway road between Mangaba and Mortema village (both Mountain RD). ECOMOG forces assisted by local youths managed to dislodge this obstacle and entered Regent (Mountain RD) by midday on 6 February, securing the village. RUF forces stationed at Regent and Bathurst (both

[1495] This account of the advance plans is taken mainly from Adeshina, pp.22 ff.

[1496] The vandalism was comprehensive enough to delay the offloading of nearly 800 tons of humanitarian aid from a UN ship on 22 February 1998: AFP, 22 February 1998.

Mountain RD) withdrew with their possessions along the route from Regent through Gloucester into Freetown. AFRC forces positioned mortars at Regent and shelled ECOMOG along the mountain road.

Between 10 and 12 February, ECOMOG forces advanced into Freetown along two routes into the town: through the Mount Aureol (Mountain RD) campus of Fourah Bay College and through Hill Station (Greater Freetown). Mount Aureol is the highest point in Freetown and overlooks the entire Kissy area and all approach roads into Freetown from Kossoh Town. In addition, the road from Mount Aureol into Freetown leads directly to the civic quarter of Freetown. The Hill Station route leads directly to the SLA Wilberforce Barracks and into the west Freetown areas of Lumley and Aberdeen (Greater Freetown). Control of this road isolates the TV and radio transmitter at Leicester Peak (Mountain RD) and Freetown's second hospital.

Other auxiliary forces also fought alongside with the ECOMOG troops, namely the Organised Body of Hunters Society (OBHS) in addition to Kamajors and Gbethis from the CDF. These auxiliary troops were responsible for carrying ammunition for the ECOMOG forces and some few loyal[1497] SLA forces fighting alongside ECOMOG;[1498] they were also responsible for burying RUF/AFRC fatalities and civilians who were killed during the offensive. CDF forces advancing with ECOMOG through the Mountain RD villages of Charlotte, Bathurst and Regent were used to screen the many civilians who used bush tracks to flee the fighting on the main highway. The tactic was useful in preventing the RUF infiltration of territory only lightly occupied by ECOMOG throughout the main assault.

The ECOMOG advance westward into Freetown along the main highway left those RUF/AFRC forces stationed in Freetown only one option for retreat: east along the poor quality peninsula road. By 8 February, RUF/AFRC forces retreating along this route using hundreds of commandeered utility vans and jeeps started arriving at Tombo (Waterloo RD). RUF/AFRC forces threatened to kill every resident of Tombo (Waterloo RD) unless the owners of fishing boats gave them passage to Fogbo Jetty (Koya RD). The RUF/AFRC forces abandoned many of their vehicles at Tombo (Waterloo RD). Most were stripped down or burned, but vehicles in working order were taken to Waterloo between February and March of 1998 by the ECOMOG forces and parked in front of the Rural Education Committee School near the Post Office. A large cache of weapons abandoned by retreating RUF/AFRC forces was handed over to ECOMOG by the Tombo village (Waterloo RD) authorities. An RUF member who had failed to escape to Fogbo (Koya RD) shot dead a popular young man who had arranged the weapons collection.

The ECOMOG advance westward into Waterloo from Hastings (both Waterloo RD) along the main highway quickly dislodged the RUF/AFRC forces based at Yams Farm (Waterloo RD) and pursued them to Waterloo. These ECOMOG forces captured Waterloo without any resistance on 6 February 1998. All the villages on ECOMOG's route to Waterloo, including Lower Allen Town,

---

[1497] Namely, those SLA forces that did not change their allegiance to the leaders of the AFRC and instead retained allegiance to President Kabbah.

[1498] ECOMOG reported that 84 "loyal" SLA soldiers had surrendered to them in early February, but it is not clear whether ECOMOG had under its command any full units of the SLA that were unaffiliated with the AFRC.

Rokel and Devil Hole (all Waterloo RD), were cleared of RUF/AFRC forces and lightly occupied. Residents of these villages fled towards Waterloo and onwards towards Newton (Koya RD) as ECOMOG advanced. Civil militia in Waterloo assisted ECOMOG in identifying the key locations in the town. During the shelling of Waterloo, ECOMOG levelled a two-story house.

At Waterloo, ECOMOG mounted a checkpoint at the Post Office, ordering local youths to dig trenches for them. ECOMOG forces shot a man with learning difficulties who had failed to identify himself promptly and executed a man alleged by villagers of Matanky (Waterloo RD) to be an RUF/AFRC collaborator. Throughout Waterloo and Lumpa, ECOMOG conducted house-to-house searches for RUF/AFRC members. Civilians were instructed to clear the streets and remain in their residences while ECOMOG searched for armaments.

In the afternoon of the ECOMOG capture of Waterloo, an Alpha Jet flew over the village and the camp. The ECOMOG forces then moved to Lumpa, where they established a base and a checkpoint near the Banga Farm palm oil plantation (straddling Waterloo and Koya RDs). ECOMOG forces executed a young man and maltreated an unknown number of others before advancing to Campbell Town (Waterloo RD), where they attacked the remnants of the RUF/AFRC forces, killing six. Three days after the capture of Waterloo, several unarmed SSD officers surrendered to ECOMOG at their Post Office checkpoint. Some were sent to Kossoh Town (Waterloo RD) while others remained at Waterloo.

Thousands of civilians, together with some of the RUF/AFRC forces based at the Benguema Training Centre, Waterloo, Lumpa and satellite villages moved towards the Waterloo Displaced Camp, east of Waterloo (all Waterloo RD). The RUF/AFRC forces stationed at the Benguema Training Centre offered resistance to ECOMOG until they were overrun on 9 February.[1499]

Over the next few days, the RUF/AFRC forces moved from the Waterloo Displaced Camp and counter-attacked the ECOMOG troops based at Lumpa. This led to the renewed shelling of the camp by ECOMOG and a mass movement of civilians and RUF/AFRC forces towards the main highway at Newton (Koya RD), where the other RUF/AFRC forces from Fogbo Jetty (Koya RD) joined them. This group of RUF/AFRC forces subsequently moved inland to Masiaka (Koya Chiefdom, Port Loko District) along the main highway. They took with them a large number of abducted civilians, allegedly to prevent the ECOMOG Alpha Jet from bombing them on their way to Masiaka.

By 12 February, ECOMOG had control over the majority of the Freetown metropolitan area and had commenced intense "mopping-up" operations. Between 12 and 24 February a curfew was imposed throughout areas occupied by ECOMOG. They established checkpoints all over the city and in villages through the York and Mountain RDs. At locations in York RD, a civil militia was trained by ECOMOG to maintain these checkpoints and assist them in identifying suspected RUF/AFRC members and collaborators. Other militia groups were trained by ECOMOG at Hamilton and Lakka (both York RD). The OBHS, who were armed, also assisted ECOMOG forces

[1499] ECOMOG claimed they had captured Benguema Training Centre (Waterloo RD) on 9 February: AFP, 9 February 1998.

with screening and operating checkpoints. During this period, ECOMOG forces killed a lot of civilians without any form of trial[1500] and "cordon and search" operations were conducted as a mechanism for trapping suspected RUF/AFRC members and sympathisers.

Between 16 February and 3 March, ECOMOG mounted checkpoints at Goderich, Lakka, Hamilton, Sussex, Bawbaw, Tokeh, York, Kissy Town (all York RD), Tombo, Russell and Madina (all Waterloo RD). The Nigerian 232nd Tank Battalion operated the checkpoint at Long Beach in Hamilton. ECOMOG forces based at Lakka imposed a fish tax on the villagers: every fishing day, a large basket was passed around among the fishers, into which everyone was supposed to contribute a minimum of four fish to feed the Nigerian contingent. These fish were demanded as a contribution to ECOMOG's daily food ration, although sometimes they were sold and the ECOMOG forces kept the money.

Between Freetown and Newton (Koya RD), ECOMOG erected several checkpoints. At each of these checkpoints, ECOMOG forces intimidated civilians, took their money and beat and killed people, among other things. For example, people were killed for failing to produce an identity card or for being suspected of being a relative of any member of the AFRC, RUF or SLA forces.

While Nigerian ECOMOG forces were generally welcomed, there were many instances of apparently arbitrary punishment and cruel treatment of civilians. In March 1998, ECOMOG soldiers from the Nigerian 192nd Battalion were stationed at York village (York RD). On finding a vehicle burned-out by retreating RUF/AFRC forces, the ECOMOG platoon commander demanded that all the men of the village gather at the Hospital compound so they could identify who was responsible for the burning. The village elders were made to sit on the floor, which symbolically is extremely demeaning. The gathered men were divided into groups according to their age and interrogated by ECOMOG forces. When they failed to obtain information about the vehicle, ECOMOG forces beat the gathered men with doubled-up length of electrical cable. Starting with the Head Man and moving from eldest to youngest, ECOMOG forces hit each man at least 12 times before deciding that three young men had the information they sought. These three youths were left out in the sun for a day and then beaten with sticks.

After 2 March, ECOMOG forces began running night and day patrols between the villages of Sussex and Baw-Baw (both York RD). Local youths were trained to run patrols between Baw-Baw and Number Two River (York RD).

In early March 1998, there was also an influx of Kamajors into York RD from Kagboro Chiefdom (Moyamba District), establishing bases in and around Tokeh (York RD). Between 8 and 10 March, a Kamajor commander order a local youth group to mount a checkpoint at the Number Two River Road Junction (York RD). ECOMOG later ordered them to dismantle the checkpoint. In Tombo (Waterloo RD), Kamajors took up residence in the village, claiming to be providing security. The Kamajors took property from the houses of two suspected RUF/AFRC collaborators and ill-treated a number of residents who complained. Following requests from the village authorities, ECOMOG

ordered the departure of all Kamajors from the Tombo area. Kamajors also deployed to provide security in Regent and Bathurst villages (Mountain RD).

On 17 February, a supervisory task force was set-up to provide joint leadership between ECOMOG and the exiled Government during the immediate post-intervention period. The task force met with representatives of key civil society groups and governmental institutions. British and Nigerian military vessels docked in water off Freetown on 1 March 1998 to provide technical assistance on a range of unspecified matters.[1501] On 10 March, the President returned to Freetown, which was followed a few days later by the UN Security Council lifting the ban on fuel imports to Sierra Leone and deciding to review other sanctions provisions.[1502] Nevertheless, the prohibition on the importation of arms remained in force.

Successful ECOMOG interventions in Bo (Kakua Chiefdom, Bo District) and Kenema (Nongowa Chiefdom, Kenema District) took place between 12 and 17 February, coinciding with operations in the Western Area. Following their successful offensives against RUF/AFRC forces in the Western Area and Southern Province, ECOMOG focussed on operations in the Northern and Eastern provinces of Sierra Leone. In brief, between 1 March 1998 and 5 March, ECOMOG forces took control of Lunsar (Marampa Chiefdom, Port Loko District), Makeni (Makari Gbanti Chiefdom, Bombali District) and Magburaka (Kholifa Rowalla Chiefdom, Tonkolili District) and locations in Koinadugu District thereafter. ECOMOG moved into Kono District, taking full control of Koidu (Gbense Chiefdom, Kono District) in early April 1998. ECOMOG forces had also moved as far east as Daru (Jawie Chiefdom, Kailahun District) by April 1998.

On 17 April, the UN Security Council authorised the deployment of a 10-strong team of military and security observers to Sierra Leone, who arrived in May 1998.[1503] The UN Observer Mission in Sierra Leone (UNOMSIL), comprising around 70 military observers and accompanying logistic support, was established on 13 July 1998.[1504]

Immediately after the reinstatement of the President, criminal investigations into hundreds of alleged RUF/AFRC collaborators and surrendered SLA soldiers detained at the Pademba Road Prison commenced, ending in a wave of treason trials. Between 21 March and 14 April 1998, 35 civilians who were alleged members of the AFRC regime were charged in three separate trials with treason, a crime punishable by death in Sierra Leone. On 24 August, all 35 were found guilty by jury trial and the court handed down sentences of death to 16 of these 35. All appealed the death sentence and were still in prison awaiting their appeals when the RUF invaded Freetown in early January 1999; they were later pardoned as part of the Lomé Peace Agreement. On 24 July 1998, 34 members of the SLA accused of carrying out the AFRC coup faced a court martial. On 12 October, all were found guilty of treason by a military court and 24 were executed by firing squad on 19 October at

[1501] AP, 1 March 1998.
[1502] UN Security Council Resolution 1156 (1998), 15 March 1998.
[1503] UN Security Council Resolution 1162 (1998), 17 April 1998.
[1504] UN Security Council Resolution 1181 (1998), 13 July 1998.

the SLA Juba Barracks in west Freetown.[1505] The remaining 10 had their sentences commuted to long prison terms. Some 300 SLA members under investigation for their suspected involvement with the AFRC were released from government custody on or around 3 September. A final set of treason charges were brought against 22 civilians on 14 December.

The RUF leader was repatriated to Sierra Leone from Nigeria on 25 July and charged with treason on 4 September. Despite efforts to locate counsel for him, he represented himself throughout the trial, which began on 4 October. A jury found him guilty and the court sentenced him to death on 23 October; the RUF leader appealed the sentence and remained in custody until he was pardoned as part of the Lomé Peace Agreement. In September, ECOMOG formally moved its headquarters from Monrovia, Liberia to Freetown.

On 21 December 1998, RUF/AFRC forces attacked Songo and Six-Mile (Koya RD) and, by the early afternoon, had arrived at Newton Village (Koya RD), resulting in a mass movement of civilians to Waterloo (Waterloo RD). The swell of people into Waterloo caused widespread panic-buying of food and palm wine. Later that same day, residents of Waterloo heard small arms fire coming from Banga Farm, on the main highway between Waterloo and Newton. Late that night, ECOMOG forces based at the Waterloo Post Office and Peninsular Secondary School launched several mortars towards Banga Farm, followed by an aerial bombardment by the Alpha Jet at the same location.

Heavily armed RUF/AFRC forces attacked Waterloo (Waterloo RD) before dawn on 22 December 1998. During this attack, they killed between 15 and 19 civilians, looted extensively and burnt down at least 53 houses. AFRC forces identified as being comprised predominantly of ex-SLA members marched down Calmont Road with powerful flashlights, targeting the houses of prominent people in Waterloo. A large RUF Small Boy Unit accompanied them, sprinkling petrol on doorframes and around houses. The AFRC forces ignited the petrol with gunfire, setting fire the to the houses. A Guinean ECOMOG unit entered Waterloo and commenced shelling the RUF/AFRC forces from an armoured car, resulting in their onwards advance to the Benguema Training Centre (Waterloo RD). The RUF/AFRC forces captured a large cache of arms and ammunition before destroying the base's main ammunition dump. A prominent AFRC commander was killed in the explosion and buried nearby Koba, a few kilometres south of Benguema.

RUF/AFRC forces continued advancing southward along the peninsular road, moving from the Benguema Training Centre through Koba, During Town, Boyah Village and Russell (all Waterloo RD). At Russell, RUF/AFRC forces dislodged the small ECOMOG contingent stationed there. Not long after midnight on 24 December, RUF/AFRC forces entered Tombo through Worlai Village (both Waterloo RD), to the immediate east of Tombo. The day before, the village authorities of

[1505] Those sentenced to death in the court martial had submitted a complaint to the Committee on Human Rights under the procedure in the First Optional Protocol to the International Covenant on Civil and Political Rights, alleging that their right to appeal, guaranteed in article 14(5), had been violated. Communication Nos. 839/1998 & 840/1998 & 841/1998. Despite the Committee requesting a stay of execution, they were executed a week after they had lodged their complaint. The Committee subsequently found that their rights had in fact been violated, as there was no right of appeal from a court martial: *Anthony B Mansaray et al; Mr Gborie Tamba et al; Mr Abdul Karim Sesay et al v Sierra Leone*, decision of 16 July 2001.

Tombo had received warning of the coming RUF/AFRC attack from an SLA soldier who escaped the attack on Benguema Training Centre.

At that time, the RUF were accompanied by a large number of civilians, some carrying ammunition and other supplies and some banging drums and chanting about celebrating Ramadan in Tombo (Waterloo RD). To help identify each other in night attacks, RUF/AFRC forces stuck the transparent cellophane wrapping from popular boiled sweets called "Diamonds" over their torch lenses, giving the beams a red tint. The Nigerian ECOMOG contingent was outnumbered and immediately retreated towards Freetown along the peninsula road through Kassi to Kissy Town (Waterloo RD), together with thousands of civilians. Many civilians escaped by boats to Shenge (Kagboro Chiefdom, Moyamba District), Banana Island[1506] and villages inland along the Ribbi River, while others moved to Lakka Village (York RD). RUF/AFRC forces left Tombo, having taken the contents of many abandoned homes, and burned down at least 20 others without attempting to occupy the township.

Between 22 and 25 December 1998, Nigerian ECOMOG reinforced Waterloo. On 24 December, Hastings was reinforced by around 500 Kamajors, who immediately imposed a curfew between the hours of 18.00 and 07.00. Two days later, Kamajor members arrested two suspected RUF/AFRC collaborators, who were tied up, their heads forced into a large white plastic bowl and their throats cut; civilians were forced to bury the corpses. Kamajors also killed four other civilians at Jui Junction, near Kossoh Town (Waterloo RD), leaving a severed head on a pole at their checkpoint.

Waterloo Town was bombarded by ECOMOG on 26 December 1998, causing further civilian flight from the town. A Guinean ECOMOG contingent from Masiaka (Koya Chiefdom, Port Loko District) reinforced ECOMOG stationed at Waterloo (Waterloo RD) and set up a base at the SDA School compound, moving later to the PSS School compound. Guinean ECOMOG provided limited security around the market area of Waterloo, where traders remained at work until the RUF/AFRC raided Lumpa (Waterloo RD). Members of the Guinean ECOMOG contingent mistakenly killed eight traders who were running towards the PSS Compound to escape an RUF/AFRC ambush at Lumpa. The RUF/AFRC occupied Lumpa and other parts of Waterloo, effectively dividing the town in two. RUF/AFRC forces stole medical supplies from the Waterloo Health Centre. The RUF/AFRC stayed in Lumpa throughout January, forcing civilians to perform domestic services for them; they would not allow civilians to close their doors and performed frequent house-to-house searches for food. The RUF commanding officer in Lumpa personally executed at least three civilians, dumping the body of one victim in a pit latrine and cutting out and eating the heart of another. At this time, the RUF and AFRC forces were not lodging together.

Between 25 and 28 December, RUF/AFRC advance units continued from Tombo around the peninsula towards Freetown. The villages of Black Johnson and Big Water (both York RD), on the approach road to York, were infiltrated by small numbers of RUF/AFRC. RUF/AFRC forces exchanged heavy machine gun fire with Nigerian ECOMOG forces at the York Grass Field area of York town. ECOMOG gunners killed three members of the RUF/AFRC. Following these attacks

[1506] Also called Plantain Island.

around the peninsula road, Nigerian ECOMOG redeployed at Tombo (Waterloo RD) in greater force. A Kamajor detachment was sent to guard the bridge at MacDonald (Waterloo RD). Nigerian ECOMOG imposed a strict security regime around the York Town area, organising local youth into groups to accompany them on a continuous day-and-night patrol routine. ECOMOG also began collecting and, in collaboration with locals, screening for RUF/AFRC infiltrators displaced by the fighting on the peninsular at locations. These screening centres included the Cotton Club and St. Michaels Lodge in Lakka and the Hamilton Community Centre (all York RD). After 6 January, villagers in Tombo burnt alive an RUF/AFRC member at the Tombo Grass Field area. An unknown number of other suspected RUF/AFRC members were killed with bladed weapons by the Tombo youth.

g) Events in 1999

Between 30 December and 5 January 1999, RUF/AFRC forces staged attacks on Hastings and Kossoh Town (both Waterloo RD). Using bush tracks through the hills from Waterloo (Waterloo RD), RUF/AFRC forces staged major attacks on Hastings, Allen Town and Jui on 5 January. They encountered sporadic resistance from ECOMOG forces who, considerably reduced in number, progressively retreated towards Freetown. On 4 and 5 January, RUF/AFRC forces, hardware and vehicles were moving continuously through Newtown and Four Mile (Koya RD) towards Waterloo, gathering in the Ibo Town area (Waterloo RD).

Just after midnight on 6 January, RUF/AFRC forces began their assault on Freetown. An advance RUF/AFRC unit, numbering around 300, moved quickly to engage ECOMOG at their Kissy Roundabout security point. Meanwhile, RUF/AFRC forces in Waterloo started round the clock attacks on the Guinean ECOMOG contingent at PSS in Waterloo. On 9 January, the RUF/AFRC granted the Guineans safe passage from the town only in return for their remaining stock of ammunition.[1507] From Ibo Town, the RUF also began sending out units to Yams Farm (Waterloo RD), from where throughout the night they laid down heavy machine gun fire on ECOMOG positions at Hastings. Civilians were often used in these attacks.

The advancing RUF/AFRC forces were reinforced by thousands of others, who entered the Wellington and Calaba Town areas of eastern Freetown. On 7 January, RUF/AFRC forces occupied a petrol station near Kissy Road roundabout and started burning every solid structure in its immediate vicinity. The exact chronology of the movement of RUF/AFRC forces through east Freetown is not completely clear. One of their first successes, on either 6 or 7 January, was a raid on Pademba Road Prison, releasing many RUF/AFRC members captured by ECOMOG and pro-government forces over the previous year. Pademba Road Prison is to the west of central Freetown in Brookfields at the end of Pademba Road, which is also an access route through to the New England and Wilberforce areas of western Freetown. That RUF/AFRC forces made it to Pademba Road so quickly suggests that they had free movement through both the centre of Freetown, through the "PZ" junction and also through the Mountain Cut route from Kissy through to New England.

[1507] The Guineans actually handed the RUF/AFRC a haul of blank ammunition.

However, the brunt of the RUF/AFRC assault was in east Freetown. RUF/AFRC forces quickly occupied the Clay Factory IDP camp in Kissy, killing at least 20 people. ECOMOG commenced shelling into the hills behind the Clay Factory. By the early afternoon of 6 January, RUF/AFRC forces had occupied the main Kissy Terminal, killing eight ECOMOG soldiers in the Terminal's security office. The Kissy Police Station and the Kissy Mental Hospital were set on fire and a number of churches including the Holy Trinity and the Trascott Church were burned down.

Behind their line of advance, RUF forces made every civilian in the Eastern part of Freetown hoist white pieces of cloth in front of their houses and tie white ribbons on their heads and wrists to signify their support for peace. Each night, civilians were forced to burn old tyres in order to light up the city and to sing peace songs. Some beat drums while others clapped their hands or banged empty tins together. Some were even forced to dance, especially old people. Those who failed to obey these orders were shot and killed or had their houses set on fire; many civilians were burnt alive in their houses.

At irregular intervals, ECOMOG Alpha Jets bombed various locations in Freetown including "PZ", a busy business district centre, killing an unknown number of civilians who had been forced onto the streets by the RUF/AFRC.

Between 8 and 9 January 1999, the RUF/AFRC forces advanced into the west end of Freetown and were prevented from crossing the Congo Cross Road Bridge by the combined forces of ECOMOG, "loyal" SLA and CDF. The Congo Cross Road Bridge carries a dual carriageway (dubbed "main motor road") from Brookfields through to Congo Cross, Wilkinson Road, Murray Town, Lumley and Juba. It is the only way of quickly moving a large force from central to western Freetown; alternative routes into west Freetown are longer and far easier to secure. One route moves from New England to Hill Station up a steep winding mountain road in full sight of ECOMOG's main base at Wilberforce. Other routes to Congo Cross move from King Harmon Road up the winding Old Railway Line through Tembah Town and also through Congo Town along a poor quality road and a decrepit old bailey bridge. Combined with artillery from Wilberforce and the defence of the Hill Station route into west Freetown, RUF/AFRC movement westwards was halted at Congo Cross Road Bridge, from where the RUF/AFRC forces launched missiles into Congo Cross.

ECOMOG forces fought with RUF/AFRC forces for control of a key roundabout called Eastern Police between 8 and 9 January. By 10 January, ECOMOG were putting pressure RUF/AFRC forces stationed at Waterloo Town. By 11 January, the RUF/AFRC had begun their retreat east from the civic centre of Freetown, burning down the Law Courts, the telephone exchange and many government buildings.

Behind ECOMOG lines, a curfew was imposed from 15.00 to 06.00. Ahead of ECOMOG lines, a 24-hour curfew was then announced by the Government on Radio Democracy 98.1 FM. Anyone caught violating the curfew would be perceived as hostile and would be executed on the spot by the ECOMOG forces. By 13 January, ECOMOG had pushed the RUF/AFRC forces back from the Congo Cross Road Bridge and had taken control over the densely populated, central-west Brookfields area. The RUF/AFRC forces started burning houses as they retreated eastwards.

ECOMOG advised civilians to move into the National Stadium,[1508] where ECOMOG in collaboration with the Kamajors and OHBS screened civilians. An unknown number of suspected RUF/AFRC members were lined up against the walls of the National Stadium and shot dead by ECOMOG. Other collection points for displaced persons included the National Workshop by Pademba Road Prison and the Parade Group on Fourah Bay Road. ECOMOG also began confiscating satellite telephones and radio communications equipment from international NGOs, reportedly to prevent them falling into the possession of the RUF/AFRC.

On 18 January, the HMS Norfolk arrived in Freetown carrying medical supplies and a 200-strong liaison and reconnaissance group. The UK denied that it was taking any military part in the conflict, but had earlier in January released over $1.6 million for humanitarian supplies and logistic support for ECOMOG.

RUF/AFRC forces started mutilating civilians on 19 January 1999 at Black Hall Road in Freetown, as ECOMOG forces steadily forced them out of the city. At that time, ECOMOG forces had control over the Ferry Junction at Kissy eastward to Waterloo (Waterloo RD). Civilian volunteers used carts to transport the corpses of those killed in the conflict to the Kissy Road cemetery. On 16 January, RUF/AFRC forces they had befriended warned civilians remaining in Waterloo that an order had been given to amputate the arms of any non-RUF/AFRC found in the town. The ECOMOG Alpha Jet bombing of numerous RUF/AFRC positions in the east end of Freetown and Waterloo pushed RUF/AFRC forces eastwards to the outskirts of the city. As they retreated via the hills, avoiding the ECOMOG checkpoint at Kossoh Town, RUF/AFRC forces abducted hundreds of civilians, many of whom were given narcotics to make them compliant.

Although most of Greater Freetown area had come under ECOMOG control by 20 January, RUF/AFRC forces continued to stage attacks and attempt to infiltrate locations in the east of the town. ECOMOG reported having trouble with large numbers of snipers remaining in hillside locations overlooking their positions following the main RUF/AFRC retreat. Across February and March, RUF/AFRC occupied Waterloo (Waterloo RD), evading ECOMOG Alpha Jet bombardments by using bush paths and moving mainly during the nighttime from Waterloo to attack surrounding villages. For example, one night they attacked Susu Town near Devil Hole (Waterloo RD) at a location called Compound, where they raped and killed a policewoman. Many civilians escaped across the Madonke creek to villages in Koya Chiefdom (Port Loko District). In addition, RUF/AFRC patrols rounded up civilians hiding in the Waterloo area and returned them to the town.

At the end of January, Nigeria announced that it wished to remove its troops from Sierra Leone by May 1999.[1509] On 2 February, ECOMOG continued to reinforce with the arrival of over 400 Malian troops[1510] and around 1,000 Ghanaian troops by 8 February.[1511] A general mobilisation of

[1508] At the highpoint of the invasion, UN World Food Program estimated that around 40,000 civilians sought security in the National Stadium by 21 January 1999.
[1509] BBC, 28 January 1999.
[1510] IRIN West Africa, 2 February 1999.
[1511] IRIN West Africa, 8 February 1999.

ECOMOG throughout Freetown was announced on 5 February 1999.[1512] The Chief of Staff of the SLA reportedly announced that ECOMOG would not hesitate in firing on civilians should the RUF/AFRC use them as human shields.[1513] The ECOMOG general mobilisation was followed by an intensification of cordon and search operations throughout the city.[1514] ECOMOG restructured its operations to include a specific garrison and force for the Freetown area. The UK Government stated that it would be providing a package of comprehensive logistic and other support to ECOMOG,[1515] followed soon after by the announcement that it would be providing around $16 million in military and training support for Sierra Leone and ECOMOG.[1516]

Between 20 and 25 February, ECOMOG launched an attack on Waterloo by continuously shelling the town. Some of the shells landed at the creek at the Christian cemetery. The remnants of RUF/AFRC forces, who were mainly ex-SLA, pulled out of Waterloo and Campbell Town along the Prince Alfred Road towards Cole Town (all Waterloo RD) and proceeding along bush tracks to the Waterloo Displaced Camp. By nightfall, all of them had left and headed towards Newton (Koya RD). In Waterloo, around 700 houses had been burnt down during the RUF/AFRC occupation. ECOMOG and Kamajor forces secured the town, with approximately 50 Kamajors deploying to Waterloo. They were shown around town by a local man who identified suspected RUF/AFRC collaborators, of whom at least two were tortured and executed by the Kamajors. The Kamajors also deployed at Bath-Comp (Koya RD), where they looted and burnt down an unknown number of civilian residences. At Kissy Town, near the IDP camp, combined "loyal" SLA and CDF on the one hand and ECOMOG on the other, erected checkpoints.

Responding to demands made by the RUF/AFRC, on 15 April the Court of Appeal of Sierra Leone temporarily released the RUF leader from prison,[1517] where he had been awaiting appeal from his treason conviction, allowing him to meet with the High Command of the RUF/AFRC and engage in peace talks in Togo, Lomé.[1518] Preliminary discussions between representatives of the RUF/AFRC and the Government of Sierra Leone yielded a ceasefire, which entered into force on 24 May. Full talks commenced on 25 May, leading to the signing of the Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone on 7 July 1999 (the Lomé Peace Agreement).[1519] The Lomé Peace Agreement provided for a number of joint RUF-GOSL processes for the provision of humanitarian assistance, return of displaced persons, demobilisation, management of natural resources and other matters related to the consolidation of the peace process. Additionally, it contains provisions for a governmental power-sharing arrangement between the RUF and the Government. The Lomé Peace Agreement also pardoned

---

[1512] AFP, 4 February 1999.
[1513] IRIN West Africa, 5 February 1999.
[1514] BBC, 6 February 1999.
[1515] IRIN West Africa, 22 February 1999.
[1516] IRIN West Africa, 3 March 1999. The UK starting exporting ammunition and military equipment to Sierra Leone after 7 October 1999.
[1517] The RUF leader was reportedly taken from Pademba Road prison into protective custody in the Republic of Guinea prior to the RUF/AFRC 6 January 1999 assault on Freetown.
[1518] BBC, 15 April 1999.
[1519] The full text is available at http://www.usip.org/library/pa/sl/sierra_leone_07071999_toc.html.

the RUF leader and others and granted a blanket amnesty to all combatants and collaborators for acts done in fulfilment of their objectives.

The RUF and AFRC leaders arrived back in Freetown on 3 October 1999 from Liberia, where they had gone following the conclusion of the peace talks.[1520] On 22 October, the United Nations Security Council authorised the deployment of a 6,000-strong peacekeeping mission to Sierra Leone to replace the previous observer mission.[1521]

h) Events in 2000

Between January and May 2000 no violent incidents are recorded for the Western Area. By 12 April 2000, the DDR program had taken on over 22,000 ex-combatants, comprising 4,227 RUF; 7,474 CDF; 5,590 AFRC; 3,804 SLA; and 1,463 unaffiliated combatants.[1522]

On 1 May, the United Nations reported that RUF forces had attacked its positions near Newton (Koya RD), a few miles east of Waterloo (Waterloo RD),[1523] that there had been a number of RUF attacks near Waterloo and that RUF forces had been seen moving towards Hastings (Waterloo RD). However, the BBC reported on 6 May that UNAMSIL had retracted the latter statement and that in an "unfortunate reporting error on our part" they had confused this with RUF activity near Lunsar (Marampa Chiefdom, Port Loko District).[1524] Nevertheless, while information gathered for this report confirms that there were no RUF attacks on locations in the Western Area at this time, rumours of RUF attacks sparked at least 20,000 civilians to leave Songo, Newton (both Koya RD), Waterloo and Hastings (Waterloo RD) and move into the Greater Freetown Area.[1525]

However, UNAMSIL faced a serious crisis between 5 and 28 May: nearly 500 troops from different UNAMSIL contingents were disarmed and held hostage by RUF forces. On 8 May, the UK military commenced "Operation Palliser", deploying to Sierra Leone the *HMS Ocean* and other vessels with around 800 soldiers from the Parachute Regiment.[1526] Initially, UK forces secured the airport at Lungi and commenced the evacuation of UK nationals and other expatriates. Also on 8 May, civilians in Freetown held a large demonstration outside the Spur Road residence of RUF leader. The details are not clear, but a number of gunshots were fired, reportedly by RUF members guarding the residence.[1527] Nineteen civilians were killed during the rally and were buried on 13 May.[1528] The RUF leader apparently disappeared, but was apprehended by civilians on 17 May whilst travelling in a civilian vehicle through the Lumley area of Freetown. The UK Secretary of Defence

---

[1520] Both reportedly held talks with the Liberian President in Monrovia during this time: http://www.sierra-leone.org/slnews0999.html.

[1521] UN Security Council Resolution 1270 (1999).

[1522] From National Commission from Disarmament, Demobilisation and Reintegration (NCDDR), quoted in IRIN West Africa, 18 April 2000.

[1523] IRIN West Africa, 1 May 2000.

[1524] BBC Online News, 7 May 2000 (06:40 GMT 07:40 UK).

[1525] OCHA Sierra Leone Humanitarian Situation Report, 12 May 2000.

[1526] On 24 May, soldiers from the 42 Commando Royal Marines replaced the paratroopers.

[1527] BBC Online News, 8 May, 2000, (17:13 GMT 18:13 UK).

[1528] BBC Online News, 13 May 2000 (01:53 GMT 02:53 UK).

subsequently stated to the BBC that the RUF leader was being held in "protective custody" by UK forces.[1529]

Between 8 and 14 May, RUF forces unsuccessfully attempted to gain control of Masiaka (Koya Chiefdom, Port Loko District) from pro-Government forces. During the same period, UK forces bolstered security at strategic locations on the main highway at Hastings and Waterloo. On 19 May, UK Royal Marines rehearsed amphibious landings in the Freetown area[1530] in preparation for replacing the Paratroops deployed on 8 May.[1531] In addition, the UK announced its decision to provide an ongoing series of six-week training courses for around 8 battalions of the SLA.[1532] The 180-strong team began arriving in Freetown on 10 June 2000,[1533] dovetailing with the withdrawal of the Royal Marines after 15 June 2000.[1534] On 24 July, nearly 1,000 SLA members graduated from the UK-run training course,[1535] the first group of a total of around 8,000 who would eventually be trained this way. Various rotations of the UK military teams occurred between August and December 2000. The overall number of UK service personnel in Sierra Leone was around 550, operating from the headquarters of the 1st Mechanised Brigade in Freetown.

On 14 August, the AFRC leader announced that he had formally disbanded the AFRC,[1536] which had seized power in the coup on 25 May 1997. On 22 August, a senior RUF member replaced the RUF leader, who remained in custody.

The West Side Boys apprehended 11 UK soldiers from the Short Term Training Team near Masiaka (Koya Chiefdom, Port Loko District) on 27 August 2000. Although UK negotiators secured the release of five of the captives, UK Special Forces and Paratroopers arrived in Freetown and executed "Operation Barrass", freeing the remainder on 10 September.[1537] In the Western Area, no further significant incidents are reported for 2000.

i) Events in 2001 and beyond

In January 2001, the Ukrainian contingent of UNAMSIL deployed from Freetown, contributing 534 men, 220 Armoured Personnel Carriers and 220 trucks to the peacekeeping mission.[1538] Ukrainian troops were based at Hastings (Waterloo RD). The RUF, the CDF and the Government of Sierra Leone commenced tri-partite peace talks on or around 16 May 2001.[1539] Disarmament proceeded at the Hockey Pitch at Wilberforce Barracks. At Waterloo the OBHS who used to patrol the village disarmed at the IDP Camp. By 30 September 2001, the UK had reduced its military presence in

[1529] BBC Online News, 17 May 2000 (18:03 GMT 19:03 UK).
[1530] BBC Online News, 19 May 2000 (15:48 GMT 16:48 UK).
[1531] IRIN West Africa, 24 May 2000.
[1532] The UK Military handed over to a UK-led International Military and Advisory Training Team (IMATT) in September 2001.
[1533] BBC Online News, 10 June 2000 (19:28 GMT 20:28 UK).
[1534] IRIN West Africa, 14 June 2000.
[1535] IRIN West Africa, 24 July 2000.
[1536] BBC Online News, 14 August 2000 (03:40 GMT 04:40 UK).
[1537] See Port Loko District: West Side Boys for more details.
[1538] IRIN West Africa, 10 January 2001.
[1539] BBC Online News, 16 May 2001 (00:26 GMT 01:26 UK).



Sierra Leone to around 360[1540] and UNAMSIL reached the ceiling of its authorised deployment strength of 17,500 personnel on 20 November 2001.

Following disarmament and demobilisation of members of all the different fighting factions, on 18 January 2002 President Kabbah declared that the war was over and held a symbolic "Arms Burning Ceremony" at Lungi (Kaffu Bullom Chiefdom, Port Loko District).

3. Conclusion

** TO BE COMPLETED ON COMPLETION OF ANALYSIS FOR THE NORTHERN PROVINCE**

[1540] OCHA Sierra Leone Humanitarian Situation Report 01 - 30 September 2001.



Annex I: List of Acronyms

AFRC	Armed Force Revolutionary Council
APC	All Peoples Congress
CDF	Civil Defence Force
ECOMOG	Economic Community of West African States Cease Fire Monitoring Group
EO	Executive Outcomes
NPFL	National Patriotic Front for Liberia
NPRC	National Provisional Ruling Council
RUF	Revolutionary United Front
SLA	Sierra Leone Army
SLPP	Sierra Leone Peoples Party
UNAMSIL	United Nation Mission in Sierra Leone
ULIMO	United Liberation movement for Democracy in Liberia.



NO PEACE WITHOUT JUSTICE



Annex II: Acknowledgments

This report is the result of a program carried out in Sierra Leone over many months and in which many people took part. Although it is not possible to name each and every person who participated at one point or another, the following list of people reflects the dimension and importance of the No Peace Without Justice Conflict Mapping Program in Sierra Leone.

Conflict Mapping Program

The following persons took part in the Conflict Mapping Program in Sierra Leone. All have worked with unwaring commitments to the goals of the program and each has contributed their professionalism and dedication to their respective areas of work.

Program Director

Niccolò FIGÀ-TALAMANCA

Country Director

Alison SMITH

Conflict Mapping Coordinator

Catherine GAMBETTE [Feb2003 onwards]
Andrew SWINDELLS [Sep2002-Feb2003]

Conflict Mapping Officer

Kizito G. BANGURA

Conflict Mapping Recorders

Patrick ADU
Joseph J. ALPHA
Roland ALPHA
Francis AMADU
Paul K. AMARA
Aiah A.Y. AROUNA
Sahr S. AROUNA
Joseph I. BABAO
Florence BAION
Bentson M. BAKOOI
Francis A. BANGALI
Ibrahim G. BANGURA
Mohamed R. BANGURA
Santigie BANGURA
Sherbora BANGURA
Sulaiman H. BANGURA
Thaimu S. BANGURA
Mohamed L. BARRIE
Sahr J. BENDU
Alpha A. KANU
Idrissa KENDOR †
Joseph KOBBA
Kabba S. KOITA
Alusine S. KOROMA
Hassan K. KOROMA
Joseph M. KOROMA
Komeh A. KOROMA
Magdalene KOROMA
Milton KOROMA
Osman KOROMA
Sembu KOROMA
Syl S. KOROMA
James B. LAHAI
John A.S. LAHAI
Alpha M. LALUGBA
Andrew LISSA
Mathew T.J. LORH
Philip C. MACFOY



Mohamed BLAKE
Munda D. BOCKARIE
Samuel K. BOCKARIE
Joseph O. BUREH
Samuel CAULKER
Alfred COLE
Christiana CONNEL
Ibrahim B. CONTEH
Magnus CONTEH
Morlai CONTEH
Sallieu A. CONTEH
Samuel S. CONTEH
Thomas M. CONTEH
Mustapha DABENI
Ann-Marie DARAMY
Ibrahim DARAMY
Lennox DEIGH
Foday S. DUMBUYA
Yusufu T. FABU-KANJA
A. P. FOMBA
Alex K. FOMBA
Allieu K. FOMBA
Neneh A. FULLAH
William T.P. GBANABOME
Tamba B. GBENDA
Hassan M. GIBATEH
Esther HARDING
Richard HOWARD
Biah Y. IDRISS
Abdul R. JALLOH
Mohamed B. JALLOH
Joseph B. JUSU
Paul JUSU
Alims KABIA
A.S. KAIFINEH
Andrew S. KALIVA
Sylvestre KALLON
Abdul K. KAMARA
Alie B. KAMARA
Ambrose KAMARA
Bamba S. KAMARA
Catherine K. KAMARA
David S. KAMARA
Mohamed A. KAMARA
Moses MANDO
Alieu B. MANSARAY
Mohamed MANSARAY
Zainab MANSARAY
Janet MASSAQUOI
Mustapha S. MASSAQUOI
Tamba D. MOIWO
Brima M.S. MOMODU
Harriet M. MYERS
Alfred S. NABIEU
David A. NGOMBU
Sahr NJAAMA
Alpha B. ONEIL
Jonathan PEARCE
Susan PESSIMA
Julrick PRATT
Sylvanus O. PRATT
Sawudatu SAMAI
Sandi SAMURA
Hindolo A. SANDI
Abdulai G. SANKOH
Augustine SANNOH
Dominic SEBBEH
Abu B. SESAY
Alfred K. SESAY
Brima SESAY
Edward B. SESAY
M.S. SESAY
Mohamed A. SILLAH
Mohamed SIMBAY
Andrew SIMBO
Wilfred O. SOLOMON
Ahmed B. SOMBIE
Rosetta M. SOVULA
Augustine K. SUMAILA
James M.B. SUMAILA
Abu B. TAILU
Sorie Bala TARAWALIE
Abdulai THORONKA
Faith G. TUCKER
Dominic VANDI
Patrick S. VANDY
John C. VANJAH
Matthew M. YAMBA



NO PEACE WITHOUT JUSTICE

Mohamed B. KAMARA
Momodu B. KAMARA
Osman KAMARA
Theresa F. KAMARA
Yakoya KAMARA
Amara KANNEH

Moses L. YANGUBA
Andrew YAVANA
Mohamed M. YEMOH
Francis YONDA

Conflict Mapping Trainers
Abdul BANGURA
Andrew SIMBO
Patrick FATOMA

Conflict Mapping Reviewers
Abdul BANGURA
Alieu MANSARAY
Andrew SIMBO
Idriss TARAWALLIE

Typists
Melody MARTIN
Annette NICOL
Letitia SESAY
Violetta STANLEY

Data Entry Processors
Andrea BROGGI
Sharon CARROLL
Martin EBERT
Ilario FUSARO
Patrick JOHNBULL
Yvonne JOHNSON
Mohamed KALIL
Julianna KAMANDA
Nicole NADIA
Stefano PANTALEONE
Letitia SESAY
Violetta STANLEY
Rachel TAYLOR
Margaret TURAY
Hubert TSHISWAKA

Some of these Data Entry Processors also took part in the analysis of the initial draft, namely Andrea Broggi, Sharon Carroll, Martin Ebert, Ilario Fusaro, Patrick Johnbull, Nicole Nadia, Stefano Pantaleone and Hubert Tshiswaka.

The implementation of the program in the Provinces was made possible thanks to the invaluable assistance of an array of dedicated persons, including Focal Points and members of the SCWG District Chapters.

No Peace Without Justice Sierra Leone Project
As members of the NPWJ Sierra Leone Project, the following persons played an active part in the Conflict Mapping Program.

Outreach Program

Thomas	LONGLEY
Isha	WRIGHT
Abdul Rahim	KAMARA
Josephine	KOROMA
Bailey	HAND

Legal Profession Program

John	STOMPOR
Ibrahim	KOROMA

Judicial Assistance Program

Pascal	TURLAN

Library

Avril	ROWE
Eldred	DURING

Operations Officer

Matilda	KOROVESHI

Intern-Project Assistant

Edward	PLEETH

Drivers

Mamadu	JALLOH
Mohamed	JALLOH
Sam	ALLIE, Jr.

Logistics

Yah	AMOH
Sahr	ANSUMANA



NO PEACE WITHOUT JUSTICE

Joseph	BANGURA
Pa	ISSA
Mr	JAMES
Brima	TARAWALLIE

Additional thanks also go to Sensible Data, particularly Stefano Figa-Talamanca and Francesco Burragato, for their technical assistance and 24-hour (frequently used) hotline. Special thanks go to Richard Bednarek, who laid the groundwork for the successful implementation of this project as NPWJ's Outreach Coordinator in 2001.

Partners

The following persons have been of an invaluable help for the time they dedicated to our program, through providing assistance and advice:

The members of the Special Court Working Group (SCWG), both in Freetown and in the District Chapters, for their assistance in the planning, implementation and organisation of the Conflict Mapping tour; the Campaign For Good Governance (CGG), in particular the Coordinator, Mrs Olayinka Creighton-Randall, and the Field Monitors for their initial comments on our preliminary findings; Students from Fourah Bay College for research assistance and for their participation in the cross-checking stage; Peter and Gillian Arnot Smith, for the time they spent proofreading our drafts and helping in the design of the open sources database; Annette Rolfe and her team in Freetown at the GIS unit of the Development Assistance Coordination Unit Sierra Leone; Nabil Bahsoon and the team at *NabsTech* for solving unsolvable problems; the Government of Sierra Leone, in particular H.E. Solomon E. Berewa, Vice President of the Republic of Sierra Leone, The Hon Eke A. Halloway, Attorney-General and Minister of Justice, and Ambassador Allieu I. Kanu, Deputy Permanent Representative of the Republic of Sierra Leone to the United Nations; Corinne Dufka, Theresa Kordeczk and all the other people in Sierra Leone and elsewhere we cannot name individually but who have contributed to this program and whose friendship and support were invaluable.

During the drafting of the legal analysis, we were fortunate to have the assistance of several people, whose knowledge, experience and expertise contributed greatly to this report. We would like to thank the following people for giving so generously of their time to review the drafts and to help us ensure the legal analysis is as accurate as it can possibly be: Stuart Alford, Olympia Bekou, Sylvia de Bertodano, Andrea Carcano, John Cerone, Robert McCorquodale and Gerry Simpson. Of course, No Peace Without Justice takes full responsibility for any errors or omissions

Key Persons

The Conflict Mapping Program was based on collecting information from identified key persons; this report would not have been possible without their involvement. We therefore address a special thanks to the 402 key people across the country, including Oscar, who gave so freely of their time and themselves to share with us their information on the violations of international humanitarian law committed during the conflict.

Address by Major Johnny Paul Koroma
Head of State and Chairman of the Armed Forces Revolutionary Council
Freetown - 28 May 1997

My fellow countrymen: This is Major Johnny Paul Koroma, the Chairman of the Armed Forces Revolutionary Council, AFRC, of Sierra Leone. Since my last broadcast to the nation announcing the overthrow of former president Tejan Kabbah and his government, I now wish to apprise you of the following:

As already explained to the nation, developments in the country just before AFRC intervened, were threatening the cohesion of the country. The policies in the country had polarized into regional and tribal factions. The former president had lost total control of the situation as atrocities spread throughout the country. The overthrown government made only half-hearted moves; but more disastrously was the fact that the former armed civilians from only one part of the country to harassed servicemen and members of the civil society. The rebel war, which started in the country, was fought gallantly by our forces, seriously aided by the Guinean troops, Nigerian troops, the special task force, and the SSD (Special Security Detachment).

My countrymen and countrywomen: In our effort to liberate our fatherland, the only civilians who volunteered to fight during the difficult days were the Kamaboys, who were fighting alongside the Army as an auxiliary force, and the cooperation between the Army and the Kamaboys was extremely cordial as the Kamaboys defended mostly their localities. Some time in January 1994, a group called Hindu-Hindu was organized in Kenema, and the formation of Hindu-Hindu led to a series of breaches of the peace, causing the organization to be disbanded.

In 1996, the same group that had been disbanded re-emerged as the Kamajors, and like in the days of the Hindu-Hindu, the Kamajors instantly targeted the Army as their perceived enemy. However, the military overlooked the activities of the Kamajors and fought alongside them as local forces, but when the SLPP came to power, the SLPP government emphasized that the Kamajors should be given ante-military training which caused serious confrontation between the soldiers and the Kamajors. While the Army was only made up of 14,000 men, the number of Kamajors has swelled up to 37,000 men, vastly outnumbering the constitutional Army.

Welfare of the Army: The SLPP, which got the full support of the Army after the election, suddenly became very partisan in handling the security of the state. Welfare of the Kamajors was treated more seriously that the welfare of the Army. It was not surprising that a one time chief Kamajor was appointed Deputy Minister of Defense who spent all his energy organizing the Kamajors. Even though the military had fought the war for five years, the SLPP spent all its time providing logistics for the Kamajors, and totally forgetting the welfare of the Army. The Kamajors in the eyes of the SLPP suddenly because a superior force, even though the Armed Forces in constitutionally responsible for the security of the state. The Kamajors started to engage the Army in battles causing the death of many soldiers.

Even though the SLPP claimed to have spent between 2 billion and 3.5 billion leones on the Armed Forces every month, this was not reflected in the status of the ordinary soldier. The Kamajors, on the other hand, were well catered for as Deputy Defense Minister Hinga Norman alone collected 35 million leones on behalf of Kamajors every month. This does not cover the amount Hinga Norman collected from government to cover logistics for the Kamajors. Salaries for soldiers are delayed for long periods whereas monies to Kamajors are paid instantly on demand. Ration for the fighting men was reduced thereby putting a lot of pressure on the

commanders who feel hard to handle the same number of men.

The public service: My countrymen, the SLPP government launched an all-out war against members of the civil service who were suspected to be non-SLPP supporters. Many permanent secretaries and heads of department were sent on leave just because they were not members of the SLPP. The civil service came to a standstill when important officials such as the Establishment Secretary, the Accountant General, and other heads of department were forced on leave without explanation. Even though the former head of state promised a 20 percent increase in the salaries, no such increase took place. Instead, government went ahead to retrench more workers from the civil service. The teachers remained unpaid for a long time to the extent that many teachers would no longer pay their way to work. This situation is not tenable, and we promise to change this immediately.

Address by Major Johnny Paul Koroma
Head of State and Chairman of the Armed Forces Revolutionary Council
Freetown - 1 June 1997

My fellow countrymen, friendly nations and members of the international community. The big question at this moment on the lips of everybody inside and outside the country is what prompted us to oust former President Ahmed Tejan Kabbah and his government from power.

Before dwelling on the main above-mentioned theme of my address, I want first and foremost on behalf of my colleagues avail myself o this opportunity to solemnly extend our sincere and heartfelt sympathy and expression of regret for the unfortunate incidents that occurred during the takeover operation in which some of our brothers and sisters, as well as foreign nationals, lost their lives and property.

In this regard, the AFRC, as you have been informed through the media, has taken appropriate measures to prevent the recurrence of such unfortunate incidents. My address this evening is not only directed to fellow Sierra Leoneans. It is also meant to enlighten concerned non-nationals and the international community about the welfare of our beloved country, on the main motive of our action.

I have already emphasized in my last two addresses that our action was not motivated by selfish [as heard] and greed for power. The main objective of the AFRC to seize power is to restore lasting peace and political stability in this country, which has been ravaged and continues to be shattered by a senseless war.

On this vital issue of restoring peace and political stability in our country, I would like on behalf of the Armed Forces Revolutionary Council and the entire nation to pay a special and fitting tribute to the Ivorian head of state, His Excellency President Henri Konan Bedie, with special mention to his Foreign Minister Amara Essy, the government and people of La Cote d'Ivorie for the very important role they played in getting Corporal Foday Saybana Sankoh, the charismatic leader of the Revolutionary United Front of Sierra Leone around the negotiating table, that resulted to the signing of the Abuja peace accord last November. But for the relentless efforts of the authorities of this great African country, in the true state of African solidarity, we will not even have been thinking about...[pauses] talking about inviting the RUF leader to command his fighters to (?cease) hostilities and to join the revolution with the sole objective of bringing lasting peace to our beloved country.

The AFRC would also like to seize this opportunity to thank friendly sister countries in the subregion, namely the Federal Republic of Nigeria, the Republic of Guinea, and Ghana for their effective and invaluable role in averting irreparable destruction of our fatherland at the height of the rebel war. The AFRC would also like to behalf of the entire nation to thank the international community and NGO's [words indistinct] to the United Nations Organization, the Commonwealth, the OAU, the International Alliance, the International Community of the World Force for the very important roles they played toward the success of the Abidjan peace process.

Fellow countrymen, friendly nations, members of the international community, I would now like to dwell on the main theme of my address this evening. The main reason that prompted us to take the [word indistinct] and timely decision to overthrow the former regime and to extend an invitation to RUF Cpl. Foday Sankoh and the RUF to operate with us.

It is true the wind of democracy has blown and continues to blow around the world. Patriotic and national Sierra Leoneans, old and young, put in everything, sometimes at the expense of their lives, during the transition process to democratic rule with the objective of being in tune with progressive nations around the globe and restoring lasting peace and political stability in Sierra Leone. After five years of military governance, our country was returned to democratic rule with great pains, but due to lack of political ingenuity and sincere commitment on the part of former President Tejan Kabbah and some of his lieutenants, the hard-won democracy was being gradually jeopardized by the flagrant antidemocratic and unpatriotic practices of the lat regime. The unanimous vote in favor of the new president by SLPP parliamentarians and the appointment of ruling party stalwarts to most of the key positions of the state's administrative machinery is a palpable truth of such tendencies.

In an exclusive interview granted to the West African magazine of March this year in Washington, OAU Secretary General Dr. Ahmed Salim Ahmed (sic.) rightly opined, and quote, "Progressive African leadership must now operate, above all, on the clear knowledge that the question of peace, security, and political stability of their respective continent is of primordial importance. Without peace, security, and political stability, it is not possible that any country will achieve the type of democratic and economic growth, the type of social development that we aspire to," quote. [as heard]

This is why my colleagues and I on the AFRC have decided to focus on the question of resolving our internal conflicts. The war that has shattered our once flourishing economy, with much more of [word indistinct] efforts and reality. [words indistinct] this priority of priorities--the return of lasting peace and political stability in our country--is achieved, we will then focus on the whole question of democratization and greater respect for human rights. Military issues, the question of economic and social development, the question of security and stability, and the issue of democratization and human rights are related. If we are to achieve the objective the AFRC will set for itself and address the new challenges that face our country [sentence as heard]. The AFRC will endeavor to address each of these goals and their [word indistinct] within the present context of the social and political situation prevailing in the country.

Our brother Cpl. Foday Saybana Sankoh is quick to understand this when he emphatically stated in his radio message to the nation from Abuja that a democracy without peace, security, and political stability is baseless. The remarkable economic growth and social development achieved by our sister and friendly Republic of La Cote d'Ivoire is due to the legendary peace, security, and political stability in that country. Foreign investors and economic operators will only pour in their money into countries that will guarantee their personal security and that of their investment.

Fellow countrymen, you will surely agree with me that the unseated president and some of his round pegs in square holes collaborators dragged their feet in implementing the priority clauses stipulated in the Abuja peace accord related to developments of mutual forces to carry out encampment and disarming of combatants. The Commission of the Consolidation of Peace, PCP, was never given the attention needed to carry out its functions.

Fellow countrymen, I will not dwell much on the negative [word indistinct], but let me touch on some of its saddest aspects. The death toll could be estimated at about 15,000 troops. Damaged property could easily amount to several billions of leones. The economy has been completely crippled. Thousands of families which once enjoyed the warmth of living together have been separated. Innocent citizens, mainly comprised of agricultural workers in rural areas, were mutilated and maimed, rendering them physically handicapped and useless throughout the rest of

their lives. The brain drain in the country during the war reached unprecedented proportions with its negative effects on the standard of education in our university and other institutions of higher learning. Children in their thousands have become homeless, orphans, and street-beggars. Persons traumatized by the atrocities of the war have become mentally unbalanced. Fellow countrymen, the negative spoils of the war cannot be fully exhausted in this address.

Nationalistic and patriotic Sierra Leoneans as well as well-meaning non-nationals and the international community will now understand why the AFRC deem it at this point in time to drive away the enemies of this nation and to call upon Cpl. Foday Sankoh and the RUF to join the revolution so as to bring about lasting peace and to arrest the unmerited and unwarranted sufferings of our people.

With the return of lasting peace and political stability in this country, Sierra Leoneans will regain their lost personality and integrity, but more especially our shattered economy [words indistinct] foreign investment. Our country will once more regain its rightly place among the progressive nations of the world.

My fellow countrymen, we are undergoing a very crucial stage in the history of our country. Our destiny and that of generations yet unborn is in our hands. Shakespeare rightly put, quote, "There is a tide in the affairs of men which, taken on the tide (sic.) leads on to fortune, omitted all their voyage is bound in shallow waters," unquote.

We should not leave the fate of this only country that we have to be determined by other people for their own personal aggrandizement. The Lord Almighty, our creator, loves this country. He has made it possible for us to know our enemies at the right time. The Biblical saying "God's time is the best" should be an eye opener for us. Prayers said in our numerous churches and mosques on Sundays and Fridays throughout the national territory for the return of lasting peace to our beloved country have not gone in vain. My fellow countrymen, our priority of priorities today is peace. Peace is an inseparable factor for human development. We have been longing for it for the past six years. Thanks to God, it is here. The Armed Forces Revolutionary Council and true patriots of this country are therefore solemnly appealing to all Sierra Leoneans, irrespective of their ethnic grouping, creed, social standing, and political affiliation, within and outside our national territory to join the God-inspired revolution for the ultimate salvation of our beloved fatherland.

I will end my address by declaring three days fasting and prayers throughout the country, from Sunday, 1 to Tuesday 3 June 1997. United We Stand, Divided We fall. I thank you very much.

SPEAKER: Press release, dated from the movement for the restoration of democracy, MRD, civil defence secretariat, Freetown.

To all peace-loving citizens of Sierra Leone:

Fellow citizens, the Civil Defence Force of Sierra Leone, CDF/SL, has been watching closely with keen interest into all the peace deals between the AFRC/RUF and ECOWAS on the peaceful settlement to the Sierra Leone political crisis as from the 25th of May, 1997 to date. According to CDF observation and understanding from all the so-called negotiations, CDF strongly believes that the junta only wants to buy more time to continue its hegemony over this nation. As such, the junta has no genuine intention to develop this country or to return this country to the democratically elected president and his government, but to destroy it economically, educationally, socially, and morally.

It is clearly seen that they set their own conditions at every meeting, which they will not adhere to afterwards. CDF, as a civil organization which comprises well-meaning Sierra Leoneans, will not sit by to allow the barbaric idlers, thieves, killers, to dump this nation into the drainage. In this connection, therefore, the CDF is left with no alternative but to give the following orders:

As from the 20th December, 1997, if a system is not established that can indicate the immediate reinstatement of the democratically elected president, Alhaji Dr. Ahmad Tejan Kabbah, such as the deployment of ECOMOG troops and commencement of disarmament, the following orders will be executed throughout the length and breadth of Sierra Leone:

1) that all roads within the borders of Sierra Leone should be

made inaccessible to all traffic;

2) that anyone working in the interests of the junta, from local to national executive level, will be considered an enemy of the state, and therefore, a target, with the exception of health workers;

3) that any government employee who resists the junta shall receive his or her denied benefits on the return of His Excellency, the president, Alhaji Dr. Ahmad Tejan Kabbah.

Therefore, all well-meaning citizens and non-citizens should desist forthwith from working for and in the interests of the junta. All those in the health sector should be careful from becoming imposters.

Fellow Citizens and Friends,

Greetings from Sierra Leone. I wish to enjoin the recent speech by H.E. the President that the military junta has deliberately upset the timetable for the implementation of the Conakry Peace Plan as a pretence to hold on to power illegally. It is, therefore, my duty to accept the responsibility as Deputy Minister of Defence to bring this matter to a just and final conclusion by every available means at my disposal. In consultation with ECOWAS and at the behest of the President, the Civil Defence Forces (CDF) have outlined the following courses of action in order to install the constitutionally elected government of Sierra Leone and bring to and end the suffering of our people.

- The CDF has declared Saturday, 20 December, 1997 as Black Saturday (pardon the expression);
- As of that day, all roads and highways in Sierra Leone are to be blocked and any movement by junta forces anywhere in the country will be considered hostile and repelled by force of arms;
- Mechanized units of the CDF have taken positions in the East of the country and in locations within striking distance of Freetown, including the international airport at Lungi;
- To prevent the ensuing conflict from spilling into Liberia, ECOMOG troops have taken command of the strategic Mano Bridge;
- The CDF henceforth considers any and all persons or groups who have voluntarily assisted or collaborated in any way with the junta to be in active rebellion against the State.
- Ground, air and naval forces of ECOMOG will continue to monitor and repel any attempt by the junta to circumvent the international embargo in violation of ECOWAS sanctions and UN Resolution 1132.

I wish to thank all our friends and citizens who have placed their confidence in us to resolve this matter, for your prayers and goodwill. Such is the gravity of this matter that I have relocated myself, my staff and my family back inside Sierra Leone for the duration of this endeavour. We ask you to keep me and my men in your prayers and I look forward to reporting to you on regular basis.

Merry Christmas and God Bless you all.

Samuel Hinga Norman
Civil Defence High Command
23 December, 1997

SUMMARY OF CONVERSATIONS HELD WITH CIVIL DEFENCE FORCE LEADER SAM HINGA NORMAN, 10 JANUARY 1998

Submitted by Alfred SamForay

CAPTAIN NORMAN:

The High Command of the Civil Defence Force wishes to make known to all interested parties that Phase I of the Operation Black December has just concluded. This phase of the operation involved the occupation and/or domination of all major roads and highways in the country by the CDF. The main objectives of this phase are:

1. to deny freedom of movement by junta forces throughout the country;
2. to isolate junta brigades in Bo, Makeni and Kenema;
3. to deny access to the diamond mines to junta forces

As part of this phase, large quantities of cars and trucks some containing large quantities of ammunition as well as cash crops headed for the international market have been confiscated by the CDF from junta forces. These include a brand new Mercedes Benz sedan now sitting outside my office. As reported in the international press, these objectives have now been sufficiently met and we are now set to begin Phase II of Operation Black December the week of 12 January, 1998.

Phase II of the operation involves the encirclement of all major towns and cities throughout the country. The objective of this phase is to restrict junta forces to their primary domains and keep them from regrouping or transporting reinforcements from one area to another. We would hope that they will venture from the cities and highways and join us in the bush where we can settle this matter once and for all. Efforts are also being made to neutralize construction of airfields in the country by junta forces.

As soon as Phase II is in full force, the CDF intends to offer its last ultimatum to the junta to vacate the seat of government or be crushed. This will constitute the final phase, Phase III of our operation.

We urge all our citizens abroad to continue to be vigillant on the diplomatic and political front even as we are vigillant on the resistance front and to maintain the unity of all Sierra Leoneans abroad. As many of you are aware, ground operations in the North and the West are conducted jointly by Northern militia forces (Tamagboros, Donsas, Kappras) along with the Kamajors of the South and East.

We look forward to a speedy and final conclusion to this matter.

Best Wishes,

Sam Hinga Norman,
CDF High Command,
Sierra Leone.

22 March, 2000

CARITAS MAKENI

STOP THE USE OF CHILD SOLDIERS CAMPAIGN

DECLARATION OF COMMITMENT TO THE RELEASE OF CHILD COMBATANTS AND CHILD ABDUCTEES BY THE VARIOUS FACTIONS.

HAVING regard to the provision of the said Lome Peace Accord, the United Nations Convention on the Rights of the Child, 1989 to which Sierra Leone is a State Party.

MINDFUL of the need to create conditions of stability where the children of Sierra Leone in particular can enjoy a secure environment and develop to their fullest potential.

BEARING IN MIND that to achieve the objective enunciated in the Convention on the Rights of the Child 1989, children need to grow up in an atmosphere of happiness, love and understanding, RE-AFFIRMING our commitment to the Peace Process in Sierra Leone, respectively, to the intent that the country shall return to normalcy within the minimum of time to enable the implementation of development programs

HEREBY ADOPT THIS DECLARATION OF COMMITMENT this 22nd day of March 2000

ARTICLE 1

The parties hereto shall forthwith facilitate the disarmarrent of all child combatants that is to say, children under the age of eighteen years and bearing arms and shall take immediate steps to prevent the use of child combatants in any manner whatsoever.

ARTICLE 2

The parties hereto shall in tandem with the actions contemplated in Article 1 above, release, free and cause to be released, all children and other persons abducted both during the conflict and after the signing of the Lome Peace Accord.

ARTICLE 3

The parties shall in utmost good faith facilitate the return and/or handing over of child combatants and abductees to UNAMSIL, DDR Camps and other Humanitarian Agencies by May 15th, 2000 (the International Day of the Family), to enable them receive care and attention and ultimately to be reunited with their families and relatives.

ARTICLE 4

The parties in this regard undertake to co-operate with UNAMSIL, all agencies concerned with the welfare of children and the war affected and shall assiduously work towards the attainment of the goals enumerated in the Declaration.

DONE AT FREETOWN THIS 22ND DAY OF MARCH 2000.

CHIEF SAMUEL HINGA NORMAN
DEPUTY MINISTER OF DEFENCE
AND LEADER OF CDF

CHAIRMAN FODAY SAYBANA SANKOH
CHAIRMAN, STRATEGIC MINERAL RESOURCES
COMMISSION AND LEADER OF RUFP

3/3/00

CHAIRMAN JOHNNY PAUL KOROMA
CHAIRMAN, COMMITTEE FOR THE
CONSOLIDATION OF PEACE

BRIG-GEN. MITIKISHE MAXWELL KHOBE
CHIEF OF DEFENCE STAFF,
SIERRA LEONE MILITARY ARMED FORCE

WITNESSES:

MD. JO ANNA VAN GAPEN
UNICEF REPRESENTATIVE
SIERRA LEONE

MR. JOSEPH RAHALL
CHAIRMAN,
NATIONAL FORUM FOR HUMAN RIGHTS

MINISTRY OF INFORMATION AND BROADCASTING

GOVERNMENT STATEMENT

WEDNESDAY MAY 24 2000

It has been brought to the attention of Government that there are some children who are either fighting alongside forces loyal to the Government of Sierra Leone, or are being allowed to remain in front line positions with the loyal forces. Government wishes to state that this practice is totally against Government policy which stipulates that 18 years is the minimum age for bearing arms in Sierra Leone.

It is the view of Government that children should not be involved in conflict, and it is the responsibility of the Government and all forces loyal to it to ensure that children are protected from the horrors of armed conflict. While it is acknowledged that some children may be voluntarily involved in fighting, and in some cases insist on being involved, even such children should not be allowed to carry arms or stay in areas of active conflict. They should be protected from themselves.

In the light of the above, the Acting Chief of Defence Staff has been instructed to ensure that all those below the age of 18 years currently involved in fighting on the side of Government should be immediately withdrawn, demobilized and handed over to competent institutions for rehabilitation. Henceforth, any commander who allows a child below 18 years to carry arms within his area of operations or allows children to remain in areas of active conflict will face severe disciplinary action.

REGIONAL RECONCILIATION COMMITTEE (RRC) SOUTHERN REGION

RRC Membership:
PC B.Hindowa, PC Parliamentary Representative, Bo District
Eric Jumu, Regional Programme Coordinator South, NCRRR
I.B. Kamara, Regional Coordinator South, NCDDR
Director of War and Operations CDF (SL)
Office of the Commissioner of Police Southern Region
Simon Arthy, Regional Programme Coordinator South, EC/SLRRP
Umaru Koneh, Regional Secretary, Associated Transport Workers Union
Chairman Petty Tracers Union South
Chairman Peace Building and Reconciliation Committee South
Representative, Sierra Leone Teachers Union South
Chairman Child Protection Committee South

From: RRC Southern Region

To: Honourable Albert Joe Demby, Chairman National Coordinating Committee CDF
CC: Honourable Hinga Norman, Deputy Minister of Defence
Honourable Charles Margai, Minister of Safety and Security
Honourable Foday Sesay, Resident Minister South
Chairman, Joint Coordinating Committee
Commander, Guinean UNAMSIL Detachment, Bo

Dated: 8 August 2000

REPORT ON UNACCEPTABLE BEHAVIOUR OF CDF IN THE SOUTHERN REGION, AUGUST 2000

1. EXECUTIVE SUMMARY

In June 1999, it was noted that the relationship between the CDF and civil society had become excessively strained. CDF/Community Reconciliation Workshops were conducted in Bo and Kenema, and these helped stimulate a gradual improvement in this relationship. Through great efforts on the part of the CDF, as well as other parties, by April 2000 the situation had improved remarkably. General behaviour of the CDF was commendable, and public trust and confidence in the organisation was high. Check points were few and associated harassment was infrequent. CDF respect for chiefdom authorities and judicial and law enforcement bodies was returning. Indeed, when disarmament began in the Southern Region in April 2000 it was embraced by the CDF, and the kamajors' rate of disarmament was constrained only by the capacity of DDR staff. By the end of April, 600 kamajors had disarmed in Bo and Moyamba, and the remainder were eagerly awaiting their chance to disarm and re-~~continue~~ a normal civilian life style.

When in late April 2000 the RUF resumed hostilities and again threatened Freetown and other government held areas, the CDF understandably remobilised to face this threat. Check points inevitably sprung up again all over the Southern Region, and many of those who had disarmed

were armed again. For this swift response to the RUF threat and the protection provided to the region, the Southern Region community were nothing but grateful.

However, in the short period since remobilisation, CDF behaviour has rapidly deteriorated. With alarming speed, kamajors have reverted to committing crimes against the general public and peaceful citizens. Most worryingly, crimes and unacceptable behaviour have been and continue to be committed by senior members of the CDF, as well as junior ranks, and all have gone unpunished. The actual and perceived involvement and condoning of unacceptable practices by senior CDF members, and the unwillingness or inability of the organisation to hold its members accountable for gross malpractice, has shaken public confidence in the CDF to the core.

On the roads of the region, drivers and traders are once again subjected to harassment and intimidation. Commandeering of vehicles has been rampant, and recovery of such vehicles has often been blocked by the apparent involvement of senior members of the CDF. Raids on towns and villages in the region and looting of properties by the CDF have occured. More shooting incidents (CDF/CDF or CDF/Community) have occurred in the region in the last 2 months than in the previous 2 years. Armed robbery in Bo Township is at an all time high, with the public convinced of CDF involvement. Two recent incidents involving a grenade blast and indisciplined firing by a night patrol has resulted in 6 deaths, and has provoked public anger and heightened fear of the CDF. Arbitrary arrests, beatings and detention of civilians, including chiefdom authorities, by the CDF have also lec to increased public bitterness, condemnation and fear.

Against this background, the CDF initiators have resumed their initiation activities, supposedly to 'top up' the power of kamajors ready for the war front. However, because of a lack of reference to chiefs and authorities to assist in screening procedures, many new members have been initiated, and children, criminals and law breakers have joined these numbers. In addition, while the charging of a fee for these 'topping up' ceremonies has brought millions of leones worth of revenue to the initiators, the repercussions in the communities has been an increase in taxation, and greater efforts at check points to extort money from the public to meet these 'initiation' payments.

The continued lack of transparency and accountability in the process of distribution of supplies from government to the CDF at chiefdom level has led to increasing frustration and anger within the CDF. Indeed, on several occasions in the last month, shooting incidents have occurred in the region over this issue.

With all this occurring, very little or no action appears to have been taken by the CDF High Command or CDF National Coordinating Committee to control the situation. This silent stance has merely served to actively encourage further crimes, and to widen the gap of community mistrust and lack of confidence in the CDF.

It saddens this committee to see the reputation of the CDF sinking to such a low ebb, and the region's population suffering so unnecessarily. There is no doubt that if it was not for the positive actions of the CDF in the Southern Region in the last few years, the region would not have enjeyed the peace and security which are now associated with the South. For this action in time of need, the CDF will always be held in the highest esteem. It is this Committee's fervent wish that today's CDF regain that position of trust and esteem. Sadly, this will not happen without firm leadership and the proper exercise of authority, responsibility and accountability within the organisation.

This report is submitted to bring to the attention of the CDF hierarchy and National Coordinating Committee incidents and patterns of behaviour that have now become common place in the Southern Region. The Regional Reconciliation Committee Southern Region respectfully requests an audience with the NCC to learn its response to this report, and what action is being or will be taken to improve the situation, and bring peace and security back to the region. At this meeting, the RRC will be happy to discuss what it too can do to contribute to this process. While this could include sensitisation workshops and meetings at grassroots level, it is nonetheless felt that such initiatives alone will be ineffective, unless strong action is first taken by the CDF leadership.

2. UNCHECKED BEHAVIOUR OF INITIATORS

General:

Since the resumption of hostilities by the RUF in May 2000, CDF initiators have once again begun initiation activities. The rational given has been that since kamajors have been in contact with normal civil society and have broken society rules since last being initiated, they need to have their powers 'topped up' before being ready for the war front. However, due to a lack of involvement of chiefdom authorities or even CDF commanders in the screening of those coming forward for 'topping up', new members have certainly been initiated. As happened in 1999, amongst these have been children and criminal elements. Having been initiated, they then 'attach' themselves to a battalion (a practice that even the Battalion Commanders are complaining about), join check points and start making money. This can clearly be seen today in all areas where initiation / 'topping up' activities are occuring, in the increasing number of check points and increasing numbers of kamajors at each check pount. In addition, the charging of a fee for the 'topping up' or initiation ceremony has led to increased taxation of communities, and encouraged and even forced kamajors to harass civilians to extort the money necessary for their ceremonies. At the same time, this has of course netted the initiators millions of leones.

The continued policy of initiators to demand the sole and total loyalty of their initiates, over and above any loyalty to commanders, leaders, or the CDF as an organisation, continues to undermine CDF organisational control of its members. Just as initiators are seen to be unaccountable and above the law, so too their initiates believe themselves to be, as their behaviour too often reflects. In such a situation, senior commanders are often left impotent to enforce discipline and hold individual kamajors accountable for their behaviour

Whilst this resumption of unchecked and uncontrolled initiation activity has caused general problems through the region, the behaviour and activities of one initiator in particular is causing widespread mayhem and fear. This individual is High Priest Kondowa, the head initiator of the CDF.

High Priest Kondowa:

In early 1999, High Priest Kondowa began initiating new kamajors in Bathurst, Sogbini Chiefdom, Bonthe District. Initiation activities subsequently continued in Bumpe Town, Bumpe Chiefdom, Bo District. Initiates were charged up to Le50,000, and estimates of how many kamajors were initiated range from 5,000 to 10,000. In order to entice even those kamajors who had already been initiated, Kondowa claimed that this new initiation gave the individual even greater powers than

normal initiated kamajors. These new kamajors were called 'Avondos', and they were identified by the wearing of an ear ring in one ear. Within the general public, this move was seen primarily as an economic, money-making exercise. There was no involvement of chiefdom or other authorities in the selection of new initiates, resulting in numerous children and criminal elements entering the society. The behaviour of the Avondos caused such disruption in the region that Kondowa was finally arrested in Bo by ECOMOG, and held until he made a public announcement that the Avondos' powers were actually no greater than those of other kamajors, and that they should be law abiding.

Since May of this year, Kondowa, like the other initiators, has again been conducting initiation activities. However, unlike the other initiators, Kondowa has again given his newly initiated or 'topped up' men a separate identity to other kamajors ('Banya Moli'), and claims that their powers are greater than that of other kamajors. The separate identity is reinforced by the wearing of red bandanas, or the tying of red material onto the barriers at check points. This active policy of creating a supposedly superior group of kamajors within the wider CDF has already led to tension and conflict. In addition, the behaviour of this new group towards the civilian population is causing fear and apprehension. Of interest, Banya Moli is Mende for 'Don't ask me'. This is in the context of 'Be silent', not, 'I don't know the answer'. In other words, 'I take your rice and palm oil and demand payment from you, but don't dare ask me why I'm doing it – stay silent'. This name in itself sends a strong message to the very civilian population these kamajors purport to protect.

Kondowa was conducting his initiation activities during May-July at Waterloo, Fakunya Chiefdom, Moyamba District. However, the behaviour of himself and his men led to a climate of 'fear and intimidation' (words used by the Chief at Waterloo in a letter of complaint to government) in the local population, and vehicle commandeering became rampant. The pattern of behaviour culminated in the 11 July ambush by Kondowa's men of the SLA purser travelling to Masiaka to pay the ex SLA. This incident almost led to armed hostilities between the ex SLA and CDF, and Kondowa was ordered to leave Waterloo. He returned to his home village of Balehun in Bumpe Chiefdom, Bo District. Of interest, the Banya Moli kamajor who initiated the ambush had reportedly been an SLA soldier up to a month before (quite clearly, therefore, newly initiated). He had previously worked with the SLA purser, and hence recognised him on the road, and guessed that he must be transferring pay up country.

In the last few days of July, Kondowa has again resumed initiation / topping up activities, this time at his home village of Balehun in Bumpe Chiefdom. Hundreds of kamajors each day are converging on the site, paying their money and becoming Banya Molis. Incidents of enforced lifts have increased, the increasing numbers of kamajors at the check points in the chiefdom are becoming increasingly aggressive and demanding, and the public is once again growing wary and afraid of travelling through Bumpe (which of course lies on the main route from Bo to Matru).

The civil populace of Bumpe Chiefdom of course have to live with Kondowa amongst them, and their situation is a particularly difficult one. During April and May 2000, a series of consultations were held in Bumpeh Chiefdom with a broad representation of stakeholders from the chiefdom. These were facilitated by a group which included senior CDF and civic society members and staff of the NGO Conciliation Resources. In public, the population was not prepared to openly complain about Kondowa, due to fear of the violent reaction they would receive from Kondowa and his group of heavily armed kamajor followers. The Regent Chief himself denied there is any problem

at all. However, during private discussions, it rapidly became clear that major problems are faced. Indeed, even some chiefdom authorities were prepared to talk about this, but only on the condition of anonymity. In essence, the presence of Kondowa is seriously undermining any leadership in the chiefdom and seriously disrupting the lives of numerous people. Serious human rights abuses are reported to be taking place regularly, especially in terms of punishment meted out by Kondowa on people who cross his path or he perceives as enemies. He fines people as if he were a chief, and they are intimidated into paying by the gang of heavily thugs who follow him. Some people are even reportedly leaving the area because they cannot live in peace around him. But although Kondowa continues to be a serious scourge on their society, people are simply too afraid to handle him – especially the very chiefdom authorities who should handle him.

A concrete example of Kondowa's excesses is the incident of 21 July 2000 at Gbangbatok, Banta Chiefdom, Moyamba District. On 20 July 2000, the Chiefdom Security Officer (CSO) at Ggangbatok saw a well known looted truck at the local trade fair. In response to strict orders sent down from the Deputy Minister of Defence and Director of War and Operations to all commanders to seize and return all looted vehicles, the CSO apprehended the truck. The truck was full of Kondowa's men, the Banya Molis, who demanded that as it was Kondowa's truck it should not be taken. As the truck was a looted one, the CSO confiscated it regardless.

When Kondowa heard that evening that the truck had been taken, he travelled with several hundred of his men to 'teach a lesson' to the people of Gbangbatok. At 0530 on 21 July, he and his men entered Gbangbatok fully armed. Shots were fired, and seven commercial shops were fully looted (one shop alone is reported to have had Le9m cash taken). The CSO and everyone found in his compound (including the local societal head, Baba Musa) were beaten mercilessly. When all this mayhem had been completed, Kondowa is reported to have called the Regent Chief and community elders and instructed that they and the population should now pay him for his troubles ('Pour Libation', with Kondowa taking away the 'offerings'). A large quantity of palm oil, rice and even goats are reported to have been taken as 'payment'.

Such behaviour is outrageous. That it is conducted by the senior initiator of the pro government CDF, an individual who receives a monthly supply of around 200 bags of rice and pay directly from government, makes it all the more appalling. How the CDF hierarchy and Government can allow such behaviour to continue in the Southern Region without any course of action being taken against the guilty party is worrying to the extreme. Equally worrying to the general public is the rate at which Kondowa is initiating these new Banya Molis. They are now found throughout Moyamba and Bonthe districts, in large areas of Bo district, and even in Pujehun District. Because of the impunity with which their Initiator, Kondowa, is seen to be able to conduct excesses, their behaviour reflects their belief that they too are immune from any disciplinary measures (see 'Vehicle Commandeering' below for further examples of Kondowa's behaviour). Their increasing numbers, their fanatical loyalty to Kondowa and the appalling track record of Kondowa himself have all combined to raise great concern and fear amongst the region's public.

Reference is made to the following commitments made by the Deputy Minister of Defence on behalf of the CDF last year:

CDF members who break the law of Sierra Leone and CDF Regulations will face appropriate disciplinary procedures.

In Bo, before the signing of the Lome Peace Accord, Chief Norman said the following:

Initiators get their powers free from God. They must therefore pass them on freely. Therefore no fees should be paid for initiation.

Formal screening procedures (for new initiates) by chiefs should be reinstated.

Cease initiation of children into the CDF.

In Kenema, after the signing of the peace process, Chief Norman said the following:

All initiation must stop.

The RRC requests confirmation that the CDF Hierarchy and NCC stand by these commitments. If they do, the RRC would like to know how they will be enforced with reference to the above cases.

3. VEHICLE COMMANDEERING

The incidence of vehicle commandeering in the Southern Region has increased markedly in the last 2 months. Both commercial and NGO vehicles have been affected. Most have been returned: for example, the CRS Land Cruiser commandeered in early July in Bumpe Chiefdom by kamajors who used it to travel to Waterloo to be re-initiated by Kondowa; the UAC Christian Brothers Land Cruiser commandeered in Moyamba town in June; the MCSL truck commandeered by Kondowa's Banya Moli kamajors at Waterloo in June. But of note, the 4 vehicles belonging to the NGO Lutherian World Services (LWS) commandeered by the Pujehun District Initiator Sualiho Sherif in Sorogbema Chiefdom in mid July are still to be returned.

For commercial drivers, the seizure and holding of commercial trucks in Bo North remains a serious problem, and the Drivers Union have several times had to consider halting all commercial traffic into the area.

- In early July, a commercial truck was seized in Mandu by the initiator Mame Munda when it was discovered it was on route to RUF areas to the north to sell fuel and food.
- A small time later, High Priest Kondowa sent men to take the truck, saying they had orders to do so from Chief Norman. The truck and its contents were taken. Soon after, the truck was repainted and seen undertaking commercial activities on behalf of High Priest Kondowei. Following complaints, the PRO, Charles Moiwo, reportedly sent a delegation to retrieve the truck, with a letter of instruction from both Chief Norman and the Vice President. The delegation and letter were reportedly ignored by Kondowa, who is still using the truck for his own purposes.

- In early July, a truck was seized at Mongeri for attempting to conduct illegal trading activity with the RUF (large consignment of stores being transported northwards). Despite attempts to retrieve the truck by 19 Battalion Commander, the CDF Transport Officer, and the Director of War's Office, the truck is still being held by Hassan Sherif, the local battalion commander. His excuse is that 'Chief Moiwo' (Charles Moiwo, CDF PRO) has given the truck to him, and that he will therefore not release it.

- On about 24 July, another commercial truck was seized in Bo North (AAK 417). It was an ex Swiss military truck, painted blue with yellow stripes, and being an ex military truck appears to be the only reason it was commandeered. It was held in Gbangba village, 4 miles from Damballa, by one commander Francis Yaja. Again, for some time attempts to retrieve this truck were fruitless, with the commander stating that it had now been assigned to him by 'higher authorities'. It was eventually released at the end of July, but of interest, within 24 hours it was involved in trading of goods to RUF territory, with senior CDF involvement and approval (see section 5 below, Trade of Food and Fuel from Bo to RUF Areas).

In all the above cases, the trucks are either being held by senior members of the CDF hierarchy (High Priest Initiator), or the consent of senior members of the CDF hierarchy is being given as the reason for not returning them. Whilst it is agreed that vehicles and individuals involved in trade with RUF must be arrested, it is clear that the trucks should be handed over to the police, not held by individual commanders. The perceived or actual support and involvement of members of the CDF hierarchy and senior initiator merely sends the message to the CDF as a whole that commandeering is acceptable, and that those involved will not be punished.

Reference is made to the following commitments made by the Deputy Minister of Defence on behalf of the CDF last year:

Vehicle Commandeering of any kind is unacceptable (.....except in a life and death emergency situation...) ... ... and guilty members would be punished.

CDF members who break the law of Sierra Leone and CDF Regulations will face appropriate disciplinary procedures.

The RRC requests confirmation that the CDF hierarchy and NCC stand by these commitments. If they do, the RRC would like to know how they will be enforced with reference to the above cases.

4. DISTRIBUTION OF GOVERNMENT RICE TO CDF

Lack of control and accountability of rice distribution from government to CDF continues to cause serious problems. Contrary to the commitment made by the CDF last year, chiefdom authorities are still not informed of what is supposedly being delivered to kamajors at chiefdom level, and when. As a result, kamajors at chiefdom level all over the region are disgruntled and angry, believing they are being cheated of their just allocation. Anger is directly at both the CDF hierarchy and government as a whole. In fact, the belief that their own commanders are misappropriating supplies with impunity leads many to ask what is wrong with them harassing and appropriating community supplies at a local level.

Of particular concern is the fact that this anger and disgruntlement has recently led to several incidents of shooting:

In mid July in Tihun, Sogbini Chiefdom, Bonthe District, kamajors believed their commander was misappropriating rice meant for them, and tied and held him for some time. On his release, he left,

collected reinforcements and returned to the town. Shooting took place, during which a pregnant woman was reportedly shot in the leg.

In late July, kamajors demanding their food supply attacked the house of the Bonthe District Administrator in Bonthe Town. Shots were fired, but there are no reports of casualties.

Reference is made to the following commitments made by the Deputy Minister of Defence on behalf of the CDF last year:

CDF will ensure logistical distribution is monitored, transparent and accounted for to Chiefdom Authorities.

The RRC requests confirmation that the CDF hierarchy and NCC stand by this commitment. If they do, the RRC would like to know what has been or will be done to enforce it.

5. TRADE OF FUEL AND FOOD ITEMS FOM BO TO RUF HELD AREAS

In July, public concern was raised about the trade in fuel and food items passing from Bo, through Bo North and Gorama Mende, to RUF held areas around Makeni and Kono. Trading with the RUF is a lucrative business. In northern Goram Mende, fuel can be sold at Le100,000 for a 5 gallon container, a bag of rice fetches Le70,000, and a bag of flour Le150,000. Trade is normally conducted at the village of Mondema, with trucks coming from Kono and Makeni to collect the goods and transport them back to RUF forces.

In particular, concern was raised by both the public and kamajors on the ground that this activity was only being allowed to happen because drivers were receiving written security clearance from senior CDF members (Bo District Administrator and Transport Officer were reported to be signing these clearances). At the RRC meeting of 7 July 2000, the CDF answered these concerns by saying that Chief Norman had recently decreed that this trade should cease. However, even after this order, security clearances are reported to have been issued by senior CDF members from Bo District Administration and some trucks were still plying the route. Two trucks guilty of this offence were arrested in mid July, and an investigation was reportedly launched into the involvement of senior CDF members in issuing security clearances. While it was reported that the situation was thereafter brought under control, it was clear that no action had been taken against those involved in the trade.

In the last few days of July, the initiators Kamoh Lahai Bangura, Lahai Massaquoi and Mohamed Mansaray began this trade again, through Gorama Mende. Not only did they sell several truck loads of fuel and food to the RUF, but in addition, because their own trucks broke down on the way, they commandeered several trucks locally and forced the drivers to carry the loads.

All such activity described above clearly constitutes collaboration with the enemy. Most armies would shoot anyone found guilty of this, or at the least lock them up until the end of the war. The fact that senior members of the CDF have been, and continue to be, involved in this activity, and that no action is taken against them, totally undermines the credibility of the CDF in the public's eye.

The RRC therefore requests confirmation of what action the CDF hierarchy and NCC is taking to stop this activity, and to hold those guilty of supporting it accountable.

6. INSECURITY IN BO TOWNSHIP

In the last few months, the incidence of night robberies occurring in Bo town have rocketed. Few nights have gone by without reports of either actual robberies occurring, or of doors and windows being knocked at in the early hours and orders being given to open up for 'night patrol inspection'. CDF and Police are the only ones patrolling the town at night, as UNAMSIL has declined from conducting such activities. Inevitably, therefore, public suspicion of who is involved in this widespread practice of armed robberies has fallen on the CDF.

Public confidence in the CDF's ability to control the situation effectively has been further deteriorated by the tragic events of late July which led to the death of 6 individuals and 13 injured. The grenade explosion at the Bo Town Hall on 16 July caused when Bo kamajors were preventing the entry into the hall of another armed kamajor (apparently recently returned to Bo from Freetown) was a terrible tragedy, and highlighted the dangers of untrained young men being free to roam within the township with weapons. The second incident on 22 July which led to the death of the MSF Belgium Bo Administrator is less clear cut. A CDF night patrol supposedly came across him when he was urinating in the early hours outside his house, and opened fire. Exactly when they opened fire, and whether it was at him or into the air is unclear. What is clear is that in trying to get into a house to take refuge he smashed a window and cut himself, and that when he was found in the morning and eventually taken to hospital, he died soon after from blood loss. The rumours of foul play have been further stoked by the fact that doctors at the hospital refused to conduct an autopsy (reportedly because of intimidation), and that on the second night after the body was buried, a group of men were caught trying to dig up the body (they escaped capture).

Regardless of the exact circumstances of the case of the MSF(B) administrator, the combined effect of numerous robberies and the deaths of Bo citizens has produced great anger, frustration and fear amongst the town's population.

7. INEFFECTIVENESS OF UNAMSIL

One of the contributing factors to the insecurity in Bo Township is perceived by the public to be the ineffectiveness of the Guinean UNAMSIL contingent stationed at Bo. Last year's Bo ECOMOG contingent conducted visible day and night patrols, as do UNAMSIL contingents in other major towns and cities (eg. Kenema and Freetown). A strong and active presence from a recognised and capable external security organisation has been shown to deter criminal activity, and to subdue some of the problems which occur within the CDF or between the CDF and the civil community. Unfortunately, the current Guinean UNAMSIL contingent appears far from active. Indeed, the combination of their inactivity and the increased availability of UN food items and supplies now for sale in Bo markets has led them to be viewed by the public as at best ineffectual, and more commonly with disdain. Following concerted pressure from government administration and civil society, the contingent commander agreed at the end of July to start patrolling.

The RRC will carefully monitor the regularity and effectiveness of the UNAMSIL contingent's patrol activities, and hope that it will at last begin to make some contribution to the security of Bo Township and the environs. If it proves unable to do so, the committee will not hesitate to ask that it be reinforced or replaced by troops able to achieve these objectives.

8. HARRASSMENT AT CHECK POINTS

As part of the CDF response to the renewed RUF threat in May, numerous armed check points have sprung up all over the region. While it is accepted that the security threat must be met accordingly, the following points are made:

- Harassment, intimidation and extortion of money is again common at check points. This is particularly so for traders and commercial drivers.

- Numbers and locations of check points do not appear to reflect the security threat. Rather, in many areas kamajors appear to have restarted check point activity purely for commercial reasons.

- Vehicles are rarely checked properly at check points. Rather, money is collected and the vehicle moves on. If money is not handed over, the vehicle and occupants are forced to park and are held until such time as the occupants change their mind.

Reference is made to the following commitments made by the Deputy Minister of Defence on behalf of the CDF last year:

CDF will educate personnel at check points on duties and responsibilities.

CDF will sensitise members that money given by drivers and traders at check points etc is a voluntary contribution and must not be coerced.

The RRC requests that the CDF hierarchy increases its efforts to instil disciplined and reasonable behaviour at check points, and reviews the question of the number and location of check points. Check points which contribute to the security of the Southern Region are actively encouraged and supported; those which are there purely to extort money from drivers are not.

9. CDF / CHIEFDOM AUTHORITIES RELATIONSHIP

Sometime in June, CDF Battalion Commander Joe Timidale arrested the Paramount Chief and Chiefdom Speaker of Lugbu Chiefdom, Bo District, and took them to Koribundo where they were locked up. The intervention of the SDO and CDF District Administrator secured their release within 24 hours, but no action was taken against the commander beyond asking him to apologise.

The public and the region's chiefs were horrified that such an act could go unpunished. Merely asking the guilty party to apologise sends entirely the wrong message to all kamajors, indicating that kamajors are above all laws and codes of customary behaviour.

Reference is made to the following commitments made by the Deputy Minister of Defence on behalf of the CDF last year:

Every member of the CDF must respect Chiefdom and government authorities
CDF members who break the law of Sierra Leone and CDF Regulations will face appropriate disciplinary procedures.

The RRC requests confirmation that the CDF hierarchy and NCC stand by these commitments. If they do, the RRC would like to know how they will be enforced with reference to the above case.

SUMMARY

In summary, the RRC once again respectfully asks the NCC and CDF hierarchy to examine the incidents and patterns of behaviour detailed above, and to determine what they will do to rectify this unacceptable situation. While it is recognised that the control of a non professional civil militia is no easy task, the fact remains that the responsibility for the behaviour and actions of the CDF lies squarely with the NCC and CDF hierarchy. We and the public therefore look to this leadership to use its authority decisively to enforce discipline and accountability within the CDF, so that the organisation's reputation may be restored and once again the region's civil community and the CDF can live together harmoniously.

The RRC respectfully requests an audience with the NCC, either in Freetown or Bo, to learn its response to this report. At this meeting, the RRC would like to discuss what it too can do to contribute to the improvement of the current situation. But as stated above, while this could include sensitisation workshops and meetings at grassroots level, it is nonetheless felt that such initiatives alone will be ineffective, unless strong action is first taken by the CDF leadership.

If the meeting is to be held in Freetown, it is asked that at least a week's notice may be given. Please contact the Committee through NCRRR South.

Simon Arthy
For and on behalf of the Regional Reconciliation Committee Southern Region.

Communiqué

MEETING OF THE JOINT COMMITTEE ON DISARMAMENT, DEMOBILISATION AND REINTEGRATION
Government of Sierra Leone - RUF -- UNAMSIL

15 May 2001

1. In furtherance of the agreement reached in Abuja on 2 May 2001, a meeting of the Joint Committee on Disarmament, Demobilisation and Reintegration (DDR) comprising UNAMSIL, the Government of Sierra Leone and RUF was held at UNAMSIL Headquarters in Freetown on 15 May 2001.

2. The meeting was chaired by the Special Representative of the Secretary-General, Mr. Oluyemi Adeniji. The delegation of the Government of Sierra Leone was headed by the Attorney-General and Minister of Justice, Mr. Solomon Berewa. The Chairman of the Political and Peace Council, Mr Omrie Golley, led the RUF delegation. Representatives of the CDF attended as part of the Government delegation. A full list of the delegations is attached as Annex 1.

3. In view of the urgency of addressing the continuing fighting between the CDF and the RUF in the Eastern Province, the leaders of the CDF and the RUF issued a joint communiqué undertaking to ensure the immediate cessation of all hostilities and instructing their combatants forthwith to desist from any hostile activity. UNAMSIL was requested to ensure the observance of this undertaking as well as the unimpeded movement of persons, goods and services throughout the country.

4. The meeting examined the key issues relating to the DDR programme, including timetable and modalities for disarmament, demobilisation and reintegration of ex-combatants, responsibilities of the parties, monitoring mechanisms, sensitisation of combatants and communities.

Disarmament:

5. The two parties agreed on the following:

a. the immediate recommencement of the DDR programme with a fixed timetable;
b. implement the simultaneous disarmament of CDF and RUF combatants;
c. to release to UNAMSIL all child combatants and abductees, particularly young women and children, starting on 25 May 2001;
d. that the CDF and the RUF shall disclose the number of combatants and weapons by location to UNAMSIL. Global figures and types of weapons in the possession of RUF and CDF were communicated to the meeting by them;
e. criteria established by the NCDDR for the eligibility of ex-combatants into the DDR programme;
f. to consider, as a matter of urgency, the establishment of DDR camps in Lunsar, Makeni, Kamakwie, Masingbi, Koidu, Kailahun, Alikalia, Pujehun and Bonthe, in addition to the existing facilities in Port Loko, Bo, Moyamba, Kenema and Daru;
g. an encampment period of maximum four weeks for combatants during which they will undergo orientation and counselling programmes;

h. the principle of a cordon and search after the established period for disarmament;
i. include the RUF and the CDF in the planning and implementation of the entire DDR programme.

6. In connection with disarmament in Kambia and Port Loko districts, the two parties agreed on the following:

a. disarmament process for both RUF and CDF in Kambia district to begin on 18 May 2001 and to be completed not later than 28 May 2001;
b. disarmament in Port Loko will also start during this period;
c. Port Loko DDR camp will be used as a common facility for demobilisation of RUF and CDF ex-combatants disarmed in Kambia district;
d. NCDDR will immediately begin the preparation of a DDR camp in Lunsar;
e. the RUF provisionally estimates 1000 combatants in Kambia; the precise figure will be confirmed by Friday 18 May 2001. The CDF estimates 350 combatants in the Kambia district plus 735 in Port Loko district.

7. By the end of May 2001, recommendations will be made by the joint Technical Committee on the next locations by district for the country-wide implementation of the DDR.

Reintegration

8. In addition to the existing integration programme of NCDDR, the two parties:

a. proposed the establishment of a Trust Fund, with the assistance of the international community, to support the reintegration of ex-combatants. The modalities for the Fund will be worked out by the two parties and interested partners through a working group;
b. agreed to open access to all identifiable Government positions, including SLA and SLP, on the basis of existing criteria for recruitment shared during the meeting;
c. agreed that special attention be accorded to dependants of ex-combatants.

Monitoring mechanisms

9. The two parties agreed to:

a. use the Ad-hoc DDR Committee, comprising the Government of Sierra Leone, RUF, UNAMSIL and the CCP to monitor the overall implementation of the DDR programme;
b. use the existing NCDDR structure, with the participation of the RUF and the CDF, to review technical issues relating to the DDR programme;
c. include RUF and CDF representatives in NCDDR regional structures to monitor implementation of the programme in the various regions.

Sensitization

10. The two parties agreed:

a. to form joint sensitization teams to visit various parts of the country to educate the combatants about the present decisions;
b. to arrange visits of joint teams to witness disarmament processes, starting in Kambia and Port Loko districts on 18 May 2001;

c. to promote country-wide community reconciliation processes.

Other matters

11. The RUF requested the release of its members currently detained by the Government as a confidence-building measure. It also enquired about the alleged deaths of some of them under custody. The Government assured the meeting that no RUF detainee had died in custody and reaffirmed its commitment to consider the release of detainees especially in the light of progress being made in the peace process.

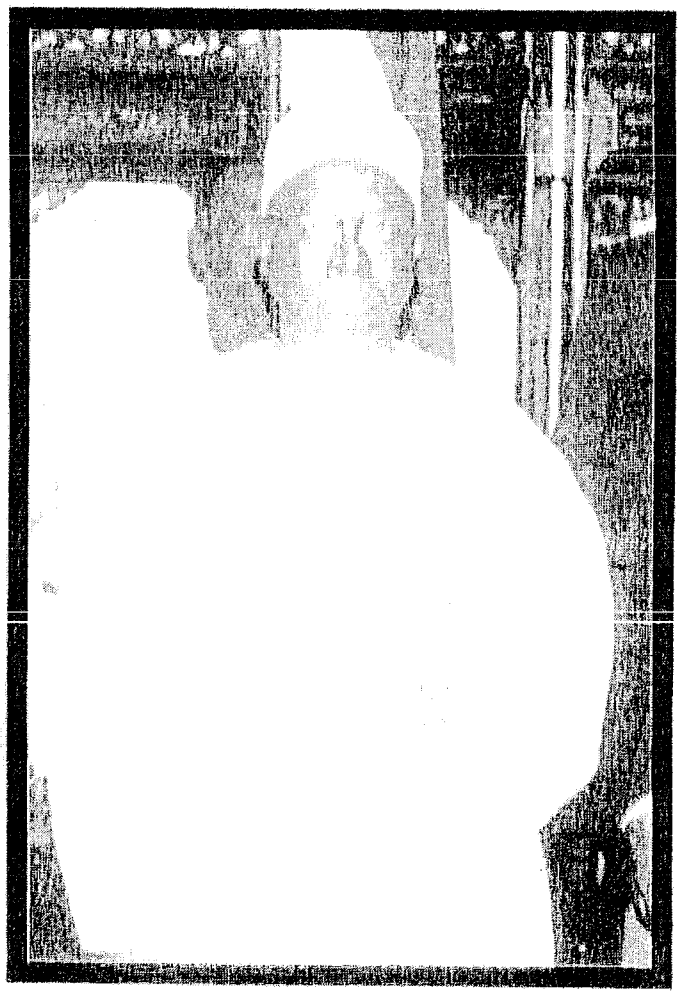
12. In connection with the RUF's request for Government assistance in the provision of public buildings in Freetown and in the provinces for party offices, the Government invited the RUF to identify such premises and to bring the information to Government's attention.

Freetown, 15 May 2001.

CDF Calendar *2001*



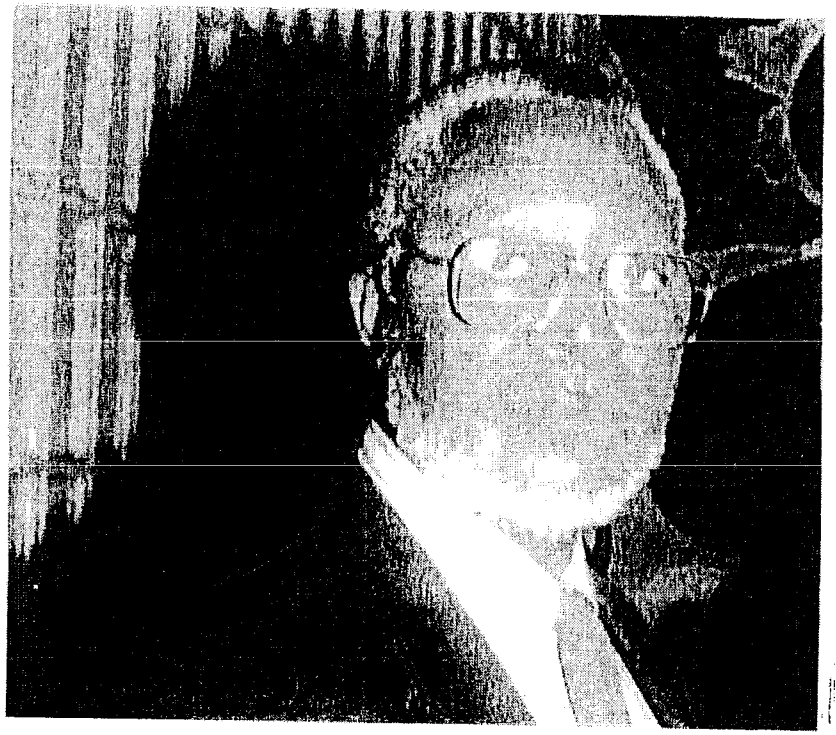
H.E. Alhaji Ahmad Tejan Kabbah
President and Commander in Chief
Republic of Sierra Leone



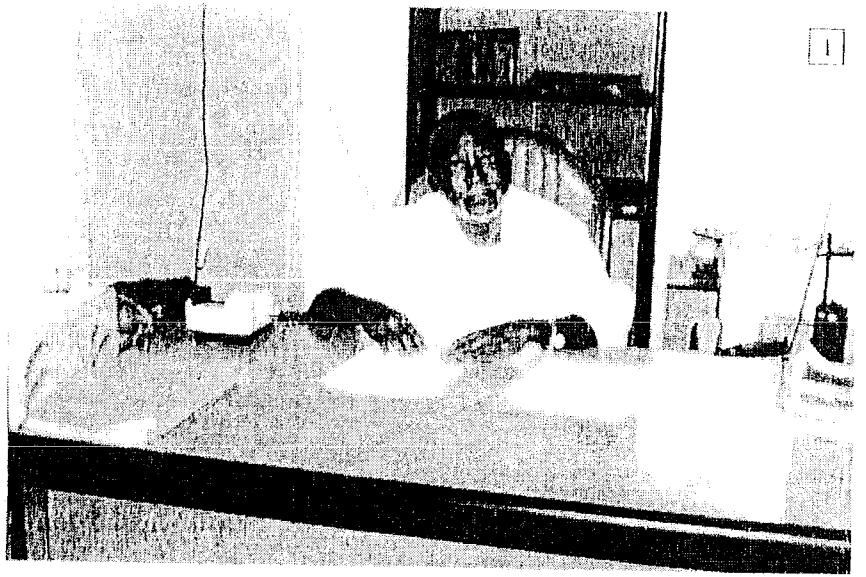
H.E. Joe Demby
Vice-President
Republic of Sierra Leone

00000837

24.91



Hon. Samuel Hinga Norman, Deputy Minister of Defence and Regent Chief of Jaiama-Bongor Cheifdom, Bo District, is the founder of the Kamajors and the National Coordinator of the Sierra Leone Civil Defence Forces. Chief Norman was born in Valunia Chiefdom, Bo District in the Southern Province of Sierra Leone and educated at various colonial military schools in Sierra Leone. He is a graduate of the Royal Military Academy at Mons in the United Kingdom and a retired captain from the Republic of Sierra Leone Military Forces.





1. Chief Norman, in his State Avenue Office, Ministry of Defence

2. Norman at Passout for CDF trainees. Behind him is Allieu Kondowa, Chief initiator and other initiators

0000536

January 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Sierra Leone
Civil Defence
Forces

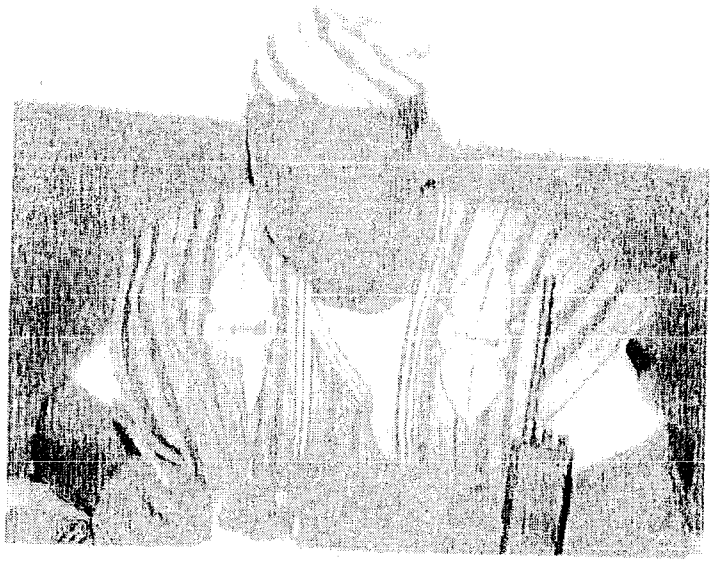
Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

*We Fight For
Democracy*

COPYRIGHT
SLAM PUBLICATION 1988

00000839

21493



Moinina Fofanah
National Director of War

As far as the Sierra Leone Civil Defence Forces are concerned, they don't say war unless he says they say war. Moinina Fofanah (above left), popularly known within the CDF as Director, is the man who overseas the mobilization and deployment of the volunteer fighters of the CDF. When his men are not engaged in combat against the rebels, Fofanah refers to himself as Director of Peace.



The Late Prof. Alpha Lavalie

One of the earliest victims of rebel atrocities includes Prof. Alpha Mohamed Lavalie (shown right), historian and founder of the Hindo-Hindo movement, a predecessor to the Kamajor movement of the CDF. He was assassinated February 8, 1994. To him this first edition of the CDF calendar is solemnly dedicated. "Greater love has no man ...than to lay down his life for his friends." (Jesus of Nazareth)

February 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			



Sierra Leone
Civil Defence
Forces

Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

Copyright
SLAM Publication 2000

2495.



Hon. Alieu Kondowa

1. Alieu Kondowa, the Chief Initiator of the Kamajors and allied militia forces, is the embodiment of the legend and mystery of the Kamajors. He is decked in his ceremonial attire above as High Priest.



2. Initiators and Priests of the Kamajors in their ceremonial uniforms.

3. Kamoh Lahai Bangura (center) is a high priest of the Kamajors. With him are initiators Kamoh Alie Sesay (L) and Mohamed Mansaray (R).

24016

March 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Sierra Leone
Civil Defence
Forces

Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

COPYRIGHT
SLAM PUBLICATION 2000

00000843

2497



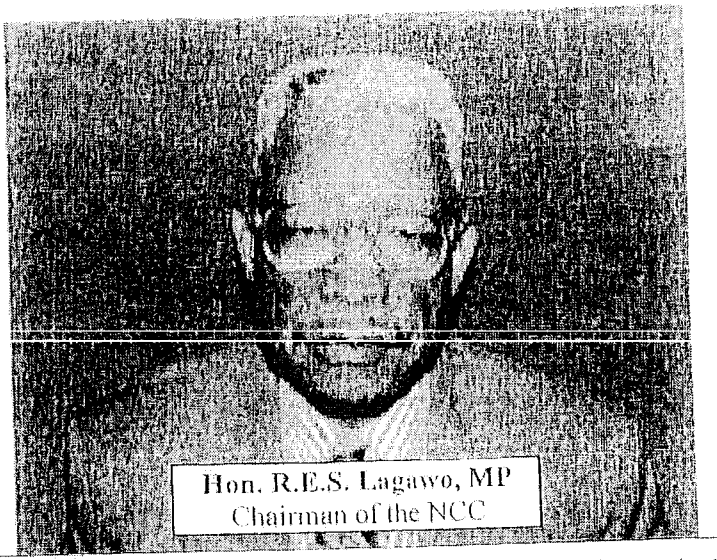




Col. M. S. Dumbuya (center), Commander of the Tamaboro wing of the Sierra Leone Civil Defence Forces. Dumbuya, an undisputable leader of the Northern resistance to the AFRC/ RUF rebels, is believed to be one of the leading experts on bush warfare. He is show here with his Commanders, Initiators and Directors.



CDF personnel at the Monghere Training Center, Valunia Chiefdom, Bo District. Battalion Commander, Alhaji Sherriff, third from right. *"Mua mu luma sokee ti gaula, ke mu lumai e teh teh."* Mende Proverb



Hon. R.E.S. Lagawo, MP
Chairman of the NCC

He is believed to be the oldest member of the oldest political party in West Africa - the Sierra Leone Peoples Party (SLPP). Undeniably, he is the glue that has held the presidency and the nation together during these uncertain days of our national quagmire. "Hon. Richard Lagawo is a man whose support for the CDF is unlimited," says the CDF. He is the Chairman of the National Coordination Committee for the Sierra Leone Civil Defence Forces.

TRC 000094

April 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Sierra Leone
Civil Defence
Forces

Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

COPYRIGHT
SEANY PUBLICATION 2000

250

00000846

When they are not in combat defending their towns and villages against the rebels, members of the CDF are engaged in various restoration and security duties around the country. Above left, Security Officer, Bobor Sandy on guard at a market place. Above right, Field Commanders of the Gbetbu, Tamaboro and Kapra Militia in battle uniform. Bottom right, the strategic Mabang Bridge between Moyamba and Freetown which was captured and destroyed by the rebels, has now been reconstructed by UNAMSIL and the CDF.

May 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Sierra Leone
Civil Defence
Forces

Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

COPYRIGHT
SLAM PUBLICATIONS 2000









1. Above left, CDF personnel await their allowance following disarmament at their base at Brookfields Hotel in Freetown.
2. Above right, Director of Welfare, M.K. Harding, must have the most unenviable job in the country.
3. Caring for the sick and wounded, is the responsibility of the Medical Director of the CDF, Mustapha Vonu, who operates mostly from make-shift clinics and unfurnished wards around the country. To his left, are wounded fighters of the CDF.

SECURITY

June 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Sierra Leone
Civil Defence
Forces

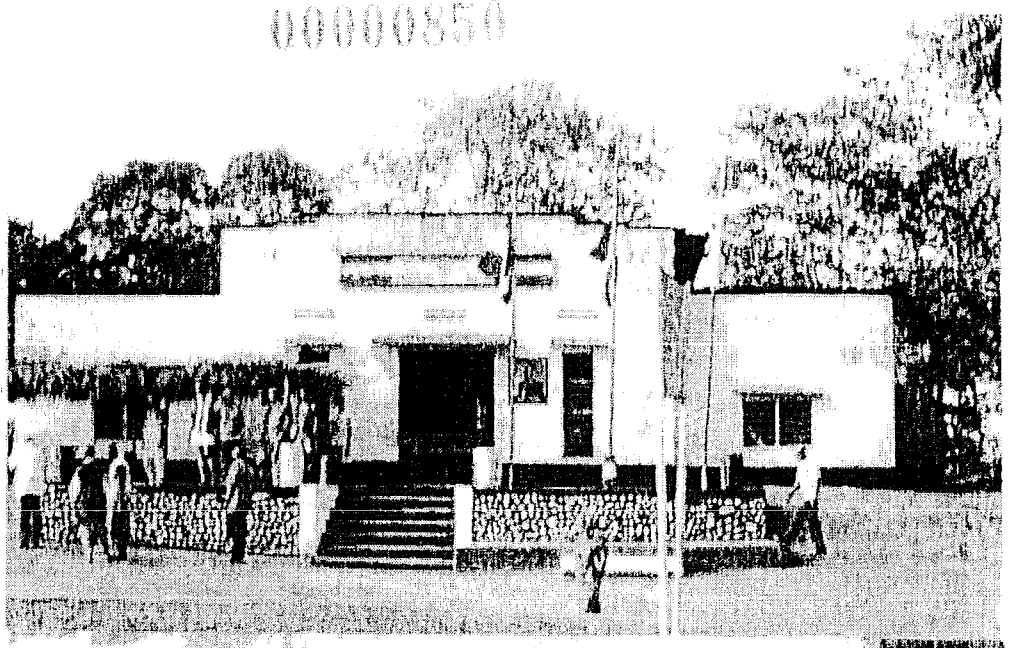
Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

COPYRIGHT
SLAM PUBLICATIONS 2000

2503







Keeping a close eye on our boarders with Liberia, is the job of Pujehun District Director, Eddie Massalay. He is the man often in hot water when his judgements are questioned by government leaders in Freetown and Monrovia. Above right, is the Pujehun District CDF Headquarters. Below right, Field Commanders of Pujehun District. They include the ever vigilant, Boarder Battalion of the CDF.

July 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Sierra Leone
Civil Defence
Forces

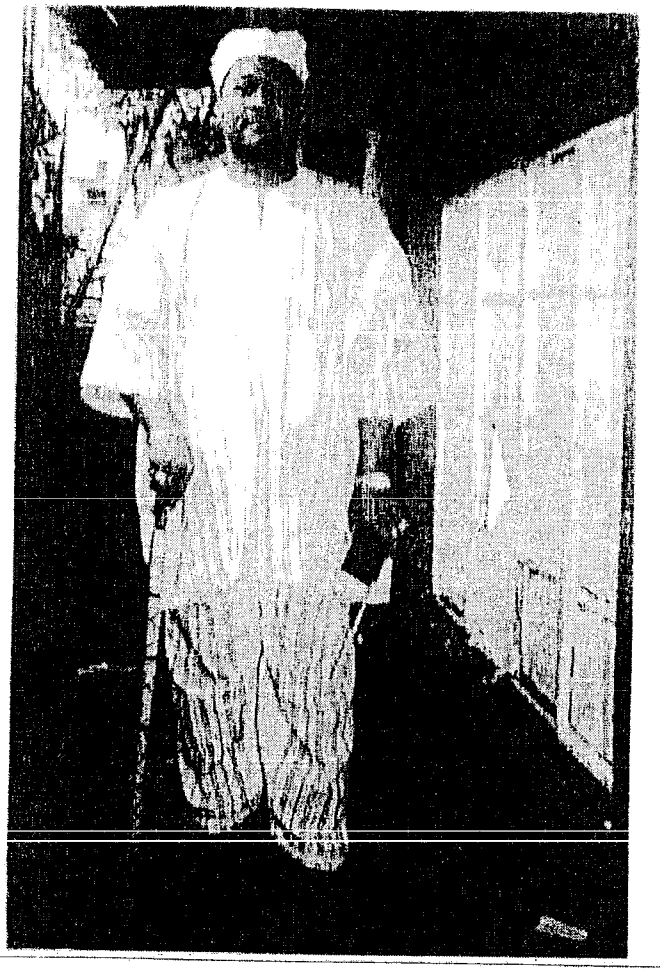
Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

COPYRIGHT
SLAM PUBLICATION 2000

TC8000001

2505





LEFT: OBHS Field Commander, Charles I.H.S. Harding, oversees security personnel in Freetown and the Western Area.

RIGHT: OBHS leaders



Following the unparalleled success of the Kamajors and allied forces in the Provinces, Western Area Hunting Societies organized themselves into the Organized Body of Hunting Societies (OBHS). They are the vanguards of the city of Freetown and the surrounding Mountain Area. The OBHS includes the Ojeh, Ogugu and the Hunting Society, a federation of former traditional cultural organizations in the Western Area.

00000852

2506

August 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Sierra Leone
Civil Defence
Forces

Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

Copyright
SLAM Publication 2000







Basic combat training is at the heart of the CDF success against the rebels of the Revolutionary United Front and AFRC allies. Above left, CDF recruits undergo weapons training. Below right, recruits undergo obstacle training. Above right, National Director of Training and retired Sierra Leone army officer, Mohamed B. Jawara, oversees training activities for the CDF.

TRC 000004

September 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Sierra Leone Civil Defence Forces

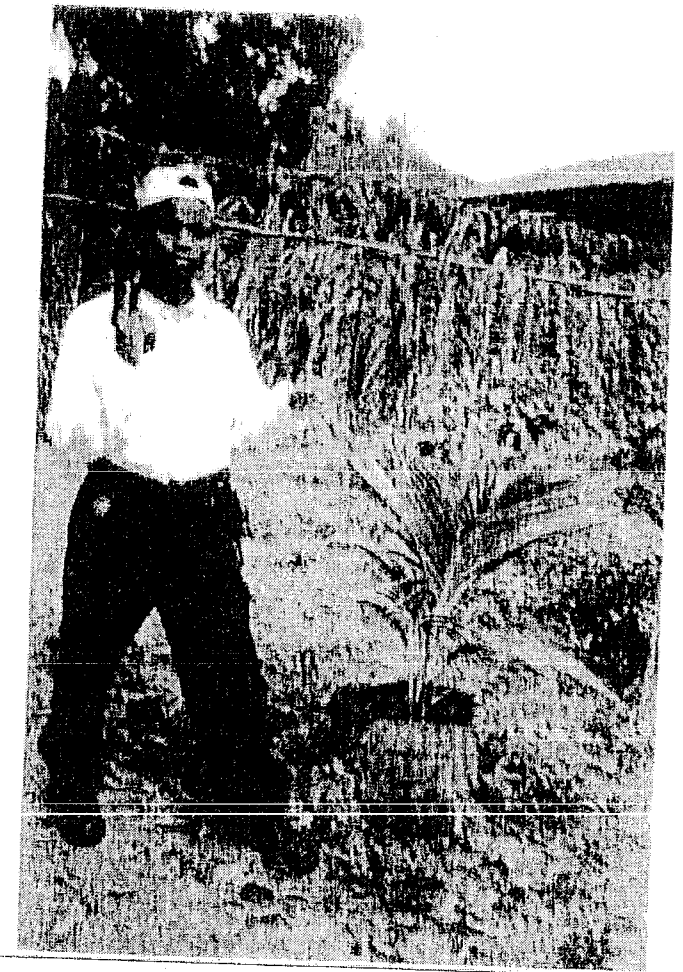
Sierra Leone Action Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

COPYRIGHT SLAM PUBLICATIONS 2000

2509

00000856







Knowing what the enemy is going to do before he does it, is the art of military intelligence. Top left, Chief Security Officer, Alie Katta, takes no chances. He and his staff are on duty twenty-four hours a day throughout the country. Top right, Director of Communications, Joseph Massalay, keeps track of rebel and CDF movements throughout the country. Bottom right, Director of Inteligence, Augustin Gombi, tries to stay ahead of enemy activities from his office at CDF High Command.

October 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Sierra Leone Civil Defence Forces

Sierra Leone Action Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

Copyright SEAM Publications 2000

00000858





TRANSPORTATION: Moving CDF personnel from one end of the country to the other is the responsibility of CDF Director of Transportation, Ahmed Koroma. Above right, CDF personnel are on ferry from Tagrin to Freetown during the January rebel incursion into Freetown. DDR: Under the United Nations sponsored Disarmament, Demobilization & Reintegration program known as the DDR, former combatants who turn in their weapons to the UN peace keeping forces, receive monetary compensation and are reintegrated into civil society. Above left, CDF liaison on the DDR program, and administrative assistant to the National Coordinator, Baimba Zorokon



25.12

November 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Sierra Leone
Civil Defence
Forces

Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

COPYRIGHT
SLAM PUBLICATIONS 2000

Charles Moiwo, NCC Member and National Public Relations Officer, CDF.

Mustaph Lumeh, NCC Member and Director of Logistics, CDF.

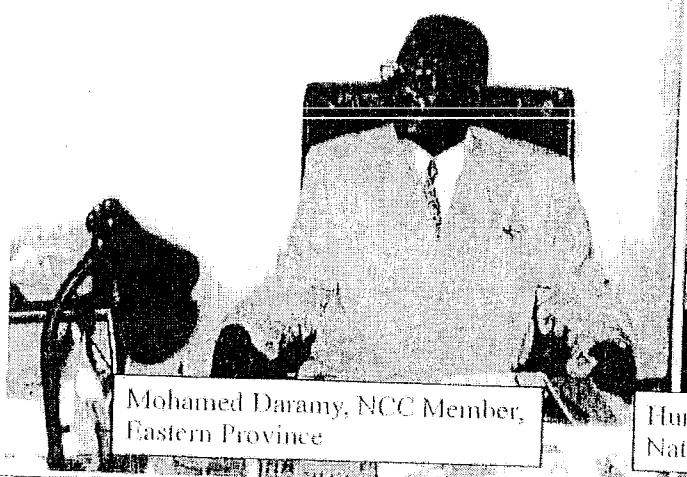


Mabel Rollings, NCC Member and Secretary to the Secretariat.

Sahr Matturi, Secretary General, NCC Secretariat.

0000867

Above Left to Right: Moiwo, Lumeh, Rollings and Matturi



Mohamed Daramy, NCC Member, Eastern Province



Humphrey Swaray, NCC Member, National Security Advisory



Hon. A.O. Bangura, NCC Member, Northern Province, Chairman of the Defence Council

The National Coordinating Committee of the Sierra Leone Civil Defence Force is the government's oversight committee for the CDF. Its membership includes representatives of government, the CDF and other civic leaders. The [illegible] Coordinator of the CDF, Chief Hinga [illegible]. The four members of the NCC Secretariat above are the only [illegible]

December 2001

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Sierra Leone
Civil Defence
Forces

Sierra Leone Action
Movement
P.O. Box 832125
Stone Mountain, GA 30083
USA

We Fight For Democracy

COPYRIGHT
SLAM PUBLICATION 1994

00000861

2515

2516

00000362

2517

Speech by the President of Sierra Leone
His Excellency, Alhaji Dr. Ahmad Tejan Kabbah
at the ceremony marking the conclusion of
disarmament and the destruction of weapons
Lungi, 18 January 2002

Never before since March 1996 when I took the solemn oath of office to lead this nation have I been so moved by a public ceremony as the one we are witnessing here today. It is indeed an honour and a great privilege for me to stand here and serve as host for this awe-inspiring declaration of peace in Sierra Leone.

Not too long ago, the flames of war were mercilessly consuming thousands of innocent lives and countless property in several parts of our country. Today, we are happy that those flames of war have been extinguished, and that now we are about to watch the flames of peace, destroy some of the implements of war. What a relief! The ceremony marks the symbolic conclusion of the disarmament process, and an historic expression of our deep sense of national triumph.

The presence of some of my colleagues, President John Kufour and so many Foreign and Defence Ministers underscores the significance of the occasion. I should, therefore, on behalf of the people of Sierra Leone, and on my own personal behalf, start by extending a warm welcome to you all. We also welcome the Executive Secretary of ECOWAS, Dr. Mohamed Chambers, and high level representatives of other leaders and heads of organizations who would have also liked to join us here today, but were unable to do us because of pressing commitments. I have no doubt that they also associate themselves with the spirit of this ceremony.

The conflict that has just formally ended was essentially an internal conflict. However, no one should underestimate its regional and international dimensions and implications. So let me touch briefly on the roles of ECOWAS, the United Nations and the rest of the international community.

Today, as we celebrate the dawn of lasting peace and security in Sierra Leone, we are also symbolically erecting a new milestone on the road to peace and stability in the West African sub-region. The events in the past ten to twelve years have shown that the proverbial 'we are our neighbour's keeper' has become more relevant to the situation in our sub-region.

To our sister states of ECOWAS, it is an understatement to say that you have given true meaning to the concept of collective regional security. The mandate that ECOWAS received from the UN Security Council in resolution 1132 (1997), under Chapter VIII of the Charter of the United Nations, to enforce and monitor implementation of the arms and oil embargo against the rebel-military junta, was a landmark decision. It was an acknowledgement of the capacity of ECOWAS as an instrument of conflict resolution in the international system. It turned out to be one of the stepping stones towards the peace process in Sierra Leone.

I should like to pay special tribute to those States, members of ECOWAS, that have advanced the cause of peace in Sierra Leone, as troop contributors to ECOMOG; in particular, Nigeria, Guinea, Ghana and Mali; or as facilitators and hosts of peace talks, especially Cote d'Ivoire and Togo. To other states of the Community that demonstrated their solidarity with the people of Sierra Leone

throughout the conflict, we salute you.

We remember those ECOMOG soldiers who made the supreme sacrifice of giving up their own lives so that our children can live in peace. We renew our assurances to their families and respective governments that their memories will for ever remain in our hearts. I would like to reassure you that every Sierra Leonean knows that without ECOWAS and its monitoring group, ECOMOG, the prospects for disarmament and peace would have been extremely bleak.

Let me however, point out, that notwithstanding the resounding success of ECOWAS in Sierra Leone, the organization is facing a serious challenge to its principal mission, namely "to promote regional integration in all fields of economic activity." There are still elements of threats to peace in our sub-region. These include the illicit transfer of arms and ammunition, the illicit trade in diamonds and other natural resources to fuel or prolong armed conflict and in the process reek havoc on innocent and defenceless civilians. These cruel and destabilizing activities are an anomaly. They continue to impede development. They must be eliminated so that we can devote all our energy, collectively, to the task of lifting our peoples out of the bondage of abject poverty.

As we watch a collection of arms and ammunition go up in flames, we must remind ourselves of the need to faithfully respect the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Light Weapons in West Africa. We must see the Moratorium as both a security mechanism, and a catalyst of economic and social development in West Africa. Sierra Leone wholeheartedly endorsed the action taken last July to extend the Moratorium for another three years.

Excellencies, please allow me on this occasion to appeal to all members of ECOWAS and the inter-state groupings within the Community, for a new commitment not only to the principles of good neighbourliness, but more importantly to the ideals of brotherhood. We, the leaders of our respective nations in the sub-region often refer to each other as brothers. Let us use the success that we are celebrating today as a source of inspiration to work harder in strengthening the family and other ties that bind us as one great community of peoples.

Excellencies, distinguished guests:

The people of Sierra Leone are equally grateful to the United Nations and the rest of the international community, for their support in making this celebration possible. We acknowledge that long before the outbreak of the rebel war, many of your representatives were here in this country as partners in development, helping us to take care of the health and welfare of our children; working hand in hand with our own nationals to construct roads and bridges, equip schools and hospitals, develop high yielding seeds for greater food production; and building the capacity of Sierra Leoneans to be economically self-sufficient.

In the course of the war, international organizations provided essential humanitarian relief to thousands of Sierra Leonean refugees and the internally displaced. They have also lent their support in rehabilitation and reconstruction programmes. We must confess though that there were times in the course of the armed conflict when many of our people thought that we were being abandoned, or that our cry for help was perhaps not loud enough to prod the world to provide the quality and quantum of response that our precarious situation required. There were other occasions when the average Sierra Leonean felt that repeated requests for urgent international assistance to enable ECOMOG to do the job would never materialize. Secretary-General Kofi Annan once had to make a plea that the international community must not fail the people of Sierra

Leone.

However, as I often observe, Sierra Leone has tested the capacity of the United Nations, and indeed the international community, to respond to the major challenges of our times in the areas of peacekeeping, humanitarian relief, the protection of human rights and the administration of justice. Your overall response to those challenges has been extraordinary. This is reflected in the operations of UNAMSIL, in the activities of such agencies as UNHCR and UNICEF, and more recently in the decision to establish the Special Court. For these and other forms of assistance, we are profoundly grateful. Without the contribution of the various organizations and agencies, governmental and non-governmental, most of us would not have lived to see this glorious day.

In thanking all countries that have contributed troops and to UNAMSIL, let me also on this occasion renew our expression of deepest sympathy to the families and governments of the UNAMSIL peacekeepers who lost their lives in the service of the United Nations on our soil.

To the United Nations and the international community, I must reiterate that the process of disarmament is formally over. However, the equally formidable tasks of reintegration and rehabilitation have only just begun. In this connection, I wish to draw your attention to the recent observation by Secretary-General Kofi Annan that "the limited availability of reintegration opportunities for ex-combatants, as a result of inadequate funds, remains a source of serious concern." We could not agree with him more.

The international community cannot afford to create another feeling of abandonment in the minds of Sierra Leoneans, especially the young ex-combatants and those who could be described as non-combatants. We therefore appeal to the international community to remain engaged in our efforts to consolidate the peace in Sierra Leone. We know from experience that the timeliness and level of international assistance often determine the course of events in conflict and post-conflict situations. We continue to count on your support.

Excellencies, distinguished guests:

Sierra Leone has many friends within the international community. But we also have some very very good and faithful friends; friends whom we are obliged to single out for special commendation by name on an occasion such as this. I refer to the United Kingdom, the Federal Republic of Nigeria, the United States of America and the Peoples Republic of China. The Governments and peoples of these friendly States deserve separate chapters in the history of our transition from war to peace. As the old adage goes, "a friend in need is a friend indeed."

Now, to you my compatriots, this is the day we have all been patiently waiting for. As I told you two Sundays ago, the rest of the world has been impressed by our resilience. Your courage has been exemplary. You fought hard, not merely to defend your right to live but also to uphold the principles of democratic governance and the rule of law. A few individuals declared war and used others to wage and prolong the senseless war. We continue to maintain that your response was an act of legitimate self-defence.

We have learned the hard way that the paths to disarmament and peace are not paved with gold. There was considerable loss of life and destruction of property. We encountered obstacles of various dimensions, such as intransigence, bad faith, greed, fear, apprehension, and in some instances financial constraints. There were inordinate delays and detours on the road. Today, we can take pride in the fact that we have at last arrived at a stage where for the first time in more

than ten years, we can confidently speak about real peace and security.

This ceremony marking the symbolic conclusion of disarmament, and in celebration of peace, is so important for every one of us, that we intend to replicate it in other parts of the country over the next several days. Many of those who are not present here today will also have the opportunity to witness and be part of the celebration of this dramatic change in the history of Sierra Leone.

Fellow compatriots as the celebration continues, we are about to face our first major challenge in the area of peaceful political transition, namely Presidential and Parliamentary elections. The elections will test our ability to apply the new culture of peace that we recently embraced in our relations with each other. The forthcoming electoral process will test our patriotism, our determination to put armed conflict behind us, to renounce violence as a means of bringing about political or any other change in this country. If we really appreciate peace, we should live and practice peace.

Let me take this opportunity to reiterate that election is not a war. The war is over. What we are about to embark upon on is a friendly contest. Election is a process by which we should freely and peacefully choose those who we believe are qualified to assume the heavy responsibility of serving this nation.

I am confident that guided by the lessons of the past ten years, and inspired by this symbolic but momentous occasion we are witnessing today, the forthcoming elections will be free and fair, and will be the most peaceful in the history of our beloved country.

Fellow compatriots, another test that we must pass is in the area of reconciliation and justice. We must recognize that justice and reconciliation are major components of peace. Furthermore, the administration of justice is an integral part of the process of national reconciliation. If we really want to consolidate the peace, if we really want to facilitate the process of national reconciliation, we must be prepared to deal effectively with the trauma, the emotional pain resulting from that bitter conflict. One principal institution designed for this purpose is of course the Truth and Reconciliation Commission (TRC). We should all look forward to its proceedings, and the outcome of its work.

And speaking of reconciliation brings me to the issue of the Special Court which, I must emphasize, is part of the process of national reconciliation. One cannot speak about the need for national reconciliation, and at the same time ignore or dismiss the moral and constitutional imperative of upholding the rule of law. The Special Court is about accountability. It is about justice. I should add however, that justice is not merely an act of punishment, of revenge or of retribution. In our situation it is a means of dealing with impunity. It is also a means of ensuring that at all times, the human rights of every individual, including those who are caught up in armed conflict, are respected and protected.

Excellencies, distinguished guests, fellow Sierra Leoneans,

On this auspicious occasion, I have spoken about peace in Sierra Leone and the roles of our sub-regional organization, the United Nations and the rest of the international community, as well as our own effort in securing the peace that we are here to celebrate. I spoke about arms, about war, and about the need for peaceful political change through free and fair elections. I also dwelt on what I consider our collective responsibility to cooperate in consolidating the gains we have made through, among other things, such components of peace as justice, the rule of law, protection of

human rights, national reconciliation and the maintenance of an open society.

I must pause here to explain the concept of an open society. An open society and civil society are often confused with each other. Actually, a healthy civil society is part of an open society, but only a part. We are told that an open society also needs a democratic government and a private sector that is independent of the government. To safeguard these elements it needs the rule of law.

We must note however, that peace and reconciliation cannot be imposed, it cannot be decreed, and it cannot be established by legislation or by commission. Peace and forgiveness must come from the hearts and minds of the people concerned, namely, us Sierra Leoneans.

Excellencies, distinguished ladies and gentlemen:

The main thrust of my remarks could be summarized in the following profound words of wisdom from His Holiness Pope John Paul II. They were addressed to the diplomatic corps accredited to the Holy See four years ago this month. His Holiness said:

> "If violent attainment of power becomes the norm, if insistence on ethnic consideration continues to override all concerns, if democratic representation is systematically put aside, if corruption and arms trade continue to rage, then Africa will never experience peace and development, and future generations will mercilessly judge these pages of African history."

The message was for Africa, from someone of high repute who sees himself as a friend of Africa. I believe that it is also appropriate for this particular gathering.

Thank you once again for your presence and support in our continued search for sustainable peace, security and the development of this country.

PROSECUTION INDEX OF AUTHORITIES

1. *Prosecutor v. Semanaza* ICTR-97-20-T, Decision on the Prosecutor's Motion for Judicial Notice and Presumption of Facts Pursuant to Rules 94 and 54, 3 November 2000.
2. *Prosecutor v. Simic* et al., IT-95-9-PT, Decision on the Pre-trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the International Character of the Conflict in Bosnia-Herzegovina, 25 March 1999.
3. *Prosecutor v. Sikirica* et al., IT-95-8-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 27 September 2000.
4. *Prosecutor v. Nyiramasuhuko and Ntahobali* (ICTR-97-21-T), *Prosecutor v. Nsabimana and Nteziryayo* (ICTR-97-29A and B-T), *Prosecutor v. Kanyabashi* (ICTR-96-15-T), *Prosecutor v. Ndayambaje* (ICTR-96-8-T), 98-42-T, Decision on the Prosecutor's Motion for Judicial Notice and Admission of Evidence, 15 May 2002.
5. *Prosecutor v Akayesu*, ICTR-96-4-T, Judgment, 2 September 1998.
6. *Prosecutor v. Mirloslav Kvocka, Milojica Kos, Mlado Radic, Zoran Zigic, Dragoljub Prcac*, Decision on Judicial Notice, 8 June 2000.
7. *Prosecutor v. Kanyabashi*, ICTR-96-15-T, Decision on Jurisdiction, 18 June 1997.
8. *Prosecutor v. Kayishema & Ruzindana*, ICTR-95-1-T, Judgement, 21 May 1999.
9. Security Council Resolution 1315.
10. Charter of the International Military Tribunal at Nuremberg, Article 21.
11. *Prosecutor v. Bagosora* et al., ICTR-98-41-T, Decision on Admissibility of Proposed Testimony of Witness DBY, 18 September 2003.
12. *Prosecutor v. Blaškić*, IT-95-14-T, Judgement, 3 March 2000.
13. *Prosecutor v. Delalić et al.*, IT-96-21-T, Decision on the Motion of the Prosecutor for the Admissibility of Evidence, 19 January 1998.
14. ICTR Press Release ICTR/INFO-9-13-22.EN dated 8 July 2002.

PROSECUTION INDEX OF AUTHORITIES

1. *Prosecutor v. Semanaza* ICTR-97-20-T, Decision on the Prosecutor's Motion for Judicial Notice and Presumption of Facts Pursuant to Rules 94 and 54, 3 November 2000.

2524

TRIAL CHAMBER III

Original: English

Before:
Judge Lloyd George Williams, Presiding
Judge Yakov Ostrovsky
Judge Pavel Dolenc

Registrar: Agwu U. Okali

Date: 3 November 2000

THE PROSECUTOR
v.
LAURENT SEMANZA
Case No. ICTR-97-20-I

DECISION ON THE PROSECUTOR'S MOTION FOR JUDICIAL NOTICE AND PRESUMPTIONS OF FACTS PURSUANT TO RULES 94 AND 54

The Office of the Prosecutor:
Chile Eboe-Osuji
Frédéric Ossogo
Honoré Tougouri
Patricia Wildermuth
Holo Makwaia

Defence Counsel for the Accused:
Charles Achaleke Taku

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the "Tribunal"),

SITTING as Trial Chamber III, composed of Judge Lloyd George Williams, Presiding, Judge Yakov Ostrovsky and Judge Pavel Dolenc (the "Chamber");

BEING SEIZED of the Prosecutor's Notice of Motion for Judicial Notice and Presumptions of Facts Pursuant to Rule 94 and 54 of the Rules of Procedure and Evidence, filed on 19 January 1999 (the "Motion").

25-25

CONSIDERING the Prosecutor's Memorial in Support of Prosecutor's Motion for Judicial Notice and Presumptions of Facts together with Appendix A and Appendix B (the "Memorial")[1];

CONSIDERING the Prosecutor's Book of Authorities in the Prosecution's Motion for Judicial Notice (Rules 54 and 73), filed on 17 July 2000 (the "Prosecutor's Book of Authorities");

CONSIDERING the Prosecutor's Revised Memorial in the Prosecutor's Motion for Judicial Notice (Rule 54 and 73) filed on 14 July 2000 (the "Revised Memorial");

CONSIDERING Appendix A and Appendix B to the Revised Memorial;

CONSIDERING the Defence Notice to File Further Written Replies to Prosecutor's Response in the Defence Motion for Dismissal of the Entire Proceeding Filed on the 30 June 2000 and 14 July 2000 and Prosecutor's Revised Memorial in the Prosecutor's Motion for Judicial Notice (Rules 54 and 73), filed on 17 August 2000 (the "Defence Notice");

CONSIDERING the Preliminary Response of the Defence to the Prosecutor's Revised Memorial in the Prosecutor's Motion for Judicial Notice, filed on 1 September 2000 (the "Preliminary Response"); and

CONSIDERING the Preliminary Reply to Prosecutor's Supplementary Appendixes to Motion for Judicial Notice Filed on 15\8\2000, filed on 5 September 2000 (the "Defence Preliminary Reply").

NOW CONSIDERS the matter pursuant to Rule 73(A) of the Rules of Procedure and Evidence (the "Rules") without a hearing, solely on the basis of the written submissions of the parties.

I

THE PARTIES' SUBMISSIONS

A. The Prosecutor's Submissions

1. The Prosecutor submits that she served on the Defence a Request to Admit Facts and Documents, including some facts and documents of a general nature relating to the general events in Rwanda at material times, with the aim of conducting a trial without undue delay. The Defence has not admitted any facts or documents, as requested.

2. By the instant motion, the Prosecutor seeks a declaration by the Tribunal taking judicial notice of factual matters described in Appendix A and of documents listed in Appendix B to the Motion. In the alternative, the Prosecutor urges the Chamber to accept the presumptions of fact as they are stated in Appendix A and in the documents listed in Appendix B. The Prosecutor requests that the Chamber upon taking judicial notice of the facts in Appendices A and B accept such facts as established in the trial of the Accused.

3. The Prosecutor cautions, however, that she does not request that the Chamber take judicial notice of the ultimate facts at issue in this case with regard to the specific conduct of the Accused and his alleged responsibility for committing the crimes charged in the indictment. The Prosecutor insists judicial notice notwithstanding, the burden of adducing formal proofs of the facts supporting the alleged guilt of the Accused remains with the Prosecution.

4. In Appendix A to the Motion, the Prosecutor prays that this Chamber takes judicial notice of a

2526

panoply of facts, which collectively may fairly be characterised as socio-political historical background facts relating to the existence of "genocide" "armed conflict" and "widespread systematic attacks" against the Tutsi civilian population in Rwanda during the months of April through July, 1994. By submitting Appendix B to the Motion, the Prosecutor argues for admission into evidence by judicial notice of certain documents that comprise legislative and administrative regulations and governmental investigative reports of the genocide in Rwanda, including among others, United Nations reports.

5. The Prosecutor's request for judicial notice rests on the following principal legal grounds. Notably, the Prosecutor submits that the facts in Appendix A belong to the category of facts of common knowledge, which, under Rule 94, are entitled to judicial notice. Pursuing her thesis, the Prosecutor maintains that the Chamber may equally take judicial notice of the facts pursuant to Rule 89. Moreover, the Prosecutor cites Rules 54 and 89 as providing support for the Chamber to take judicial notice of, or accept presumptions of facts contained in Appendices A and B. More specifically, citing Rule 94, the Prosecution contends that the factual matters delineated in Appendix A belong to the category of facts of "common knowledge around the world, facts which are not subject to reasonable dispute, matters which are within the knowledge of the Tribunal, or matters which are self-evident in the circumstances." Alternatively, the Prosecutor argues, without the benefit of Statutory authority or support in the Rules, that the facts in Appendix A qualify to be treated as presumptions because the facts are the logical consequences of basic established facts.

6. With respect to the documents listed in Appendix B to the Revised Memorial, the Prosecutor contends that the documents eminently qualify for judicial notice inasmuch as they are "public documents," created by public officials acting in pursuance of their designated public functions. Further, the documents in Appendix B, the Prosecutor argues, are the proper subject of judicial notice because the facts contained therein have been established in previous proceedings before the Tribunal either through judicial notice or by the formal introduction of positive proof. In this regard, the Prosecutor notes that the Tribunal took judicial notice of United Nations documents previously in, among other cases, *Prosecutor v. Akayesu*, ICTR-95-1-T, at ¶¶ 157, 165 and 627 (Judgement) (2 September 1998). Among a myriad of other legal arguments and authority, the Prosecutor also invokes Article 21 of the Charter of the International Military Tribunal at Nuremberg as additional authority to take judicial notice in the instant case.

7. Finally, the Prosecutor maintains that taking judicial notice or accepting the presumptions of fact it urges will not encroach upon the ultimate question of the guilt or innocence of the Accused in this case. The Prosecutor contends that the taking of judicial notice or the acceptance of factual presumptions she advocates will significantly reduce the length of the trial of this matter without visiting unfair prejudice upon the rights of the Accused to a fair trial.

B. The Defence's Submissions in Opposition To the Motion

8. In its Preliminary Response to the Motion, the Defence submits the Defence Notice in which, among other things, he asks this Chamber to grant him additional time to file a written response to the Motion on the grounds that the Motion was filed while lead counsel for the Defence, Mr. Taku, was on mission in Europe pursuant to a mission order. Additional time is necessary, argues Mr. Taku, because filing a written response would entail extensive references to several of the transcripts of this Chamber and decisions.[2]

9. In the Preliminary Response, the Defence advances the following arguments. First, the Defence contends that the Chamber should deny the Motion because it was brought pursuant to the authority of Rules 54 and 73, Rules which merely provide authority for directing the parties to make admissions of fact, and therefore do not allow for the judicial notice and presumptions of facts the Prosecution seeks in

2527

the instant Motion. In this regard, the Defence claims that the Chamber should not permit the Prosecutor to rely upon the authority of Rules 94 and 89(b) as it does in the table of contents to the Revised Memorial.

10. The Defence next expostulates that the Motion should be denied because it is premature. Thus, even if it were proper for the Chamber to take judicial notice or recognize presumptions of fact, the proper time for such an order would be during the course of the trial of this matter but, not before. In addition, the Defence argues that the Motion should be dismissed because it suffers from certain internal inconsistencies, namely the point made in Part III of the table of contents is at odds with points 12 and 15 of the Prosecutor's submissions because the Defence has consistently refused to make admission of fact in this matter since such was never ordered by the Chamber. Similarly, the Defence submits that the Motion must fail because it contradicts the not-guilty plea entered by the Accused and is therefore an impermissible attempt to relieve the Prosecutor of the burden of proof on contested issues of fact which rest exclusively upon the Prosecutor throughout the trial of this matter. More significantly, the Defence claims that granting the Motion at this juncture would constitute a violation of Article 20 of the Statute and result in gross unfairness and prejudice to the Defendant by rendering nugatory the full scope of the testimony of several witnesses appearing on the Prosecutor's Supplementary List of Witnesses, filed on 19 April 2000. Consequently, argues the Defence, the request for judicial notice is premature and should be allowed only when and if such witnesses are called to testify under oath at trial.

11. The Defence further submits that the Chamber should dismiss the Motion because it calls upon the Chamber to take judicial notice of facts that are contrary to the Statute of the Tribunal and to abdicate its role as an impartial arbiter of the facts. As an example of this alleged contradiction, the Defence notes that the Statute never sanctioned the prosecution of Hutus for committing genocide and other violations against Tutsis as insinuated in Point 4 of the Revised Memorial. In effect, claims the Defence, taking judicial notice of such facts would be tantamount to foreclosing *in futuro* the indictment of any Tutsi or non-Rwandans for committing the very same offences against Hutus, Tutsis, Twas or any other protected persons. In further support of this argument, the Defence claims that judicial notice does not lie because the Defence possesses documents evidencing that the RPF and mercenaries employed by them committed genocide and other serious violations against Rwandan citizens during the temporal jurisdiction of this Tribunal. As evidence of such contradictory facts, the Defence submits copies of certain excerpts from books, pamphlets and United Nations reports.

12. The Defence next attempts to lay waste to the Prosecution's principal argument in support of the Motion by stating that the facts for which judicial notice is sought or the recognition of a presumption are not of such an indisputable character as would qualify them for admission through judicial notice. For example, the Defence argues that the Chamber should not take judicial notice of the fact placing the death toll at between 500,000 and 1,000,000. Similarly, the facts relating to the general political circumstance extant in Rwanda do not belong to the genus of indisputable facts. In the same vein, but perhaps more fundamentally, the Defence is vehement in his argument that the Chamber cannot take judicial notice that certain elements of Hutus committed acts of genocide targeting Tutsis, as alleged in Point 4 of the Revised Memorial. Indeed, claims the Defence, the United Nations resolution and other documents cited by the Prosecutor mandates that all who are believed to have committed the subject offences and violations be tried by the Tribunal, rather than only "certain elements of the Hutu ethnic group," as urged by the Prosecutor.

13. The Defence contends that the Prosecutor's Motion is without legal authority. It is neither supported by the Statute of the Tribunal nor by the previous decisions rendered by the Tribunal. Significantly, the Defence maintains that the fact that matters may have been judicially noticed in other cases does not authorize the same result in the instant Motion since those previous decisions are limited to their particular underlying circumstances. Moreover, the Defence underscores that the Prosecutor has

failed to cite to any specific *ratio decidendi* in the Tribunal's previous cases in which judicial notice was taken as would authorize the same result to obtain under the circumstances in this case. In any event, argues the Defence, the Chamber should not predicate judicial notice in the instant matter upon the precedents set in previous decisions since those matters are still being reviewed by the Appeals Chamber and are therefore inconclusive.

14. When countering the Prosecutor's arguments for the admission of the documents listed in Appendix B, the Defence submits that the documents likewise lack the requisite indisputability as would entitle the Prosecutor to admit them through judicial notice. Moreover, states the Defence, the documents contain statements on political issues that are beyond the parameters of the Tribunal's mandate.

15. Finally, the Defence cautions the Chamber to avoid confounding, as did the Prosecutor, the similar but very discrete concepts of judicial notice and admissions. In this regard the Defence submits Exhibit E, an excerpt from Sakar's Law of Evidence in India, Pakistan, Bangladesh, Burma and Ceylon, 15th ed. (India, 1999). Relying on Sakar's Law of Evidence, the Defence stresses that even if a court takes judicial notice of a fact, such a ruling cannot deprive the opponent of its opportunity to present contradicting evidence on that fact.

II.

DELIBERATIONS AND FINDINGS

A. The Defence Motion For Additional Time To File Written Submissions In Opposition To The Motion

16. As a threshold matter, the Chamber finds that it is neither necessary nor proper for it togrant the Defence additional time to submit more written submissions in opposition to the Prosecutor's Motion. Indeed, since the filing of the Motion the Defence availed itself of the opportunity to make not less than three submissions, complete with supporting legal authorities and exhibits, in opposition to the instant Motion. Notwithstanding its protestation that additional time was necessary to enable it to fully address the issues raised by the Motion, the Chamber finds that the Defence itself concedes that it has adequately, in its own estimation, responded to the Motion. Notably in this regard, at the Pre-Trial Conference in this matter, the Defence upon being denied its motion to postpone the trial asked the Chamber to render decisions on all pending motions. Surely, the Defence would not have insisted on issuance of a decision on the Motion if it still believed that it had not adequately and fully addressed the issues raised in the Motion. *See* Transcript of 25 September 2000, at 66:18-25--67:1-6. Consequently, the Chamber denies the Defence request for additional time to submit written opposition to the Motion. There must be some closure and finality with regard to submissions on pending motions. There must be some finality to litigation.

B. The Prosecution's Motion For Judicial Notice

17. The Chamber notes the importance of the issues raised in the Motion and the Defence's opposition to the Motion. These matters merit full discussion inasmuch as the Defence cogently argues that none of the previous decisions of this Tribunal reveals the *ratio decidendi* by which judicial notice was taken or denied. Consequently, none of the decisions seems to disclose principled guidance as to what genre of facts properly allow a trial court to take judicial notice thereby relieving the Prosecutor of her burden of formally adducing evidence at trial.

18. As a point of departure, it is imperative that the Chamber identify the issues and interests it

must balance in rendering its decision on the Motion. As is plainly evident in the Prosecutor's Motion, the Chamber must contend with the issue of whether the Rules, Statute and previous jurisprudence of the Tribunal properly permit taking judicial notice of the facts contained in Appendix A and of the documents listed in Appendix B. The Chamber must assess whether it may take judicial notice of the reasonable inferences and conclusions that may be drawn from the noticed facts. Under the same rubric, the Chamber must determine whether the noticed fact is to be given conclusive effect, i.e., to be taken as proving a particular relevant fact beyond a reasonable doubt, consequently foreclosing the opportunity of the Defence to present evidence disputing the noticed fact. In addition, the Chamber must consider when is the proper time for taking judicial notice. Finally, the Chamber must assess all of the foregoing issues, against its momentous countervailing mandate to ensure a fair and equitable trial for the Accused.

1. Judicial Notice Under the Rules

19. The Defence invites the Chamber to restrict consideration of the Motion solely on the basis of Rules 54 and 73, as indicated in the title to the Motion. Rule 73(A) invests the parties with the power to make motions for appropriate relief before the Chamber. Rule 54, which is also cited by the Prosecutor as supporting the grant of the relief it seeks in the Motion, reinforces the mandate of Rule 89 by authorising the Chamber, upon the request of a party or *sua sponte*, to issue such orders and other measures as are necessary for purposes of preparation or conduct of the trial. Inasmuch as the Motion and the Revised Memorial correctly invoke Rule 94 and Rule 89, in addition to Rule 54 and Rule 73, the Chamber declines the Defence's invitation to restrict consideration of the Motion to Rules 54 and 73.

a. Policy Reasons for Doctrine of Judicial Notice

20. Legal scholars invariably recite two reasons justifying the application of the doctrine of judicial notice. First, resort to judicial notice expedites the trial by dispensing with the need to formally submit proof on issues that are patently indisputable. Second, the doctrine fosters consistency and uniformity of decisions on factual issues where diversity in factual findings would be unfair. *See* Cross and Tapper on Evidence, 8th ed., Colin Tapper (United Kingdom, 1995) p. 78.

21. One learned legal authority, Bin Cheng, General Principles of Law as Applied by International Courts and Tribunals, p. 303 (England, 1993) (emphasis added) has described judicial notice as follows:

> [C]ertain allegations of the parties that are within the knowledge of the tribunal need no evidence in support. '*Judicial* notice' is taken of the facts averred. Proof may be dispensed with as regards facts, which are of ***common knowledge*** or ***public notoriety*** . . .

b. Judicial Notice of Facts of "Common Knowledge:" Rule 94

22. Rule 94 entitled "Judicial Notice," provides "A Trial Chamber shall not require proof of facts of ***common knowledge*** but shall take judicial notice thereof." Rule 94 (emphasis added). Thus, following Rule 94, a Trial Chamber is permitted to take judicial notice of facts if such facts are "of common knowledge." Rule 94, however, provides no guidance as to what manner of facts constitutes "common knowledge." For an understanding as to what is encompassed under the broad rubric "common knowledge," the Chamber resorts to the learned legal treatises for guidance.

23. The term "common knowledge" is generally accepted as encompassing ". . . those facts which are not subject to reasonable dispute including, common or universally known facts, such as general facts of history, generally known geographical facts and the laws of nature." M. Cherif Bassiouni & P.

2533

Manikas The Law of the International Tribunal for the Former Yugoslavia, (United States of America, 1996) p. 952. *See also*; Phipson on Evidence, 14th ed., §2-06-2-16 (England, 1990); Sakar's Law of Evidence in India, Pakistan, Bangladesh, Burma and Ceylon, 15th ed. (India, 1999) p. 1015; Hon. Roger E. Salhany Criminal Trial Handbook, (Canada, 1994), § 9.5. A common example of a fact of common knowledge are the days of the week. In addition, and perhaps more importantly for the present purposes, "common knowledge" also encompasses those facts that are generally known within a tribunal's territorial jurisdiction. The Law of the International Tribunal for the Former Yugoslavia, at p. 952.

24. Once a Trial Chamber deems a fact to be of "common knowledge" under Rule 94, it must determine also that the matter is reasonably indisputable. A fact is said to be indisputable if it is either generally known within the territorial jurisdiction of a court or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be called into question. *See* General Principles of Law as Applied by International Tribunals, pp. 303-304; 29 American Jurisprudence §33 (United States of America, 1994).

c. Judicial Notice of Notorious *Facts of History*

25. Under the rubric matters of "common knowledge," a court may generally take judicial notice of matters " . . . so notorious, or clearly established or susceptible to determination by reference to readily obtainable and authoritative source that evidence of their existence is unnecessary . . . ." Archibold Criminal Pleading, Evidence & Practice § 10-71 (England, 2000); *see also* Phipson on Evidence, at § 2-06; United States of America Federal Rule of Civil Procedure § 201(B).

26. Article 21 of the Charter of the International Military Tribunal at Nuremberg, which provided for judicial notice of certain matters of common knowledge, further bolsters the propriety of taking judicial notice of some of the facts contained in Appendix A and the documents in Appendix B. In this connection, Article 21 of the Charter provided, in relevant portion:

> The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes, and of records and findings of military or other Tribunals of any of the United Nations.

27. Perhaps the best support of the propriety and fairness of taking judicial notice of certain matters stated in Appendix A and documents in Appendix B comes from the Bangladesh International Crimes (Tribunal) Act of July 19, 1973 because its language coincides with that of Rules 89 and 94. In April of 1973 the newly emerged state of Bangladesh announced its intention to try Pakistani nationals for "serious crimes," including genocide, war crimes, crimes against humanity, breaches of Article 3 of the Geneva Conventions, murder, rape and arson. To facilitate the trials of the accuseds, the Act permits a tribunal to take judicial notice of common knowledge facts. The Act provides in relevant respect:

> (1) A Tribunal shall not be bound by technical rules of evidence; and it shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and may admit any evidence, including reports, and photographs published in newspapers, periodicals and magazines, films and tape-recordings and other materials as may be tendered before it, which it deems to have probative value. . . .
>
> (3) A Tribunal shall not require proof of facts of common knowledge but shall take judicial

notice thereof.

(4) A Tribunal shall take judicial notice of official governmental documents and reports of the United Nations and its subsidiary agencies or other international bodies including non-governmental organisations.[3]

28. A prominent legal treatise, Sakar's Law of Evidence, upon which the Defence heavily relies, states the matter more categorically still. "No court insists upon formal proof by evidence of notorious facts of history past or present." Sakar's at p. 1016. To the extent that the matters in Appendix A are matters of public history, the Chamber may properly dispense with formal proof of such notorious matters. In addition, to illustrate the type of facts that are the proper subject of judicial notice, Sakar's, provides a list of thirteen matters that are so notorious and indisputable that one ought to take judicial notice of them. Sakar's, at p. 999, f.n. 15. According to Sakar's, among the facts that a court is compelled to recognise are facts evidencing: (1) accession to office, names, titles and functions of public officers; (2) commencement or continuation of hostilities between the State and a body of persons; (3) constitutional and political matters; (4) that a government is run by certain political parties. Sakar's, at pp. 1005, 1007-1009.

2. Judicial Notice of Certain Facts in Appendix A

29. Some of the facts the Prosecutor seeks judicial notice of in Appendix A belong to that genus of "common knowledge " or "notorious historical facts" permitting a court to dispense with the submission of formal proofs. For example, the Prosecutor first calls on the Chamber to take judicial notice of the fact that Rwandan citizens were classified into three ethnic groups, namely, Hutu, Tutsi and Twa. Similarly, the fact that during the period from 6 April 1994 to 17 July 1994 there existed throughout Rwanda "widespread and systematic attacks" against the civilian population based on certain invidious classifications including Tutsi ethnic identity, is a notorious historical fact of which this Chamber may take judicial notice. Moreover, the powers of the office of *Bourgmestre* is a proper subject of judicial notice because it falls squarely into the category of matters that are of common knowledge within the jurisdiction of this Tribunal and which may readily be determined by reference to such reliable sources such as the written laws of Rwanda.[4]

30. It also bears noting that within the area of its territorial jurisdiction[5] and within the sphere of its specialised competence, a court is allowed to take judicial notice of an even wider scope of facts of common knowledge and notorious history. Phipson on Evidence, §2-21. *See also*, Sakar's, at p. 1015. Thus, the Chamber may take judicial notice of facts that are notorious within the territories of Rwanda, Burundi and other neighbouring states. *Prosecutor v. Tadic*, IT-94-1-AR72, Transcript of Hearing on Interlocutory Appeal on Jurisdictional Challenge at pp. 107-10 (ICTY Appeals Chamber, 7 September 1995) (finding that that Tribunal must in the interest of fairness take judicial notice of notorious facts). Accordingly, this Chamber may properly take judicial notice of the factual elements constituting the crime of genocide, crimes against humanity and violations of certain provisions of the Geneva Convention with respect to the large number of deaths of civilians in Rwanda during 1994.

31. Disputed facts, necessarily do not belong to that realm of indisputability as historical facts, and other matters of common knowledge as would properly place them within the reach of the Chamber's power to take judicial notice. Having entered a plea of not guilty to all the counts in the indictment, the Accused has placed even the most patent of facts in dispute. However, this alone cannot rob the Chamber of its discretion to take judicial notice of those facts not subject to dispute among reasonable persons. There is no requirement that a matter be universally accepted in order to qualify for judicial notice. *See* Sakar's at 1015.

32. In the instant case, some of the matters the Prosecutor seeks judicial notice of do not appear to be disputed by the Defence. Rather, the Defence disputes Semanza's personal involvement in the offences cited within the facts. Palpably absent from the Defence submissions, is any argument or authority negating the existence of either the "widespread or systematic attacks" or the elemental components of the crime of genocide against Tutsis. Consequently, there is no impediment to taking judicial notice of those matters which are of common knowledge and reasonably indisputable contained in Annexes A and B to this Decision.

3. *Previous Tribunal Cases Taking Judicial Notice*

33. Although no additional authority is needed to support the propriety of taking judicial notice of facts in the instant matter, additional authority may be found in the jurisprudence of this Tribunal. *See e.g.*, *Prosecutor v. Kanyabashi*, ICTR-96-15-T, (Decision on Jurisdiction) (18 June 1997). In rendering a decision on a defence pre-trial motion challenging the jurisdiction of the Tribunal, a unanimous Chamber in *Kanyabashi* rejected the Defence arguments that the Tribunal lacked the jurisdictional predicate under Article 3 of the 1949 Geneva Conventions, by, among other things, taking judicial notice of the fact that the Special Rapporteur for Rwanda, the Commission of Experts on Rwanda and the Security Council had all concluded that the conflict in Rwanda as well as the stream of refugees had created a highly volatile situation in the neighbouring states. *Prosecutor v. Akayesu*, ICTR-96-4-T, (Judgement) at ¶ 627 (2 September 1998); (taking judicial notice of United Nations reports); *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-T, (Judgement) at ¶¶ 273-274 (21 May 1999) (finding that Article 2 of the Statute which defines genocide is not aimed at determining individual responsibility or guilt, rather a finding that genocide occurred merely provided a context in which the crimes alleged in the indictment may have been perpetrated).

34. The Chamber is mindful not to confound the related but discrete concepts of admissions and judicial notice. Thus, the Chamber notes that the Prosecutor's reliance on those cases in which the accused entered a plea of guilty pursuant to a plea agreement or in which the accused voluntarily admitted facts, thereby relieving the Prosecutor of its burden to prove such facts by formal proof, is misplaced. That an accused admits a fact pursuant to a plea agreement reveals nothing about the nature of the facts as either common knowledge or as indisputable. Similarly, facts that are voluntarily admitted by a an accused in the context of a proceeding are not the proper subject of judicial notice because such admissions speak neither to the general currency of the fact nor to its indisputable character. For these reasons, the Chamber is not persuaded to take judicial notice of the facts at issue in the instant Motion on the basis of the jurisprudence in the cases cited by the Prosecution.[6] Accordingly, the Chamber shall not take judicial notice of the matters in Appendix A at ¶¶ 8(e), 9, 10, 11, 12, 13, and 14.

35. In addition, the Chamber cannot take judicial notice of matters, which are unadorned legal conclusions. Accordingly, the Chamber shall not take judicial notice of the matters in ¶¶ 3(a) (ii), (iii); (e), (d) (f), (g), (i), (j), (k), and (l) in Appendix A because these paragraphs do not contain facts of common knowledge or matters of public notoriety. Rather, they merely recite bare legal terminology borrowed verbatim from Article 3 of Statute of the Tribunal, which lists Crimes Against Humanity. In order to make the matters stated in the foregoing paragraphs eligible for judicial notice, the Prosecutor must state the specific acts or factual matters of which the Trial Chamber is being asked to take judicial notice. Moreover, the Chamber shall not take judicial notice of those facts recited in ¶¶ 4, 5(a), 8(e), and 9-21 in Appendix A because such matters are not reasonably indisputable.

4. Judicial Notice of enumerated Acts Comprising Crime of "Genocide"

36. A fundamental question in this case is whether "genocide" took place in Rwanda.

2533

Notwithstanding the over-abundance of official reports, including United Nations reports confirming the occurrence of genocide, this Chamber believes that the question is so fundamental, that formal proofs should be submitted bearing out the existence of this jurisdictional elemental crime. *Kayishema*, Judgement at ¶ 273 (referring to "genocide," and holding "the question is so fundamental to the case against the accused that the Trial Chamber feels obliged to make a finding of fact on the issue"). The Chamber shall take judicial notice of the existence of the enumerated acts comprising the crime of genocide as provided in Article 2 and recited in ¶3(a) of Appendix A, including killing or causing serious bodily harm to members of a group.

37. In the interest of safeguarding the Accused's right to a fair trial and in the interest of fostering judicial economy and consistency, this Chamber takes judicial notice of some of the facts contained in Appendix A to the Revised Memorial, as indicated in Annex A to this Decision.

5. Judicial Notice of Documents in Appendix B

38. Similarly, concerning the documents listed in Appendix B, there is ample precedent in this Tribunal to take judicial notice of the existence and authenticity of such documents without taking judicial notice of the contents thereof. The Chamber, nevertheless, shall take judicial notice of the contents of resolutions of the Security Council and of statements made by the President of the Security Council because it is an organ of the United Nations which established the Tribunal. In addition, the Chamber takes judicial notice of the contents of Décret-Loi no. 01/81 and Arrete ministeriel no. 01/03, which are the copies of certain portions of the laws of Rwanda and properly qualify for judicial notice. The Chamber stresses, however, that by taking judicial notice of the existence and authenticity of the other documents in Appendix B, the Chamber does not take judicial notice of the facts recited therein.

39. It bears noting that the Tribunal has previously taken judicial notice of the very documents listed in Appendix B for purposes of providing an historical and political context for the offences with which an accused is charged. *Prosecutor v. Akayesu*, ICTR-96-4-T, (Judgement) at ¶¶ 157, 165 (2 September 1998). The Defence provides no principled reason why this Chamber should depart from the authority of *Akayesu*. The Tribunal having previously adjudicated the existence of the very documents and facts of which the Prosecutor seeks judicial notice, it would be wasteful of the Tribunal's resources for this Chamber to now insist upon formal proof of matters of notorious public history. To adopt such an approach would flout the very principles underlying the doctrine of judicial notice: judicial economy and consistency of judgements.

40. Accordingly, this Chamber takes judicial notice of the documents listed in and appended to Appendix B to the Revised Memorial, without modification, as indicated in Annex B to this Decision.

6. Judicially Noticed Facts Serve as Conclusive Evidence

41. In the case before this Chamber, in exercise of its sound discretion under Rules 94 and 89(B), the Chamber holds that the judicially noticed facts shall serve as conclusive proof of the facts recited in Annexes A and B. The taking of judicial notice of those facts in Annexes A and B will end the evidentiary inquiry. To permit the Defence to submit evidence in rebuttal of the judicially noticed facts would undermine the very nature of the doctrine which is aimed at dispensing with formal proofs for matters that are of common knowledge and reasonably indisputable. The facts in Annex A that the Chamber has judicially noticed are of common knowledge or public notoriety and reasonably indisputable. Such an approach safeguards the right of the Accused to a fair trial without undue delay, as is his due pursuant to the Statute and the Rules. *See* Article 20; Rule 87(A).

2534

7. No Judicial Notice of Inferences

42. The Prosecutor requests that the Chamber take judicial notice of the inferences, without elaboration, that may be fairly drawn from judicially noticed facts. In this regard, Rule 89 permits this Chamber to determine whether it may properly take judicial notice of the logical inferences that may be drawn from the judicially noticed facts in Appendix A and documents in Appendix B. In the interest of protecting the rights of the Accused, the Chamber finds that pursuant to Rule 94 it cannot take judicial notice of inferences to be drawn from the judicially noticed facts in Appendix A. If and when those facts are presented in evidence, that will be the appropriate time for the Chamber to draw the relevant conclusions.

43. It must be stressed, at this time the Chamber draws no impermissible inferences regarding the Accused's involvement in those matters of which it takes judicial notice. The burden of proving the Accused's guilt, therefore, continues to rest squarely upon the shoulders of the Prosecutor for the duration of the trial proceeding. The critical issue is what part, if any, did the Accused play in the events that took place.

8. Time for Taking Judicial Notice

44. The Chamber finds that the proper time for taking judicial notice of the matters contained in Appendices A and B is at this stage of the proceedings. In the interest of aiding the parties in preparing their respective trial presentations the Chamber is constrained to take judicial notice of some of the facts contained in Appendix A, as modified, and of the documents in Appendix B at this time. This Decision shall become part of the trial record of this case.

9. No Presumptions of Fact

45. Having found that Rule 94 adequately provides for the judicial notice of some of the facts sought to be admitted in Appendix A and the documents in Appendix B, the Chamber need not reach that portion of the Prosecutor's Motion requesting the Chamber to create evidentiary presumptions on the basis of the facts stated in the two appendices. Rule 89(B) already provides for the particular matter under consideration, There is, therefore, no need for the Tribunal to apply any other evidentiary rules or principles.

Conclusion

46. In conclusion, the Chamber considers that it is appropriate to apply the doctrine of judicial notice in the context of this case in some of the instances requested by the Prosecutor because to do so will ensure the Accused a fair trial without undue delay rather than one unnecessarily drawn out by the introduction of evidence on matters which are patently of common knowledge in the territorial area of the Tribunal and reasonably indisputable. The facts of which the Chamber takes judicial notice will not place even the smallest chink in the armour of presumed innocence in which the Accused is cloaked throughout the proceeding. In this regard the Tribunal's pronouncement in *Prosecutor v. Akayesu*, ICTR-96-4-T, (Judgement) at ¶129 (2 September 1998), with respect to the "general allegations" of which it took judicial notice, is particularly instructive. The *Akayesu* Chamber stated:

> [T]he Chamber holds that the fact that the [enumerated crimes constituting] genocide [were] indeed committed in Rwanda in 1994 and more particularly in Taba, cannot influence its decision in the present case. Its sole task is to assess the individual criminal responsibility of the accused for the crimes with which he is charged, the burden of proof being on the

2535

prosecutor. [Footnote omitted] In spite of the irrefutable atrocities of the crimes committed in Rwanda, the judges must examine the facts adduced in a most dispassionate manner, bearing in mind that the accused is presumed innocent.

47. By taking judicial notice of some of the facts in Appendix A and the documents in Appendix B, the Chamber merely provides a backdrop -- a blank canvas-- against which the Prosecutor is still saddled with the daunting burden of adducing formal evidence to paint the picture establishing the personal responsibility of the Accused for the offences with which he is charged in the indictment beyond a reasonable doubt.

48. **FOR THESE REASONS THE CHAMBER:**

(a) **DENIES** those portions of the Defence's Notice to File Further Written Replies to Prosecutor's Response in the Defence Motion For Dismissal of the Entire Proceeding Filed on the 30 June 2000 and 14 July 2000 and the Prosecutor's Revised Memorial in the Prosecution's Motion for Judicial Notice (Rules 54 and 73), seeking additional time to file written responses to the instant Motion.

(b) **GRANTS** the Prosecutor's Motion and takes judicial notice of the facts and documents described in **Annex A** and **Annex B**, attached hereto.

(c) **ORDERS** that this Decision become part of the trial record of this case.

(d) **DENIES** the Prosecutor's requests made in the Motion: (i) to create evidentiary presumptions on the basis of the facts in Appendices A and B and (ii) to take judicial notice of inferences that may be drawn from the judicially noticed facts.

Arusha, 3 November 2000.

Lloyd George Williams	Yakov Ostrovsky	Pavel Dolenc
Judge, Presiding	Judge	Judge

[Seal of the Tribunal]

ANNEX A

1. Between 6 April 1994 and 17 July 1994, citizens native to Rwanda were severally identified according to the following ethnic classifications: Tutsi, Hutu and Twa.

2. The following state of affairs existed in Rwanda between 6 April 1994 to 17 July 1994. There were throughout Rwanda widespread or systematic attacks against a civilian population based on Tutsi ethnic identification. During the attacks, some Rwandan citizens killed or caused serious bodily or mental harm to persons perceived to be Tutsi. As a result of the attacks, there was a large number of deaths of persons of Tutsi ethnic identity.

3. Between 1 January 1994 and 17 July 1994 in Rwanda there was an armed conflict not of an

2536

international character.

4. Between 1 January 1994 and 17 July 1994, Rwanda was a state party to the *Convention on the Prevention and Punishment of the Crime of Genocide* (1948), having acceded to it on 16 April 1975.

5. Between 1 January 1994 and 17 July 1994, Rwanda was a state party to the Geneva Conventions of 12 August 1949 and their additional Protocol II of 8 June 1977, having succeeded to the Geneva Conventions of 12 August 1949 on 5 May 1964 and having acceded to Protocols additional thereto of 1977 on 19 November 1984.

6. Before the introduction of multi-party politics in Rwanda in 1991, the office of the *Bourgmestre* was characterised by the following features:

(a) The *Bourgmestre* represented executive power at the *commune* level.

(b) The *Bourgmestre* was appointed and removed by the President of the Republic on the recommendation of the Minister of the Interior.

(c) The *Bourgmestre* had authority over the civil servants posted in his *commune*.

(d) The *Bourgmestre* had policing duties in regard to maintaining law and order.

ANNEX B

i. Décret-Loi no. 01/81 du 16 janvier 1981 relatif au recensement à la carte d'identité, au domicile et à la residence des Rwandais.

ii. Arrete ministeriel no. 01/03 du 19 janvier 1981 portant mesures d'execution du décret-Loi no. 01/81 du 16 janvier 1981 relatif au recensement à la carte d'identite, au domicile et à la résidence des Rwandais: J.O. no. 2 *bis* du 20 janvier 1981.

iii. Commission pour le memorial du génocide et des massacres au Rwanda, "Rapport préliminaire d'identification des sites du génocide et des massacres d'avril–juillet 1994 au Rwanda."

iv. UN Secretary-General, "Report on the situation of Human Rights in Rwanda" submitted by Mr. R Degni-Ségui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of commission resolution E/DN.4/S-3/1 of 25 May 1994, 28 June 1994, pages 5, 6, 7, 8 and 17. UN Document E/CD.4/1995/7.

v. UN Secretary General, 'Report on the situation of Human Rights in Rwanda' submitted by Mr R. Degni-Ségui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of commission resolution E/DN.4/S-3/1 of 25 May 1994, 18 January 1995. UN Document E/CD.4/1995/7.

vi. UN Secretary-General, "Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 935 (1994)". UN Document S/1994/1405, 9 December 1994.

vii. Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on his mission to Rwanda, submitted by Mr. Bacre Waly Ndiaye, 8–17 April 1993, including as annex II the

statement of 7 April 1993 of the Government of Rwanda concerning the final report of the independent International Commission of Inquiry on human rights violations in Rwanda since 1 October 1990. UN Document E/CN.4/1994/7/add.1, 11 août 1993.

viii. Rapport spécial du Secrétaire Général sur la Mission des Nations Unies pour l'assistance au Rwanda (MINUAR), le 20 avril 1994. UN Document S/1994/470.

ix. Report of the United Nations High Commission for Human Rights on his Mission to Rwanda of 11–12 May 1994, dated 19 May 1994. UN Document E/CN.4/S-3/3.

x. The United Nations and Rwanda 1993–1996. The United Nations Blue Books Series, Volume X (New York: Department of Public Information, United Nations, 1995).

---

[1] By memorandum dated 14 July 2000 and filed on the same date, the Prosecutor transmitted the Revised Memorial including Appendices A and B with the express intent that the Revised Memorial supersede and replace the Memorial. Accordingly, the Chamber did not consider the Memorial together with its Appendices A and B in its deliberations on the instant motion.

[2] Appended to the Defence Notice, is a copy of letter dated 10 July 2000 from the Registry informing the reader that Mr. Taku "will be on mission in Tanzania, France, Belgium, Holland, Norway and Germany during the moth of July, August and September 2000." (Emphasis in original). The letter does not indicate what portion of Mr. Taku's mission was to be spent in Tanzania.

[3] Prominent legal commentators have hailed the Bangladesh International Crimes (Tribunal) Act as a model of international due process. *See* Jordan J. Paust, M Cherif Bassiouni, et al., International Criminal Law: Cases and Materials, p. 751 (United States of America, 1996).

[4] The powers of the *Bourgmestre* of which the Prosecutor seeks judicial notice are described in the following Articles of Loi du 23 November 1963 (reprinted in Code et Loi du Rwanda, Reyntjens, F. et Gorus, J. eds. (1995): Art. 57 (the *Bourgmestre* is charged with the execution of the laws and regulations at the commune); Art. 38 (the *Bourgmestre* is nominated by the President of the Republic on the recommendation of the Minister of the Interior); Art. 58(11) (the *Bourgmestre* is charged with exercising administrative control over civil servants or agents of the government assigned to the commune); and Art. 62, 103 and 104 (The *Bourgmestre* hire and is the sole authority over communal police. In addition, he may incarcerate anyone causing public disorder).

[5] Article 7 of the Statute of the Tribunal provides, in relevant portion: "The territorial jurisdiction of the [Tribunal] shall extend to the territory of Rwanda including its land surface and airspace as well as the territory of neighbouring States. . . . "

[6] *See*, *Prosecutor v. Kambanda*, ICTR-97-23-S, Judgement and Sentence, (4 September 1998) (defendant made wide variety of admissions of disputed facts in indictment as part of plea agreement); *Prosecutor v. Serushago*, ICTR-98-39-S, Sentence (5 February 1999) (defendant made many admissions incident to a plea agreement); and *Prosecutor v. Musema*, (ICTR-96-13-T), Judgement and Sentence (defendant made several admissions before trial, including admissions of existence of genocide, armed conflict and Tusti extermination) (27 January 2000).

PROSECUTION INDEX OF AUTHORITIES

2. *Prosecutor v. Simic* et al., IT-95-9-PT, Decision on the Pre-trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the International Character of the Conflict in Bosnia-Herzegovina, 25 March 1999.

2539

IN THE TRIAL CHAMBER

Before:
Judge Richard May, Presiding
Judge Mohamed Bennouna
Judge Patrick Robinson

Registrar:
Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of:
25 March 1999

PROSECUTOR

v.

BLAGOJE SIMIC
MILAN SIMIC
MIROSLAV TADIC
STEVAN TODOROVIC
SIMO ZARIC

DECISION ON THE PRE-TRIAL MOTION BY THE PROSECUTION REQUESTING THE TRIAL CHAMBER TO TAKE JUDICIAL NOTICE OF THE INTERNATIONAL CHARACTER OF THE CONFLICT IN BOSNIA-HERZEGOVINA

The Office of the Prosecutor

Ms. Anne-Birgitte Haslund
Ms. Mary MacFadyen
Ms. Nancy Paterson

Counsel for the accused

Mr. Branimir Avramovic for Milan Simic
Mr. IgorPantelic, for Miroslav Tadic
Mr. Deyan Ranko Brashich, for Stevan Todorovic
Mr. Borislav Pisarevic, for Simo Zaric

THIS TRIAL CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991 ("the International Tribunal"),

25440

BEING SEISED of the Pre-Trial Motion by the Prosecution Requesting the Trial Chamber to Take Judicial Notice of the International Character of the Conflict in Bosnia-Herzegovina ("the Motion"), filed by the Office of the Prosecutor ("the Prosecution") on 16 December 1998, and the Defence Response to the Motion filed by counsel for the accused Simi}, Tadi} and Zari} on 3 February 1999,

NOTING the written submissions of the parties and their oral arguments heard on 23 February 1999,

NOTING that, pursuant to Rules 73 and 94 of the Rules of Procedure and Evidence ("the Rules"), the Prosecution requests the Trial Chamber to take judicial notice of the international character of the armed conflict in Bosnia and Herzegovina ("BiH") at least for the period starting on 6 March 1992 or at the latest by 6 April 1992, and ending at the earliest on 19 May 1992 ("international character of the conflict").

NOTING that the Prosecution submits that the international nature of the conflict is based on the facts that BiH declared its independence on 6 March 1992, which was internationally recognised in April 1992, and that at that time there was an armed conflict taking place on the BiH territory, in which the National Yugoslav Army (JNA), and the armed forces of another state, the Socialist Federal Republic of Yugoslavia, was involved,

NOTING that the Prosecution bases its request alternatively on Rule 94(A) (facts of common knowledge) or Rule 94(B) (adjudicated facts or documentary evidence from other proceedings of the Tribunal),

NOTING FURTHER that as to Rule 94(A), the Prosecution submits that "because of the unanimous jurisprudence" of the Tribunal, the international character of the conflict is a fact of common knowledge or "at the very least" a fact of common knowledge "within this Tribunal", and that the international character of the conflict also is a historical fact of common knowledge,

NOTING that as to Rule 94(B), the Prosecution argues that the international character of the conflict is an adjudicated fact that was already determined in other proceedings before the Tribunal, that the judgements in the *Tadic*[1] and *Celebici*[2] cases addressing this issue fall within the scope of Rule 94(B), that if the issue at hand in both cases is not under appeal, it can be considered as final and thus be considered as an adjudicated fact,

NOTING that the Defence opposes the Motion and submits, based on a review of international and national practice, that a Trial Chamber may only take judicial notice of notorious facts which cannot be reasonably disputed, "or capable of immediate and accurate demonstration by resorting to readily accessible sources of indispensable accuracy", and that the issue of judicial notice should be approached in criminal proceedings "with great caution and care",

NOTING that the Defence contends that the character of the conflict in BiH is a controversial issue,

NOTING FURTHER that the Defence contends that the *Tadi}* and *Celebici* judgements cannot be considered as adjudicated facts under Rule 94(B) as the issue of the international character of the conflict is, or likely to be, under appeal in both judgements,

NOTING that the Defence further submits that judicial notice of the international character of the conflict would jeopardise the rights of the accused under Article 21 of the Tribunal's Statute, in particular their right to a fair trial and right to examine or have examined the evidence presented by the Prosecutor, and that the accused have a right to an independent determination of the facts at issue,

25L-1

NOTING that the Defence argues that the characterisation of the conflict is an issue of interpretation of historical facts which requires *inter partes* discussion, and that a Trial Chamber may not take judicial notice of legal conclusions by other Trial Chambers based on their interpretation of facts,

NOTING that during the hearing the Defence also made an oral offer of proof which was rejected by the Trial Chamber,

CONSIDERING that Sub-Rule 94(A) of the Rules provides that a Trial Chamber shall not require proof of facts of common knowledge but shall take judicial notice thereof, and that pursuant to Sub-Rule 94(B), a Trial Chamber, after hearing the parties, at the request of a party or *proprio motu*, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings,

CONSIDERING that the issue is whether the Trial Chamber may take judicial notice of the international character of the conflict, i.e. whether the character of the conflict may be considered as either a fact of common knowledge, or an adjudicated fact for the purpose of judicial notice under Rule 94, and that this issue does not warrant, at this stage, examining the evidence on the character of the conflict,

CONSIDERING that the purpose of judicial notice under Rule 94 is judicial economy, that Rule 94 should be interpreted as covering facts not subject to reasonable dispute, and that a balance should be struck between judicial economy and the right of the accused to a fair trial,

CONSIDERING that the request is aimed at permitting the application of the counts of the indictment based on the grave breaches regime of the Geneva Convention (Article 2 of the Statute), as, according to the Tribunal's jurisprudence, the Prosecution must *inter alia* prove the existence of an international armed conflict for this purpose,

CONSIDERING as to the issue of the characterisation of the conflict, that the Appeals Chamber in its Jurisdiction Decision in the *Tadi}* case held that different conflicts of different nature took place in the former Yugoslavia and that it would be for each Trial Chamber, depending on the circumstances of each case, to make its own determination on the nature of the armed conflict upon the specific evidence presented to it,

CONSIDERING that along the lines of the Tribunal's jurisprudence on the binding character of other Trial Chambers' finding as to the international character of the conflict, these findings have no binding force except between the parties in respect of a particular case ("effet relatif de la chose jugée" in French), that the circumstances of each case are different, and that as regards the controversial issue of the nature of the conflict, which involve an interpretation of facts, both parties should be able to present arguments and evidence on them,

CONSIDERING FURTHER that Rule 94 is intended to cover facts and not legal consequences inferred from them, that the Trial Chamber can only take judicial notice of factual findings but not of a legal characterisation as such,

CONSIDERING however that (1) BiH's proclamation of independence on 6 March 1992, and (2) its recognition by the European Community on 6 April 1992 and by the United States on 7 April 1992, are facts of common knowledge under Sub-Rule 94(A) of which the Trial Chamber will *proprio motu* take judicial notice[3],

2542

PURSUANT TO Rules 73 and 94 of the Rules of the International Tribunal,

HEREBY DISMISSES THE MOTION as to judicial notice of the international character of the conflict in Bosnia and Herzegovina, and *proprio motu* takes judicial notice of the following facts

1. Bosnia and Herzegovina proclaimed its independence from the Socialist Federal Republic of Yugoslavia on 6 March 1992;
2. The independence of Bosnia and Herzegovina as a State was recognised by the European Community on 6 April 1992 and by the United States on 7 April 1992.

Done in English and French, the English text being authoritative.

_____

Richard May
Presiding Judge

Dated this twenty-fifth day of March 1999
At The Hague
The Netherlands

[Seal of the Tribunal]

---

1. *Prosecutor v. Dusko Tadic*, Opinion and Judgment, Case No. IT-94-1-T, 7 May 1997 ("*Tadic* judgment").
2. *Prosecutor v. Zejnil Delalic et. al.*, Case No. IT-96-21-T, 16 November 1998 ("*Celebici* judgment")
3. See for instance Order on Prosecution Request for Judicial Notice, *The Prosecutor v. Milan Kovacevic*, Case no. IT-97-24-PT, 12 May 1998.

PROSECUTION INDEX OF AUTHORITIES

3. *Prosecutor v. Sikirica* et al., IT-95-8-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 27 September 2000.

2544

IN THE TRIAL CHAMBER

Before:
Judge Richard May, Presiding
Judge Mohamed Bennouna
Judge Patrick Robinson

Registrar:
Mrs. Dorothee de Sampayo Garrido-Nijgh

Order of:
27 September 2000

PROSECUTOR

v.

DUSKO SIKIRICA
DAMIR DOŠEN
DRAGAN KOLUNDŽIJA

DECISION ON PROSECUTION MOTION FOR JUDICIAL NOTICE OF ADJUDICATED FACTS

Office of the Prosecutor:

Mr. Dirk Ryneveld
Mr. Daryl Mundis

Counsel for the Accused:

Mr. Veselin Londrovic, for Dusko Sikirica
Mr. Vladimir Petrovic, for Damir Došen
Mr. Dušan Vucicevic, for Dragan Kolundžija

THIS TRIAL CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 ("the International Tribunal"),

BEING SEISED of a "Prosecution's Motion for Judicial Notice of Adjudicated Facts" filed by the Office of the Prosecutor ("Prosecution") on 4 April 2000 ("First Motion"), in which it is proposed that judicial notice be taken of 561 facts from the Tadic and Celebici Judgments[1],

NOTING the "Defence Response to Prosecution's Motion for Judicial Notice of Adjudicated Facts and

2545

Admission of Documentary Evidence", filed by the Defence for the accused Damir Došen on 26 May 2000 ("Došen Defence Response"),

NOTING the "Kolundzija's Defence Response to Prosecution's Motion for Judicial Notice of Adjudicated Facts" filed by the Defence for the accused Dragan Kolundzija, on 26 May 2000 ("Kolundzija Defence Response"),

NOTING the "Prosecution's Notice of Additional Authority in Support of the 'Prosecution's Motion for Judicial Notice of Adjudicated Facts' filed on 4 April 2000", filed by the OTP on 22 June 2000,

NOTING the initial appearance of the accused Duško Sikirica on 7 July 2000,

NOTING the "Order on Prosecution Motion for Judicial Notice of Adjudicated Facts" issued by the Trial Chamber on 1 August 2000, in which the OTP was ordered to serve a similar Motion on the Defence for the accused Duško Sikirica and the accused was ordered to respond to the Motion,

NOTING the "Prosecution's Motion for Judicial Notice of Adjudicated Facts as Against Duško Sikirica" filed on 7 August 2000 ("Second Motion") and "Defence Response to Prosecution's Motion for Judicial Notice of Adjudicated Facts and Admission of Documentary Evidence", filed by the Defence for the accused Duško Sikirica on 4 September 2000 ("Sikirica Defence Response"),

HAVING HEARD the arguments of the parties in open session on 23 June **and 15 September** 2000,

NOTING the arguments of the Prosecution, *inter alia*, that

1. The Tadic and Celebici Judgments contain factual findings which are relevant to this case, including those from the Tadic Judgment relevant to events in the Prijedor municipality and the Omarska, Keraterm and Trnopolje camps;

2. The Tadic Judgment has been subjected to appellate scrutiny and none of the relevant facts set out in the Motions were contradicted by the findings of the Appeals Chamber;

3. The facts referred to in the Motions equate to adjudicated facts as envisaged by Rule 94 (B) of the Rules of Procedure and Evidence ("Rules");

4. The facts referred to in the Motions establish the necessary background to place the crimes charged in context and are relevant to establishing a number of relevant matters, including:

(a) motive, intent, knowledge, preparation and planning by the accused;

(b) that there was a widespread or systematic attack on the Bosnian Muslim and Bosnian Croat population in the Prijedor municipality (an element of proof under Article 5 of the Statute of the International Tribunal ("Statute")) and that the operation of the Omarska, Keraterm and Trnopolje camps was one aspect of this attack;

(c) the maltreatment in the camps reflected the objective of the Bosnian Serb authorities to "ethnically cleanse" the area of Bosnian Muslims and Bosnian Croats, amounting to persecution;

2546

(d) at the time of the commission of the crimes alleged there was an ongoing armed conflict in the Prijedor area;

5. Admission of the facts referred to in the Motions is consistent with the objective of judicial economy, is consistent with the rights of the accused and serve the interests of justice;

6. Admission of the facts referred to in the Motions would expedite the trial and reduce the resources required by the parties to present their cases; and

7. The Trial Chamber should apply the same rationale as Trial Chamber I in the *Kvocka* case[2], which, on the basis of 444 agreed facts, proceeded to make findings of law as to those facts and decided upon elements of the offences[3],

NOTING the position of the Defence for Damir Došen and Duško Sikirica that, of the facts set out in the Motions, 64 could be agreed, and the position of the Defence for Dragan Kolundzija that 101 of the facts set out in the Motions could be agreed,

NOTING that the Defence for the three accused each assert that the Motions should be otherwise rejected, arguing, *inter alia*, that

1. Rule 94 of the Rules relates to facts of common knowledge and the facts in the Motions cannot be so categorised;

2. The facts in the Motions are simplified, inaccurate and misleading and cannot form the basis for making conclusions about events relevant to the amended indictment in these proceedings;

3. The facts in the Motions directly imply individual criminal responsibility of the accused and, in fact, their acceptance would lead to an indirect plea of guilty by the accused;

4. The facts in the Motions taken from the Celebici judgment are not in the proper sense adjudicated as they are the subject of ongoing appellate proceedings;

5. The adoption of facts from the Tadic Judgment violate the right of an accused

(a) to challenge particular facts relevant to the circumstances of his own case;

(b) to challenge facts which in the Tadic case led to legal findings on the application of Articles 3 and 5 of the Statute;

(c) because there was very little cross-examination in that trial on the facts now sought to be admitted as adjudicated facts;

6. The facts admitted under Rule 94 in the *Kvocka* case were admitted by agreement of the parties, which is not the case here; and

7. The admission of the facts in the Motions would have the effect of shifting the burden of proof onto the accused.

2547

NOTING that the Motion is made pursuant to Sub-rule 94 (B), which provides

> "...
>
> (B) At the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings."

CONSIDERING that the purpose of judicial notice is to achieve judicial economy and a balance between judicial economy and the right of the accused to a fair trial must be achieved,

CONSIDERING that the Trial Chamber can only take judicial notice of facts which are not the subject of reasonable dispute and that facts involving interpretation or legal characterisations of facts are not capable of admission under Rule 94[4],

CONSIDERING that it is appropriate for the Trial Chamber to take judicial notice of facts which are agreed between the parties,

CONSIDERING that, otherwise, the facts which are sought to be admitted by the Prosecution pursuant to Rule 94 (B) are mainly facts which can be characterised either as controversial, or involving legal conclusions or mixed findings of fact and law,

CONSIDERING that the Prosecution also invites the Trial Chamber to draw legal conclusions from the facts sought to be admitted on the basis that this was done by another Trial Chamber of the International Tribunal,

CONSIDERING FURTHER that this Trial Chamber is not bound by decisions of another Trial Chamber and that it is not the purpose of Rule 94 (B) to allow findings on contested matters of law at this stage of the proceedings, the purpose of Rule 94 (B) being to narrow the factual issues in dispute in the relevant proceedings,

CONSIDERING that the Prosecution seek to have admitted under Rule 94 (B) findings of fact from two judgments, one of which is the subject of an uncompleted appeal and that, as regards facts which involve interpretation, both parties should be able to present arguments and evidence on them,

PERSUANT TO Rule 94

HEREBY ALLOWS the Motions in respect of the following facts set out in the Annex to the First Motion which are agreed between the parties:

Paragraphs 1, 2, 5, 11, 12, 13, 21, 22, 23, 24, 25, 29, 35, 37, 38, 39, 41, 46, 63, 78, 79, 80, 83, 84, 85, 96, 97, 99, 100, 101, 103, 104, 105, 106, 107, 108, 113, 115, 119, 120, 123, 126, 127, 268, 269,

of which the Trial Chamber will take judicial notice.

AND OTHERWISE DENIES the Motion.

Done in English and French, the English text being authoritative.

Richard May
Presiding

2543

Dated this twenty-seventh day September of 2000
At The Hague
The Netherlands

[Seal of the Tribunal]

---

1. *Prosecutor v. Duško Tadic*, "Opinion and Judgment", Case No. IT-94-1-T, 7 May 1997; *Prosecutor v Zejnil Delalic & Ors.*, "Judgement", Case No. IT-96-21-T, 16 Novemebr 1998.
2. *Prosecutor v. Kvocka & Ors.*, "Decision on Judicial Notice", Case No. IT-98-30-1-T, 8 June 2000 (hereafter "*Kvocka* Decision").
3. Ibid. This argument appears in "Prosecution's Notice of Additional Authority in Support of the 'Prosecution's Motion for Judicial Notice of Adjudicated Facts'", 4 April 2000 and the Transcript of these proceedings, 23 June 2000, in particular page 359.
4. See, for example, *Prosecutor v. Blagoje Simic & Ors.*, "Decision on the Pre-Trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the International Character of the Conflict in Bosnia-Herzegovina", Case No. IT-95-9-PT, 25 March 1999.

PROSECUTION INDEX OF AUTHORITIES

4. *Prosecutor v. Nyiramasuhuko and Ntahobali* (ICTR-97-21-T), *Prosecutor v. Nsabimana and Nteziryayo* (ICTR-97-29A and B-T), *Prosecutor v. Kanyabashi* (ICTR-96-15-T), *Prosecutor v. Ndayambaje* (ICTR-96-8-T), 98-42-T, Decision on the Prosecutor's Motion for Judicial Notice and Admission of Evidence, 15 May 2002.

2550

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

United Nations
Nations Unies

TRIAL CHAMBER II

Or. Eng.

Before:
Judge William H. Sekule, Presiding
Judge Winston C. Matanzima Maqutu
Judge Arlette Ramaroson

Registrar: Adama Dieng

Date: 15 May 2002

The PROSECUTOR
v.
Pauline NYIRAMASUHUKO
and
Arsène Shalom NTAHOBALI
Case No. ICTR-97-21-T

The PROSECUTOR
v.
Sylvain NSABIMANA
and
Alphonse NTEZIRYAYO
Case No. ICTR-97-29A and B-T

The PROSECUTOR
v.
Joseph KANYABASHI
Case No. ICTR-96-15-T

The PROSECUTOR
v.
Elie NDAYAMBAJE
Case No. ICTR-96-8-T

(Case No. 98-42-T)

DECISION ON THE PROSECUTOR'S MOTION FOR JUDICIAL NOTICE AND ADMISSION OF EVIDENCE

25551

The Office of the Prosecutor
Silvana Arbia
Japhet Mono
Jonathan Moses
Adesola Adeboyejo
Gregory Townsend
Manuel Bouwknecht

Counsel for Kanyabashi
Michel Marchand
Michel Boyer

Counsel for Ndayambaje
Pierre Boulé

Counsel for Nsabimana
Josette Kadji
Charles PatieTchakoute

Counsel for Nteziryayo
Titinga Frédéric Pacere
Richard Perras

Counsel for Nyiramasuhuko
Nicole Bergevin
Guy Poupart

Counsel for Ntahobali:
Duncan Mwanyumba
Normand Marquis

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the "Tribunal");

SITTING as Trial Chamber II composed of Judge William H. Sekule, Presiding, Judge Winston C. Matanzima Maqutu and Judge Arlette Ramaroson (the "Chamber");

BEING SEIZED OF

(i) The "Prosecutor's Motion for Judicial Notice and Admission of Evidence", with Annexes A, B and C, and the "Prosecutor's Book of Authorities for Judicial Notice and Admission of Evidence", filed on 23 May 2001 (the "Motion");

(ii) The "Addendum to Prosecutor's Motion for Judicial Notice and Admission of Evidence" containing all available documents in French from the "Prosecutor's Book of Authorities", filed on 6 June 2001 (the "Addendum");

CONSIDERING the following submissions;

2552

For Kanyabashi:

(a) The "Requête urgente demandant un délai supplémentaire pour produire une réponse à la requête du Procureur visant à obtenir un constat judiciaire[1]", filed on 31 May 2001;

(b) The "Preliminary Response by the Accused Joseph Kanyabashi to the Prosecutor's Motion for Judicial Notice", filed on 6 June 2001 followed by the "Prosecutor's Reply to Kanyabashi's Preliminary Response to the Prosecutor's Motion for Judicial Notice and Admission of Evidence", filed on 7 June 2001;

(c) The "Response to the Prosecutor's Motion for Judicial Notice and Admission of Evidence", filed on 13 July 2001, followed by the "Prosecutor's Reply to Kanyabashi's Response to the Prosecutor's Motion for Judicial Notice and Admission of Evidence", with amended Annexes attached on 20 July 2001;

(d) The "Requête de Joseph Kanyabashi demandant la permission de produire une duplique à la réplique du Procureur concernant la requête aux fins de constat judiciaire et d'admission de preuve", [2] filed on 30 July 2001;

(e) Noting Counsel's letter to the Presiding Judge of Trial Chamber II concerning mistakes in the translation of his response to the Prosecutor's Motion for Judicial Notice dated 10 September 2001;

For Nyiramasuhuko and Ndayambaje:

(a) The "Motion by the Accused Pauline Nyiramasuhuko and Élie Ndayambaje to Rule Inadmissible the Prosecution Motion for Judicial Notice and Admission of Evidence", filed on 30 May 2001, followed by the "Prosecutor's Response to Nyiramasuhuko and Ndayambaje's Motion to have Ruled Inadmissible the Prosecutor's Motion for Judicial Notice and Admission of Evidence", filed on 4 June 2001;

(b) The "Réponse préliminaire à la requête du Procureur aux fins de constat judiciaire et d'admission de présomptions factuelles", filed on 21 August followed by "Premier des compléments de la réponse à la requête du Procureur aux fins de constat judiciaire et d'admission de présomptions factuelles", [3] filed on 22 August 2001;

(c) The "Réponse de Pauline Nyiramasuhuko à la requête du Procureur aux fins de constat judiciaire et d'admission de présomptions factuelles"[4], filed on 21 August 2001;

(d) Noting the "Requête d'extrême urgence sollicitant l'autorisation de déposer une duplique à la réplique du Procureur à la réponse de Pauline Nyiramasuhuko à la requête aux fins de constat judiciaire et d'admission de présomptions factuelles, aux vues d'éléments nouveaux n'apparaissant pas dans la requête initiale du procureur" as well as a "Duplique de Pauline Nyiramasuhuko à la réplique du Procureur à notre réponse à sa requête aux fins de constat judiciaire et d'admission de présomptions factuelles" [5], filed on 12 September 2001;

(e) Noting the "Requête en extrême urgence aux fins d'obtenir de la Chambre II une audition des parties sur la question du constat judiciaire et d'admission de preuve (articles 73, 89, 94 du Règlement de procédure et de preuve et Article 20 du Statut)"[6], filed on 17

2553

September 2001 in which Counsel for Ndayambaje requested a hearing on the Prosecutor's Motion for Judicial Notice;

For Nsabimana:

(a) The "Response by the Defence to the Prosecutor's Motion of 23 May 2001 for Judicial Notice and Admission of Evidence," filed on 7 June 2001 by Accused Sylvain Nsabimana followed by the "Prosecutor's Reply to Nsabimana's Response to the Prosecutor's Motion Filed 23 May 2001 for Judicial Notice and Admission of Evidence", on 13 June 2001;

(b) The "Supplementary Submissions by S. Nsabimana on the Prosecutor's Motion for Judicial Notice and Admission of Evidence", filed on 20 June 2001 followed by the "Prosecutor's Reply to Nsabimana's Supplementary Observations to the Prosecutor's Motion Filed 23 May 2001 for Judicial Notice and Admission of Evidence", on 25 June 2001;

(c) The "Responses by Sylvain Nsabimana to the Prosecutor's Motions of 23 May and 5 July 2001, for Judicial Notice and Admission of Evidence", filed on 7 August 2001;

For Nteziryayo:

(a) The "Response of the Accused Alphonse Nteziryayo to the Prosecutor's Motion of 23 May 2001 for Judicial Notice", filed on 27 June 2001 which was followed by the "Réponse de l'Accusé Alphonse Nteziryayo à la requête du Procureur aux fins de constat judiciaire et d'admission de prevue"[7], filed on 21 August 2001;

(b) The "Réplique à 'Prosecutor's Supplemental Reply in Support of her Motion for Judicial Notice and Admission of Evidence' uniquement sur la question des délais",[8] filed on 13 September 2001, in which Counsel reiterates that Nteziryayo's Reply was sent on 20 August 2001 within the prescribed time frames;

For Ntahobali:

The "Reply to the Prosecutor's Motion for Judicial Notice and Admission of Evidence", filed on 21 August 2001;

For the Prosecutor:

(a) The "Prosecutor's Supplemental Reply in Support of Her Motion for Judicial Notice and Admission of Evidence", filed on 3 September 2001;

(b) The "Prosecutor's Additional Reply in Support of Her Motion for Judicial Notice and Admission of Evidence", filed on 18 September 2001;

BEING SEIZED OF the "Prosecutor's Motion for a Scheduling Order for Judicial Notice and Admission of Evidence", filed on 5 July 2001, which the Chamber acknowledges has been withdrawn following the Prosecutor's request made at paragraph 23 of her Reply to Kanyabashi's Response. This was followed the "Reiteration of the Withdrawal of the Prosecutor's Motion for a Scheduling Order for Judicial Notice and Admission of Evidence," filed on 31 July 2001. This Scheduling Motion is thereby declared moot.

2554

CONSIDERING the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules"), specifically Rules 73, 89 and 94;

HAVING HEARD the Parties on 16 November 2001,

HEREBY DECIDES THE MOTION

I. Preliminary Issues

i) Background

1. The Prosecutor filed a Motion with attached Annexes in English on 23 May 2001. Thereafter, the Defence for Accused Kanyabashi, Ndayambaje, Nteziryayo, Nsabimana, Nyiramasuhuko and Ntahobali in the "Butare Cases" filed written Responses and/or Counter Motions.

2. Having heard the Parties on 16 November 2001, the Chamber finds that all Defence Requests to publicly hear the Parties on the Motion are declared moot.

3. Initially, Counsel for the Defence requested a translation of the Motion into French as well as an extension of the deadline to respond. Counsel argued that, pursuant to Article 20 of the Statute and Rule 3 of the Rules, the Accused should receive the Motion and its Annexes in French, a language understood by both Counsel and the Accused.

4. By memorandum dated 12 July 2001, the Chamber directed the Registry to inform the Parties that Defence Counsel should file their replies to the Motion by 20 August 2001 and that the Prosecutor should file a response to the replies by 3 September 2001. The Chamber also directed the Registry to translate immediately the Motion and its Annexes into French.

5. Consequently, the Chamber considers that all requests for extension of time for filing responses to the Motion were rendered moot, given the extension of time until 20 August 2001. The Chamber admits all responses faxed on 20 August 2001 and subsequently filed by the Registry on 21 August 2001. Exceptionally, the Chamber has considered the further substantial submission by Counsel for Ndayambaje ("Premier des compléments de la réponse à la requête du Procureur aux fins de constat judiciaire et d'admission de présomptions factuelles"[9]) filed on 22 August 2001, which appears to have been faxed on 21 August 2001, after notice of late filing was given by the Defence.

6. In view of the prescribed deadlines and the fact that Counsel for Nyiramasuhuko exercised his right to respond, the Chamber dismisses Nyiramasuhuko's "Requête d'extrême urgence sollicitant l'autorisation de déposer une duplique à la réplique du Procureur à la réponse de Pauline Nyiramasuhuko à la requête aux fins de constat judiciaire et d'admission de présomptions factuelles, aux vues d'éléments nouveaux n'apparaissant pas dans la requête initiale du procureur", filed on 12 September 2001. Accordingly, the Chamber will not consider the "Duplique de Pauline Nyiramasuhuko à la réplique du Procureur à notre réponse à sa requête aux fins de constat judiciaire et d'admission de présomptions factuelles", also filed on 12 September 2001.

ii) Timing of Filing of the Motion

7. Certain Defence Counsel objected to the filing of the Motion so close to the commencement of trial and argued that the Prosecutor had failed to act with diligence. The Defence maintain that if the Chamber rules on the Motion after commencement of trial, such Decision would infringe upon the rights

of the Accused to know the basis for cross examination of Prosecution witnesses. Consequently, the Defence request the dismissal of the Motion.

8. The Prosecutor refutes this objection and argues *inter alia* that there is no time limit under Rule 94 and recalls that the "Decision on the Prosecutor's Motion for Judicial Notice and Presumptions of Facts Pursuant to Rules 94 and 54" was rendered after the commencement of trial (the *Prosecutor v. Semanza*, Case No. ICTR-95-1-T, 3 November 2000, the "Semanza Decision of 3 November 2000").

9. The Chamber agrees with the Prosecutor that there is no time prescription under Rule 94 of the Rules and, accordingly, denies the "Motion by Accused Pauline Nyiramasuhuko and Elie Ndayambaje to Rule Inadmissible the Prosecution Motion for Judicial Notice and Admission of Evidence".

II. The Motion

(i) The Prosecution

10. The Prosecutor recalls that the Defence have not made any legal or factual admissions. On that basis, the Prosecutor requests that the Chamber take judicial notice, pursuant to Rule 94 of the Rules, of the facts set out in Annexes A and B.

11. Pursuant to Rule 94(A) of the Rules, the Prosecutor requests that the Chamber take judicial notice of the facts set out in Annex A and of the content of the documents listed in Annex B because they are of "common knowledge." In support of her argument, the Prosecutor submits a "Book of Authorities."

12. Pursuant to Rule 94(B) of the Rules, the Prosecutor requests that the Chamber take judicial notice of "adjudicated facts" in Annexes A and B, as facts set out in Annex A may also constitute "adjudicated facts". The Prosecutor submits that Annex B consists of "documentary evidence from other proceedings" which has previously appeared in various judgements of the Tribunal and could therefore be judicially noticed under the said sub-Rule.

13. Alternatively, under Rule 89(B) of the Rules, the Prosecutor requests the Chamber to take judicial notice of the facts and documents in Annex A and B to which Rule 94(B) cannot be applied, in accordance with fair and general principles of law.

14. Relying on Rule 89(C) of the Rules, the Prosecutor also requests the Chamber to admit as evidence the documents contained in Annex C to her Motion, consisting of internationally recognised official United Nations (UN) documents or humanitarian reports.

15. The Prosecutor relies upon the jurisprudence of the Tribunal and of the International Criminal Tribunal for the Former Yugoslavia (the "ICTY") as well as on the doctrine of judicial notice. The Prosecutor submits that she seeks to ensure judicial economy and uniformity of judgements on general facts regarding the events in Rwanda. She emphasises that, efficiency and economy are of great importance in the "Butare Cases", given the large number of Accused jointly tried.

16. The Prosecutor does not request that the Tribunal take judicial notice of ultimate facts in the present case that directly attest to the alleged guilt of any of the six Accused. On the contrary, the Prosecutor contends that taking judicial notice will not prejudice any Party to these proceedings.

(ii) The Replies by the Defence

2556

Criteria of Notoriety:

17. The Defence argue that sub-Rules 94 (A) and (B) are subject to the same criteria, namely that only a notorious fact, which cannot be contested by a "reasonable man", can be judicially noticed. Counsel for the Defence submit that the scope of Rule 94(A) is more restrictive than that of Article 21 of the Nuremberg Charter quoted by the Prosecutor and should be limited to "matters which are so notorious, or clearly established, or susceptible of demonstration by reference to a readily obtainable and authoritative source that evidence of their existence is unnecessary" (Quoting Archbold, Criminal Pleading, Evidence and Practice, 2000, para. 10-71, page 1213).

Criteria of Specificity (Rule 94 A):

18. The Defence argue that accuracy is the essence of judicial notice and that the Tribunal's authority to alter the Prosecutor's submissions cannot be used in relation to disputable facts in respect of time, location or over-generalisations. Unclear facts cannot constitute facts of "common knowledge", which is the only proper basis for judicial notice. Most Defence Counsel contest all facts referred to in parts I, II and V of Annex A for, *inter alia,* their imprecision and contestable nature which could prejudice the Accused. The Defence maintain that the factual admissions sought by the Prosecutor are not of a general historical nature and differ from those of which judicial notice was taken in the "Semanza Decision of 3 November 2000". The Defence argue that the sources on which the Prosecutor relies in seeking judicial notice of notorious facts are incorrect. Specifically, the Defence question the use of the Steering Committee Reports which have never been entered into evidence before this Tribunal or challenged by any Defence Counsel.

Objection to Facts Directly Supporting an Indictment:

19. The Defence allege that some facts in Annex A directly support counts of the Indictment and should not therefore be considered as "common knowledge". Rather, these facts must be discussed following a proper adversarial proceeding consistent with the provisions of Rule 89(B) of the Rules. Elements of an offence or elements that tend to prove the guilt of an Accused should not be judicially noticed.

Annex B:

20. The Defence argue that the Prosecution erroneously reads Rule 94(A): the expression "proof of facts" is applicable not to documents, but only to facts which are unalterable, impersonal and do not require supplementary proof. Generally, Counsel for the Defence do not object to judicially notice documents which cites Rwandan Laws, if such documents do not refer to interpretation or enforcement of the laws by Rwandan tribunals. Accordingly, judicial notice can be taken only of the materiality of these norms without reference to their applicability, and only if these laws and regulations contain any successive modifications.

Annex C- Authenticity of Documents:

21. With regard to the request pursuant to Rule 89(C) and 94(B) for judicial notice of documents in Annex C, certain Counsel argue that they have not been afforded the opportunity to verify the authenticity of the documents for which the Prosecutor seeks judicial notice or admission into evidence because they have not been served with the documents. Counsel for Nteziryayo argues that to take judicial notice of facts contained in official reports will be an arbitrary endeavour contrary to the finding of individual responsibility. Counsel maintains that the Prosecutor has not demonstrated that she should

2557

depart from the established rules of evidence, namely, admissibility and probative value. Defence Counsel submit that an opinion or a conclusion of a legal nature is not acceptable as evidence unless submitted by an Expert Witness. Counsel further argue that there is no general consensus about the weight to be afforded of UN documents.

Judicial Notice of Genocide:

22. The Defence recall the wording of the Semanza Decision of 3 November 2000 where the Chamber held that the existence of a genocide in Rwanda is so fundamental that it requires the submission of formal proof rather than a judicial notice process and that, a Chamber may take judicial notice of the authenticity of documents without taking judicial notice of their contents. The Defence argue that in the *Akayesu* and the *Kayishema & Ruzindana* Judgements, the judicially noticed facts were general historical facts and a combination of law and fact pertaining to the existence of genocide in 1994 in Rwanda, which was not imputable to the guilt of any of the accused. The Defence object to judicial notice of the crime of genocide or incitement to commit genocide in Rwanda in 1994, as these crimes must be proved.

Rule 94(B):

23. The Defence, quoting the ICTY Sikirica Decision of 27 September 2000, maintain that most of the facts alleged by the Prosecutor do not arise from final judgements, contrary to doctrine and jurisprudence. Moreover, several Counsel allege that the judgements rendered in previous cases by the ICTY and the ICTR are not conclusive in the present case. Other counsel reject the use by the Prosecutor of the Appeals Chamber's decisions in the *Akayesu* and *Kayishema and Ruzindana* cases, and argue that each decision has only confirmed the guilt of each Accused and should therefore be considered only as *res judicata* in respect of each particular case, and not in respect of each factual finding made in these judgements. The Chamber is also cautioned to be prudent when looking at the definitive judgements against *Akayesu, Kayishema and Ruzindana* with regard to facts which were not challenged by the Defence by way of cross-examination, or which are collateral or foreign to the specific charges brought against the present six Accused, or could be contentious or even prejudicial in a trial involving six accused holding different functions during the alleged events. Moreover, the Defence argue that the facts to which Rule 94(B) may apply cannot flow from guilty pleas or from facts which were voluntarily admitted by an accused. This is made clear in the Semanza Decision of 3 November 2000. Finally, following the ICTY in the Simic Decision of 25 March 1999, the Defence indicate that Rule 94 is not intended to cover legal consequences inferred from facts. The Defence further argue that the Prosecutor attempts to by-pass the Semanza Decisions on judicial notice by inviting the Chamber to take judicial notice of both legal findings and of the intent-or *mens rea*-constitutive of the crimes.

Rule 89 (B):

24. The Defence maintain that, under the general principal of law *generalibus specialia derogant* and pursuant to Rule 94, which is a special Rule governing Judicial Notice, Rule 89 (B) is therefore inapplicable. The Defence recall that such has been the interpretation of the Rules in the Semanza Decision of 3 November 2000.

Expert witnesses reports:

25. The Defence for Nteziryayo argue that judicial notice should not be taken of facts supported by reports of expert witnesses that will be called to testify at trial, such as experts Desforges and Guichaoua.

2558

(iii) Prosecution's Replies

26. In her Reply to Kanyabashi's Responses, the Prosecutor has submitted Amended Annexes A, B and C; these Annexes, which incorporate changes in selected paragraphs, were subsequently itemised in the Prosecutor's Addendum filed on 6 June 2001.

27. The Prosecutor maintains that there is no uniformly consistent application of Rule 94 in the jurisprudence of either *ad hoc* tribunal. Indeed, under Rule 94(A), matters of common knowledge *shall be* subject to judicial notice, whereas adjudicated facts pursuant to Rule 94(B) *may* be subject to judicial notice (their emphasis).

28. As to judicial notice of facts listed in Annex A, the Prosecutor argues that judicial notice can be taken of selective facts that are relevant to the case. The Prosecutor further maintains that she has no duty to "ensure accurate representation of events throughout Rwanda in 1994". Moreover, the Prosecutor submits that the Rules do not require any degree of specificity for judicial notice of adjudicated facts or facts of common knowledge. Finally, the Prosecutor relies on the Chamber's authority to act *proprio motu* to alter the wording of the facts, as did Trial Chamber III in the "Semanza Decision of 3 November 2000" to render the fact "sufficiently notorious to be judicially noticed".

29. In relation to the various facts contested by the Defence, the Prosecutor argues *inter alia*, that some of the paragraphs in Amended Annex A are directly taken from judgements affirmed by the Appeals Chamber and have therefore acquired the status of adjudicated facts or constitute common knowledge. Alternatively, the Prosecutor invites the Chamber to find a better wording, but in any case, finds the Defence's submissions without any merit.

30. The Prosecution considers it to be anomalous that Rule 94 should be used to limit questions of fact that are appropriately adjudicated in previous cases of common knowledge but not questions of law, particularly when the two are almost impossible to distinguish.

31. With regard to adjudicated facts, the Prosecutor submits that public notoriety is not a necessary element of judicial notice under Sub-Rule 94(B). The Prosecutor accepts the Defence contention that facts voluntarily admitted by an accused do not constitute "adjudicated facts" within the meaning of Rule 94(B). Rather, the Rule allows a Trial Chamber to rely on "adjudicated" facts without further qualification or agreement between parties as a pre-requisite. The Prosecution refers to the adjudicated facts in the final Judgements in *Akayesu*, *Kayishema & Ruzindana*, *Kambanda*, *Serushago* and *Ruggiu*.

32. With regard to judicial notice of legal conclusions not involving *mens rea* listed in Amended Annex A, the Prosecutor maintains that the legal conclusions are facts of common knowledge or authoritatively adjudicated facts and that there should be no prejudice to the accused if those conclusions do not prove the guilt of the accused. As to judicial notice of *mens rea*, pursuant to Sub-Rules 94(A) and (B), the Prosecutor reiterates that it would be anomalous to take only judicial notice of the factual elements of a crime when a crime can be established only when the factual elements are combined with the requisite *mens rea*. Accordingly, the Prosecutor's arguments depart from the "Semanza Decision of 3 November 2000".

33. On the basis of the above reasoning the Prosecutor addresses the specific facts contained in Amended Annexes A, B and C. Amended Annex A contains minor changes in the wording of six factual allegations (paras. 5, 22, 29, 40, 43 and 79) and includes additional references in support of six other facts (paras. 1, 10, 21, 28 and 74), while Amended Annexes B and C incorporate changes previously made in the Addendum. Regarding Amended Annex A, the Prosecutor agrees that not every fact in the

2559

documents rises to the level of common knowledge. Therefore, she does not rely on any one document but rather on a range of authoritative sources, which, all together, establish that the propositions are of common knowledge to a reasonable person. However, the Prosecutor maintains that the Defence is free to examine experts on all matters relating to the specific application of the facts contained in Amended Annex A to the events in Butare.

34. In relation to admission into evidence of documents contained in Amended Annex C, the Prosecutor argues that, pursuant to Rule 89 (C), these documents are thereby afforded a "lower level of significance before the trial Chamber" than the very same documents were allowed in previous jurisprudence.

35. The Prosecutor prays the Trial Chamber to take judicial notice of facts contained in amended Annexes A and B as facts of common knowledge, pursuant to Rule 94(A), or as adjudicated facts or documentary evidence from other proceedings pursuant to Rule 94(B) or in accordance with fair and general principles of law pursuant to Rule 89(B); and to admit into evidence the documents listed in amended Annex C under Rule 89(C).

AFTER HAVING DELIBERATED,

Rule 94: Judicial Notice

(A) A Trial Chamber shall not require proof of facts of common knowledge but shall take judicial notice thereof.

(B) At the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings.

36. The Chamber first recalls that when taking judicial notice "a balance between judicial economy and the right of the accused to a fair trial must be achieved"[10]. As a preliminary matter, the Chamber notes that the facts presented in Annex A were not agreed upon through any admission process. Indeed, the Chamber notes that almost all facts listed in Annex A of the Motion are contested by the Defence.

37. The Chamber notices that, in its submissions, the Prosecution has failed to clearly identify for each of the 80 facts listed in Annex A, whether it seeks judicial notice of those facts as "facts of common knowledge" (Rule 94(A)) or as "adjudicated facts or documentary evidence from other proceedings" (Rule 94 (B)). As indicated in the Decision of 22 November 2001 on judicial notice in the Ntakirutimana Cases (ICTR-96-10-T and ICTR-96-17-T), facts of common knowledge and adjudicated facts "constitute different, albeit possibly overlapping categories: a fact of common knowledge is not necessarily an adjudicated fact, and vice versa". The Chamber is of the opinion that one of the purposes of judicial notice is to ensure judicial economy. However, the Prosecutor's Motion, which requested the Chamber to assess or to reformulate 80 submissions as to their qualifications as facts of common knowledge or adjudicated facts, did not promote judicial economy.

38. With regard to judicial notice of facts, pursuant to Rule 94(A), the Chamber notes that the expression "common knowledge" was interpreted in the "Semanza Decision of 3 November 2000" to be "those facts which are not subject to reasonable dispute including, common or universally known facts, such as general facts of history, generally known geographical facts and the law of nature" as defined in various legal textbooks. This Decision further states that: "[F]or the present purposes, common knowledge encompasses those facts that are generally known within a tribunal's territorial jurisdiction"[11] and that "once a Trial Chamber deems a fact to be of common knowledge under Rule

2560

94, it must determine also that the matter is reasonably indisputable"[12]. The same Chamber adds that "there is no requirement that a matter be universally accepted in order to qualify for judicial notice"[13]. Nonetheless, the same Chamber rejected the use of judicial notice for unadorned legal conclusions.[14]

39. The Chamber is of the opinion that judicial notice of facts which can be characterised either as controversial or which involve drawing legal findings from the facts sought to be admitted or from their interpretation, shall not be judicially noticed. Judicial notice shall only be taken of facts that are not subject to reasonable dispute and "that facts involving interpretation or legal characterisations of facts are not capable of admission under Rule 94"[15]. Disputable facts should not form part of the proceedings by way of judicial notice but should be determined after the Parties have submitted their evidence which will subsequently be discussed by the opposing Party following an adversarial procedure. (Our emphasis).

40. The Chamber notes that, pursuant to Rule 94(B) of the Rules, the facts that may be judicially noticed must have been adjudicated in other proceedings and must relate to matters at stake in the current proceedings. As stated in the Ntakirutimana Decision of 22 December 2001, "unlike Rule 94 (A), *litra* (B) therefore is discretionary. It is for the Chamber to decide whether justice is best served by its taking judicial notice of adjudicated facts." Concurring with the Appeals Chamber Decision in the Kupreskic case, the Chamber is of the view that pursuant to Rule 94 (B), it may not take judicial notice of findings of fact from judgements that are the subject of an uncompleted appeal[16], or of judgements based on guilty pleas, or of admissions made by the accused during the trial. (Our emphasis).

JUDICIAL NOTICE OF FACTS IN ANNEX A

Historical Description of Events Prior to 1994 (1 to 40)

1. Prior to 1897, Rwanda was a complex and advanced monarchy.

41. The Defence contest the term "advanced", its implications and the authorities quoted.

42. The Prosecution considers that the distinction is pedantic and indicates that it is taken directly from the *Akayesu* Judgement affirmed by the Appeals Chamber. Nevertheless, if the Chamber disagrees, the word advanced could be deleted.

2. The monarch ruled the country through his official representatives who were drawn from Tutsi nobility.

3. The kingdom of Rwanda was marginally administered by Germany until 1899.

43. The Defence allege that the date is erroneous according to the sources, and that there is lack of agreement as to the date until when the Federal Republic of Germany administered Rwanda. The information should not be considered as common knowledge

4. After World War I, the League of Nations mandated Belgium to administer the country.

5. In the early 1930's, the Belgians instituted a system of national identification cards bearing the terms Hutu, Tutsi and Twa under the category of ethnicity.

44. The Defence submit that the temporal reference is vague and that the wording suggests that it

2561

was the Belgians who categorised the Rwandans into three main ethnic groups.

45. The Prosecution maintains that all the authorities quoted indicate the early 30's as a reference and that such a sentence does not indicate that the Belgians created the separate ethnic groups. The Prosecutor alleges that the information is both common knowledge and an adjudicated fact.

6. In 1946, Rwanda became a Belgian trust territory under the United Nations.

7. The revolution of 1959 marked the beginning of a period of ethnic clashes between the Hutu and the Tutsi in Rwanda, causing hundreds of Tutsi to die and thousands more to flee the country in the years immediately following.

46. The Defence indicate that there were ethnic clashes in the past and that 1959 does not mark the beginning of conflicts even if it is a turning point. This information is therefore not neutral.

47. The Prosecution maintains that this paragraph does not purport that all ethnic conflict started in 1959 and should therefore not be considered as being a partial reflection of reality.

8. The revolution of 1959 led to the abolition of the monarchy, the removal of all Tutsi political and administrative structures and the establishment of the First Republic in 1961.

9. Legislative elections held in September 1961 confirmed the dominant position of the, essentially Hutu, MDR-PARMEHUTU (Mouvement Démocratique Républicain-Parti du Mouvement d'Emancipation Hutu), led by Grégoire Kayibanda, who was subsequently elected President of the Republic by the Legislative Assembly on 26 October 1961.

48. The Defence indicate that the date at which Kayibanda became President is controversial in view of the judgement references.

10. The MDR-PARMEHUTU was the only party to present candidates in the elections of 1965.

49. The Defence allege that none of the references supports this assertion, which cannot therefore be considered as a fact of common knowledge.

50. The Prosecution indicates that this is indeed a fact of common knowledge and adjudicated and supported by the Steering Committee reference omitted in their submissions.

11. The early part of 1973, the First Rwandan Republic, which was under the domination of the Hutu of central and southern Rwanda, was again marked by ethnic violence.

51. The Defence allege that this is not a true reflection of the historical reality of the time as this period was marked by rivalry between the Hutus from the north and the people from the central region who were in power.

52. The Prosecution cites *Akayesu* and *Kayishema and Ruzindana* Judgements in support of this fact but would be content if the Chamber substituted a suitable alternative wording.

12. The ethnic confrontations in 1973 prompted another mass exodus of the Tutsi

2562

minority from the country, as had occurred between 1959 and 1963.

53. In light of the authorities cited, the Defence allege that the contention that a mass Tutsi exodus in 1973 similar to the one that allegedly occurred between 1959 and 1963, is unsupported.

54. The Prosecution indicates an omission to the Steering Committee as well as to the *Kayishema and Ruzindana* Judgement in support of this proposition. The Prosecution further maintains that it is ludicrous to suggest that the crises that led to the various exodi were caused by anything but ethnic confrontations.

13. Many exiled Tutsi made violent incursions back into Rwanda from neighbouring countries.

55. The Defence allege that this paragraph is controversial insofar as the references to both the time and the neighbouring countries, from where the exiled Tutsis allegedly staged violent incursions, are vague.

56. The Prosecution argues that there is no requirement in the Rules about the degree of specificity and that this information does not go to prove the guilt of the accused.

14. The word Inyenzi, meaning cockroach, came to be used to refer to Tutsi.

57. The Defence indicate that this allegation is not supported by most references particularly concerning the period of the late 1960s or early 1970s.

58. The Prosecution accepts that the term was initially used only to describe armed Tutsi groups making incursions from neighbouring countries but that the word came to be used to refer to all Tutsi and is an adjudicated fact

15. On 5 July 1973, General Juvénal Habyarimana seized power in a military coup.

59. The Defence indicate that the Chamber must hear further evidence to establish a complete and unbiased fact; otherwise, the burden of proof will shift if judicial notice is taken.

60. The Prosecution, quoting *Akayesu*, contests that this fact is incomplete and biased.

16. In 1975, Juvènal Habyarimana founded the Mouvement Révolutionnaire National pour le Développement (MRND).

17. Juvènal Habyarimana assumed the position of Chairman of the Mouvement Révolutionnaire National pour le Développement (MRND).

18. Every Rwandan was automatically a member of the MRND from birth.

19. From 1973 to 1994, the government of President Habyarimana used a system of ethnic and regional quotas which was supposed to provide educational and employment opportunities for all.

61. The Defence allege that none of the three references submitted supports such assertions, which are not common knowledge, and that the *Kayishema and Ruzindana* Judgement indicates that this

2563

system was abolished in November 1990.

62. The Prosecution indicates that the proposition relating to the dates of the quota systems rely refers to the years that President Habyarimana was in power. The Prosecution does not object to the deletion of the date reference, if the Chamber so decides.

20. The quota system was in fact used increasingly to discriminate against both Tutsi and Hutu from regions outside the north-west of Rwanda.

63. The Defence submit that none of the Prosecution's references supports such assertion.

64. The Prosecution refers to the commentary in support of facts19 and 20.

21. Among the privileged elite, an inner circle of relatives and close associates of President Habyarimana and his wife, Agathe Kanziga, known as the Akazu, enjoyed great power.

65. The Defence allege that the references submitted do not refer to the wife of the President.

66. The Prosecution maintains that several cited books refer to the President's wife in the context of the Akazu.

22. Some Tutsi exiles formed a political organisation called the Rwandan Patriotic Front (RPF).

67. The Defence state that it is incorrect to assert that "Tutsi exiles" formed the RPF and that this assertion is undermined by the Judgement references.

68. The Prosecutor has amended the words "the Tutsi exiles" by the phrase "some Tutsi exiles".

23. The RPF was a politico-military opposition organisation.

69. The Defence argue that the first three references submitted to the Chamber (including *Akayesu, Kayishema & Ruzindana*) do not contain any suggestion that the RPF attack of October 1990 played a role in the introduction of the multiparty system and the adoption of a new constitution. Only the Steering Committee seems to make reference to this point.

70. The Prosecution alleges that the authorities cited establish that this is a fact of common knowledge.

24. The RPF's military wing was called the Rwandan Patriotic Army (RPA)

25. On 1 October 1990, the Rwandan Patriotic Front (RPF) attacked Rwanda.

26. Within days after the 1 October 1990 invasion of the RPF, government began arresting thousands of people.

27. Tutsi and Hutu political opponents were the main target of the arrests following the RPF invasion of 1 October 1990.

2564

28. Following pressure from the internal opposition, the international community and the RPF attack of October 1990, President Habyarimana permitted the introduction of multiple political parties and the adoption of a new constitution on 10 June 1991.

29. The emergence of multipartyism resulted in the establishment of four political parties in Rwanda: the MRND (Mouvement Républicain National pour la Démocratie et le Développement), the MDR (Mouvement Démocratique Républicain), the PSD (Parti Social-Démocrate) and the PL (Parti Libéral).

71. The Defence assert that paragraph 29 is in dispute and that there were five established parties, the fifth being the *Parti Démocrate Chrétien* (PDC). The Defence further allege that, according to the expert Professor Guichaoua, the CDR was founded in March 1992. It is therefore a disputable fact.

72. The Prosecution deletes the reference to the CDR (Coalition pour la Défense de la République).

30. The first transitional government following the 1991 constitutional reforms was made up almost exclusively of MRND members, following the refusal of the main opposition parties to take part.

73. The Defence indicate that from the references given, the Chamber should infer that the main opposition parties expressed dissatisfaction because of the composition of the first transitional government.

74. As an alternative, the Prosecution consents to the deletion of the words "following the refusal of the main opposition parties to take part" should this reference not rise to the required level of common knowledge.

31. With the second transitional government formed in April 1992, the MRND became a minority party for the first time in its history, with nine (9) ministerial portfolios out of nineteen (19).

75. According to the Defence, the reference indicates that the real power remained in the hands of the President and his MRND representatives.

76. The Prosecution maintains that the second transitional government is a minority because it has fewer seats and this is not a comment on the de facto power that the party had.

32. Even in the second transitional government, the MRND retained its domination over local administration.

77. The Defence submit that this is a sweeping assertion that cannot be found in Akayesu or in Mr. Ndiaye's report.

78. The Prosecution submits that the proposition is of common knowledge to the reasonable person.

33. The new transitional government of 1992 then entered negotiations with the RPF, which resulted in the signing of the Arusha Accords on 4 August 1993.

34. Among other things, the Arusha Accords provided for the following:

2565

(a) The integration of both the government's Forces Armées Rwandaises (FAR) and the RPF into the Rwandan National Army.

(b) The new national army was to be limited to 13,000 men, 60% FAR (Forces Armées Rwandaises) and 40% RPF

(c) The military command posts were to be shared equally (50%-50%) between the two sides, with the post of Chief of Staff of the Army assigned to the FAR.

(d) The Gendarmerie was to be limited to 6,000 men, 60% FAR and 40% RPF, with the posts of command shared equally (50%-50%) between the two sides and the post of Chief of Staff of the Gendarmerie assigned to the RPF.

(e) The Accords limited the number of ministerial portfolios to be held by the MRND (Mouvement républicain national pour le développement) to five, including the Presidency.

(f) The other portfolios within government were to be shared as follows: RPF (Front patriotique Rwandais), five; MDR (Mouvement démocratique républicain), four (including the post of Prime Minister); PSD (Parti social-démocrate), three; PL (Parti libéral), three; and the PDC (Parti démocrate-chrétien), one.

35. On 5 October 1993, the U.N. Security Council resolved to establish and deploy an international peace-keeping force in Rwanda named "United Nations Assistance Mission for Rwanda" (UNAMIR)

36. Determined to avoid the power sharing prescribed by the Arusha Accords, several prominent civilian and military figures pursued their strategy of ethnic division and incitement to violence.

79. The Defence allege that the indisputable fact that some prominent civilians and military figures had devised a strategy of ethnic division before the Arusha Accords has yet to be established and that the whole assertion is imprecise and reflects more an intent than a fact.

80. The Prosecution states that it is not under the obligation to specify the particulars and that the sole question is whether the information is an adjudicated fact or a fact of common knowledge worthy of judicial notice.

37. With the intention of ensuring widespread dissemination of the calls to ethnic violence, prominent figures, including some from the President's circle, set up hate media.

81. The Defence submit that the same objection apply to paragraphs 36 and 37 as the assertion is unclear and deals with intent.

82. The Prosecution maintains that the various sources cited confirm the above proposition.

38. The most prominent forms of hate media included Radio Télévision Libre des Mille Collines (RTLM) and the newspaper Kangura.

83. The Defence submit that the term "hate media" denotes an intent resulting from facts, whereas the characterisation in question is an important component of the trial of Nahimana, Ngeze and Barayagwiza before Trial chamber I. Trial Chamber II should be cautious of the *sub judice* rule.

84. The Prosecution considers that a statement like "RTLM is known as the 'killer radio station' from Degni-Ségui Report is clear evidence that intentional elements can amount to common knowledge within the jurisdiction of the tribunal

> *39. Several Political Parties established youth organisations.*

85. The Defence allege that this paragraph is vague and non-specific and therefore lacks objectivity.

86. The Prosecution maintains that there is no degree of specificity required and that paragraph 40 provides further elaboration.

> *40. Members of the Interahamwe (MRND youth wing) and the Impuzamugambi (CDR youth wing), were organised into militia groups.*

87. The Defence argue that this paragraph is not supported by the references submitted by the Prosecutor and that, to ensure the trial's fairness, such allegations necessarily involve individuals who could be called to testify as to the Accused's involvement or non involvement therein.

88. Following the Defence's remarks, the Prosecution suppressed certain references to financing in the original Annex A.

Conclusions by the Chamber on Points 1 to 40 of Annex A

89. As to the facts laying out the "historical background" in Annex A, the Chamber notes that some of these facts form part of the historical context of each of the Amended Indictments against the Accused jointly tried in the present trial, whereas some facts do not form part of such context.

90. The Chamber finds that the Prosecution has failed to demonstrate that those background facts referring to events prior to 1959 which are not referred to in the Indictments against the Accused, are relevant to the present proceedings. Accordingly, the Chamber will not take judicial notice of items 1 to 6, as they refer to events prior to 1959, which is the earliest date mentioned in the Indictments against the Accused.

91. As to the historical facts contained in items 7 to 40, the Chamber notes that the Defence allege that those facts are, *inter alia*, imprecise as to the dates, lack the required neutrality to render them reasonably indisputable, or otherwise are unsupported by prior judgements.

92. The Chamber finds that these "historical facts" are not facts of common knowledge pursuant to Rule 94 (A) of the Rules, and that the Chamber might therefore only take judicial notice of them, pursuant to Rule 94 (B) of the Rules, if they are indeed adjudicated facts and relate to the present proceedings. The Chamber is of the opinion that, for these facts to be admitted as forming part of the proceedings after having been judicially noticed, the Prosecution should have demonstrated their relevancy. Moreover, the Prosecution relies on various authorities and/or judgements that, more often than not, support only approximately the facts recited therein.

93. For the above reasons, the Chamber decides not to take judicial notice of items 7 to 40 in Annex

2567

A.

Political facts

Ethnicity

41. Between 6 April 1994 and 17 July 1994, citizens native to Rwanda were identified according to the following ethnic classifications: Tutsi, Hutu and Twa.

Death of Habyarimana

42. On 6 April 1994, the President of the Republic of Rwanda, Juvénal Habyarimana, was killed when his plane was shot down on its approach to Kigali airport.

Systematic Assasinations

43. From the morning of 7 April 1994, groups of military personnel commenced the systematic assassinations of a large number of individuals, including:

(a) The then Prime Minister, Ms. Agathe Uwilingiyimana.

(b) Some of the Ministers in the Government of Prime Minister Uwilingiyimana.

(c) Cour de Cassation (ie Constitutional Court) President Joseph Kavaruganda.

(d) The Belgian UNAMIR soldiers sent to protect the Prime Minister.

94. The Defence submit that paragraph 43 is too vague and is open to interpretation and challenge because of the use of the terms "groups of military personnel" and "systematic assassinations of a large number of political opponents" (which was subsequently amended by the Prosecution to "individuals,") including "(d) the Belgian UNAMIR soldiers [...]" who would then be identified as political opponents. The Defence consider that this is not a notorious fact and that the whole paragraph lacks neutrality.

95. The Prosecution regrets the expression "political opponent", which was deleted in the Amended Annex A, and alleges that there is no issue of neutrality.

44. The massacre of the Belgian soldiers prompted the withdrawal of the Belgian troops in the days that followed.

45. After the withdrawal of the Belgian troops, the UN Security Council drastically reduced the number of UNAMIR personnel in Rwanda.

96. The Defence contest the fact that the Chamber should take judicial notice of a value judgement in characterising the reduction as "drastic", which is not the position in Akayesu.

97. Based on the authorities cited, the Prosecution alleges that the objections lack substance.

Interim Government

256,8

46. Given the political and constitutional void created by the deaths of most national political authorities a new government, the "Interim Government", composed solely of Hutu was set up on 9 April 1994.

98. The Defence argue that this paragraph suggests that the policy of the "interim government" was determined by its Hutu make up and associates all Hutu with the said interim government. The paragraph is worded with an ethnical connotation, which contradicts the reconciliation mission of the Tribunal. Moreover, assimilating the Hutu, without distinction, with the Interim Government is prejudicial to the Accused.

99. The Prosecution contests that this paragraph leads to the conclusion that all Hutu were involved with or supported the interim government.

47. Jean Kambanda was appointed Prime Minister of the Interim Government that was officially sworn in on 9 April 1994.

48. In the Interim Government, the MRND held nine ministerial posts, plus the Presidency of the Republic, while the remaining eleven (11) positions, including that of Prime Minister, went to then 'Power' factions of the other parties.

100. The Defence indicate that this paragraph appears to contradict the reference submitted, which indicates that the MRND was not a minority party in the Interim Government.

49. During the week of 14 to 21 April 1994, the President of the Interim Government, the Prime Minister and some key ministers travelled to Butare and Gikongoro.

101. The Defence indicate that it is impossible for the Tribunal to take judicial notice of such a statement and that no other Chamber has ruled on identical facts. There is a lack of consensus among the authorities quoted so it cannot be a fact of common knowledge.

50. On 19 April 1994, the President of the Interim Government, Theodore Sindikubwabo, spoke on the radio and called for the killing of "accomplices" in Butare.

102. The Defence indicate that this paragraph, like the preceding paragraph 49, states a fact which is not of common knowledge: neither *Kayishema & Ruzindana* Judgement, nor Degni-Segui, nor the Steering-1, nor Prunier supports the alleged fact that the President gave a speech on 19 April 1994. This allegation is important since it is linked to the offence with which Kanyabashi is charged in paragraph 5.8 of the indictment regarding whether or not such a speech was broadcast in Butare.

51. The visits of the President of the Interim Government, the Prime Minister and some key ministers to Butare and Gikongoro during the week of 14 to 21 April 1994, marked the beginning of killings in the regions.

103. The Defence submit that only the *Akayesu* decision at paragraph 110 supports this statement, whereas Mr Degni-Segui refers to Butare and Cyangugu as the regions where the massacres started towards 20 April, and the *Kayishema & Ruzindana* Judgement refer to the President's presence and his speech of 19 April 1994 in Butare, which allegedly triggered the massacres. Accordingly, there is uncertainty as to the prefectures in question and as to whom, if anyone, accompanied the President.

104. For paragraphs 49, 50 and 51, the Prosecution maintains that common knowledge can be

2569

determined by synthesising matters from several sources. The Prosecution alleges that the President's speech does not go to prove an element of any crime or the guilt of an accused but only represent a background.

Conclusions by the Chamber Regarding Items 41 to 51 of Annex A

105. The Chamber finds that items 41 and 42 of Annex A are not disputed facts and amount to facts of common knowledge for which the Chamber shall take judicial notice, pursuant to Rule 94 (A).

106. Having considered the Defence submissions as to the disputability of items 43 to 51 of Annex A and the lack of common knowledge thereof, the Chamber decides that such facts cannot be reasonably assessed as common knowledge under Rule 94(A) and cannot be considered as adjudicated facts under Rule 94 (B).

107. For the above reasons, the Chamber will not take judicial notice of items 43 to 51 of Annex A.

Widespread or systematic violence

> *52. The following state of affairs, among others, prevailed in Rwanda between 1 January 1994 and 17 July 1994:*
>
> *(a) There were throughout Rwanda widespread or systematic attacks against human beings.*
>
> *(b) The widespread or systematic attacks were directed against a civilian population.*
>
> *(c) The widespread or systematic attacks were directed against a civilian population on the grounds of political persuasion, Tutsi ethnic identification or Tutsi racial origin.*

108. The Defence question the alleged fact that the period ends on 17 July 1994, and not 31 December 1994. However, it is to be noted that the "Semanza Decision of 3 November 2000" accepted that such state of affair existed between 6 April and 17 July 1994. The Defence alleges that acts of violence were also committed after the genocide. It would be misleading to take judicial notice of the fact that violence ended after 17 July 1994.

109. The Prosecution maintains that the Chamber is free to take judicial notice of selective facts that are relevant to the Butare cases and does not allege that the events occurring after 17 July 1994 are generally unimportant. Rather, the Prosecution submits that they are not relevant to the present case.

> *53. As part of the extermination efforts, census lists and other lists of people to be killed were made.*
>
> *54. Between 1 January 1994 and 17 July 1994, soldiers, militiamen and civilians under orders set up roadblocks.*

110. The Defence allege that the facts contained in the paragraphs 53 and 54 are directly linked to the charges and are of the same nature as those of which Trial Chamber III declined to take judicial notice because they are not reasonably indisputable. The Defence argue that the Prosecutor is trying to admit

2570

into evidence the planning of crimes, whereas the assertion that the census lists were aimed at identifying people to be killed is not a matter of common knowledge.

111. The Prosecution maintains that the fact that census lists were made and roadblocks established generally does not go to prove the guilt of any Accused. The existence of any *mens rea* in the commission of the acts listed in 53 and 54 is general and does not implicate any accused in the Butare cases. The large-scale devastation caused at roadblocks in Rwanda in 1994 and the wide distribution of extermination lists are facts of public notoriety.

55. At those roadblocks, the identity cards of anyone wishing to pass were often checked.

56. Many people identified as Tutsi were killed by those manning the roadblocks.

112. The Defence allege that the alleged facts set out in paragraphs 55 and 56 are directly related to the charges and that they supplement the disputable assertions in paragraph 53 and 54.

57. Between 1 January 1994 and 17 July 1994, a total of between 500,000 and 1,000,000 people died in Rwanda as a result of the widespread violence.

113. The Defence refer to their earlier commentary concerning the period during which people died in Rwanda because of generalised violence.

114. The Prosecution reiterates that the argument regarding the time limit set out in the paragraph is unfounded.

Conclusions by the Chamber Regarding Items 52 to 57 of Annex A

115. The Chamber does not find that the facts enumerated in paragraphs 52 to 57 constitute facts of common knowledge. Even if previous judgements rendered by this Tribunal may provide some support for the events recited, generalisations on "widespread or systematic attacks" against a "civilian population", "census lists", "roadblocks" or the number of people killed between 1 January 1994 and 17 July 1994 in Rwandan are elements specifically disputed by the Defence. The Chamber is of the opinion that these statements need to be proved by the Prosecution and will not be considered as adjudicated facts relevant to the present proceedings.

116. For the above reasons, the Chamber does not take judicial notice of items 52 to 57 of Annex A.

Administrative structures

58. During the events referred to in the indictments, Rwanda consisted of the following administrative structures:

(a) Eleven (11) préfectures: Butare, Byumba, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Kigali-Ville, Kigali-Rural and Ruhengeri.

(b) Each préfecture was subdivided into communes.

(c) Each commune was subdivided into secteurs.

(d) Each secteur was subdivided into cellules.

2571

59. During the events referred to in the indictments, Butare préfecture was divided into 20 communes: Nyakizu, Kigembe, Gishamvu, Ngoma, Runyinya, Maraba, Ruhashya, Mbazi, Shyanda, Muyaga, Mugusa, Nyaruhengeri, Ndora, Muganza, Kibayi, Rusatira, Nyabisindu, Ntyazo, Muyira and Huye.

60. The Préfet represents executive power at prefectural level.

61. The Préfet is appointed by the President of the Republic on the recommendation of the Minister of the Interior and carries out his duties under that Minister's hierarchical authority.

62. The Préfet's authority covers the entire préfecture.

63. In his capacity as administrator of the préfecture, the Préfet is responsible for ensuring peace, public order and the safety of people and property.

64. The Préfet, in the discharge of his policing duties, maintaining peace and public order, may request the intervention of the army and of the Gendarmerie Nationale.

65. The Préfet has hierarchical authority over all civil servants and all persons holding public office within the boundaries of the préfecture, including the bourgmestres and conseillers de secteur.

66. Before the introduction of multi-party politics in Rwanda in 1991, the office of the Bourgmestre was characterised by the following features:

(a) The Bourgmestre represented executive power at the commune level.

(b) The Bourgmestre was appointed and removed by the President of the Republic on the recommendation of the Minister of the Interior.

(c) The Bourgmestre had authority over the civil servants posted in his commune.

(d) The Bourgmestre had policing duties in regard to maintaining law and order.

(e) Traditionally, the role of the bourgmestre had always been to act as the representative of the President in the commune.

67. The arrival of multi-party politics did not particularly change the considerable amount of unoffical powers conferred upon the bourgmestre by the people in the commune.

68. The Bourgmestre is under the hierarchical authority of the Préfet.

117. Most Defence Counsel raise no objection to the Chamber taking judicial notice of the contents of the laws, legislative decrees and presidential orders listed in Appendix B as well as the Security Council resolution, as in the Semanza Decision. However, the Defence oppose the Chamber's taking judicial notice of the application or the judicial interpretation of the administration of local government as indicated in paragraphs 58 to 68 of Section III. The Defence remind the Chamber that the Prosecution

2512

has filed an expert report by Professor Guichaoua titled "L'administraion territoriale rwandaise" addressing the same issues. The Defence had already indicated their willingness to cross-examine the said expert. Moreover, the Defence state that the administration of local government is a complex issue, which requires further clarification.

69. The Forces Armées Rwandaises (FAR) were composed of the Armée Rwandaise (AR) and the Gendarmerie Nationale (GN)

70. The Forces Armées Rwandaises did not have a unified command and came directly under the Minister of Defence.

71. The Commander-in-Chief of the Forces Armées Rwandaises was the President of the Republic.

72. The Gendarmerie Nationale was responsible for maintaining public order and peace and the observance of the laws in effect in the country.

73. Gendarmerie Nationale was under the Minister of Defence but could carry out its duties of ensuring public order and peace at the request of the Préfet.

74. In cases of emergency, this request could be made verbally, notably by telephone.

118. For paragraphs 69 to 74, the Defence refer the Chamber to their preceding commentary as to the difficulty of taking judicial notice of matters by relying almost exclusively on the content of Statutes, without being aware of the application and interpretation thereof. Specifically, the Defence indicate that the *Kayishema & Ruzindana* Judgement at paragraph 485 does not support paragraph 74 regarding the Prefect's power of oral requisition.

119. The Prosecution maintains that paragraph 67 is a verbatim reproduction of a finding in *Akayesu*, who was himself a *bourgmestre*. Further, it will be for the Prosecution to demonstrate the particular *de facto* powers of each accused before establishing how those powers are relevant to the crimes charged in the indictment.

120. The Prosecution maintains that the propositions listed in paragraphs 69 to 74 are supported by both legislation and judicial findings and the Defence has not demonstrated that these propositions are not of common knowledge.

Conclusions by the Chamber Regarding Items 58 to 74 (Part III) of Annex A

121. The Chamber notes that the legal authorities in support of the "statement of facts" on the interpretation of the functioning of the administrative structures are the documents listed in Annex B. The Chamber decides that it is not appropriate to take judicial notice of the interpretation of the application of such laws, as suggested by the Prosecution pursuant to Rule 94 (A). Accordingly, the Chamber does not take judicial notice of items 58 to 74 of Part III of Annex A.

Legal Findings

75. The following state of affairs, among others, prevailed in Rwanda between 6 April 1994 and 17 July 1994:

25-13

(a) some Rwandan citizens committed ***genocide****—to wit, the following acts were done with the intent to destroy wholly or partially in Rwanda the ethnic group identified as Tutsi:*

(i) persons perceived to be Tutsi were killed.

(ii) serious bodily or mental harm was inflicted upon persons perceived to be Tutsi.

(iii) conditions of life calculated to bring about the whole or partial physical destruction of Tutsi in Rwanda were deliberately inflicted upon them

(b) some Rwandan citizens directly and publicly ***incited*** *others to commit* ***genocide****.*

(c) some Rwandan citizens committed ***murder*** *as part of a widespread or systematic attack against a civilian population on ethnic, political, national or racial grounds.*

(d) some Rwandan citizens committed ***extermination*** *of human beings as part of a widespread or systematic attack against a civilian population on ethnic, political, national or racial grounds.*

(e) some Rwandan citizens committed ***torture*** *as part of a widespread or systematic attack against a civilian population on ethnic, political, national or racial grounds.*

(f) some Rwandan citizens committed ***rape*** *as part of a widespread or systematic attack against a civilian population on ethnic, political, national or racial grounds.*

(g) some Rwandan citizens committed ***political persecution*** *as part of a widespread or systematic attack against a civilian population on ethnic, political, national or racial grounds.*

(h) some Rwandan citizens committed ***inhumane acts*** *as part of a widespread or systematic attack against a civilian population on ethnic, political, national or racial grounds.*

76. Many of the victims of the abovementioned crimes were protected persons, within the meaning of Article 3 common to the Geneva Conventions and Additional Protocol II.

77. The Tutsi ethnic group constitutes a group protected by the Genocide Convention on the Prevention and Punishment of the Crime of Genocide (1948) and thence, by Article 2 of the Statute.

78. Between 1 January 1994 and 17 July 1994, the following state of affairs existed in Rwanda:

2574

(a) there was an armed conflict between the Rwandan Armed Forces (FAR) and the Rwandan Patriotic Front (RPF).

(b) this armed conflict was non-international in character.

79. Between 1 January 1994 and 17 July 1994, Rwanda was a state party to the Genocide Convention on the Prevention and Punishment of the Crime of Genocide (1948) - having acceded to it on 16 April 1975.

80. Between 1 January 1994 and 17 July 1994, Rwanda was a Contracting Party to the Geneva Conventions of 12 August 1949 and their Additional Protocol II of 8 June 1977 - having succeeded to the Geneva Conventions of 12 August 1949 on 5 May 1964 and acceded to Protocols additional thereto of 8 June 1977 on 19 November 1984.

122. The Defence indicate that paragraphs 75 to 80 appear under the title "Legal conclusions", which clearly indicates that the Chamber must not take judicial notice of legal findings and intentions, but only of objective facts. It cannot be used to judicially notice the crime of genocide by specifying the specific intent as in paragraph 75 (a). The Defence also recall paragraph 36 of the "Semanza Decision of 3 November 2000" on the issue of whether "genocide" occurred in Rwanda, which states: "[T]he question is so fundamental, that formal proofs should be submitted bearing out the existence of this jurisdictional elemental crime".

123. The Defence rely on the final reports of the Commission of Experts established by the Security Council, which states at paragraphs 181 and 182 that "individuals from both sides to the armed conflict perpetrated crimes against humanity in Rwanda" during the period from 6 April 1994 to 15 July 1994. It is therefore suggested that it is incorrect to infer that murders, extermination of the civilian population and other crimes stopped on 17 July 1994 or that these crimes did not exist prior to 6 April 1994.

124. The Prosecution wishes to correct an error in date and amends the date of the accession of Rwanda to the Genocide Convention from 12 February 1975 in the original Motion to 16 April 1975. With regard to Rwanda's accession to the Genocide Convention, as mentioned in paragraph 79, the Defence indicate that United Nations references refer to 6 April 1975 as the relevant date and not 16 April 1975, as alleged by the Prosecution.

125. With regard to paragraphs 75 to 80, the Prosecution maintains that only paragraph 75 contains *mens rea* elements but that these crimes are of common knowledge and constitute adjudicated facts before this Tribunal. The Prosecutor further argues that facts listed at 76 to 80 are consistent with all previous jurisprudence and that the exact wording of 78, 79 and 80 were first judicially noticed in the first Semanza Decision.

126. Even if the ICTY Simic Decision quoted by the Defence prohibits judicial notice of "legal characterisation of the conflict", the Prosecution maintains that those concerns are not applicable in the Rwandan context since there is no precedent before this Tribunal to suggest that "different conflicts of different natures" occurred in Rwanda. The Prosecution further indicates that the Semanza Decision took judicial notice of the nature of the conflict in Rwanda.

Conclusions by the Chamber Regarding Items 75 to 80 of Annex A

127. Having noted that Defence Counsel have contested the judicial notice with regard to the nature of the conflict in Rwanda during the relevant period and concurring with the reasoning in the

25-5

Ntakirutimana Decision of 22 November 2001, the Trial Chamber decides that, even if there are previous judgements referring to the nature of the conflict in Rwanda, and to crimes committed therein, the Chamber "prefers in the circumstances of the present case to hear evidence and arguments on the issue, rather than to take judicial notice"[17] of those legal conclusions.

128. The Chamber, therefore, does not take judicial notice of facts 75 to 80 of Annex A.

129. Finally, and also concurring with a finding in the Ntakirutimana Decision of 22 November 2001, the Chamber does not consider it to be its task to reformulate the facts listed in Annex A.

JUDICIAL NOTICE OF ANNEX B

130. In the present case the Prosecutor argues that the documents in Annex B ought to receive not only judicial notice of their authenticity but of their contents as well. In support of its argument, the Prosecution relies on the Semanza Decision of 3 November 2000[18]:

> [T]here is ample precedent in this Tribunal to take judicial notice of the existence and authenticity of such documents without taking judicial notice of the contents thereof. The Chamber, nevertheless, shall take judicial notice of the contents of resolutions of the Security Council and of statements made by the President of the Security Council because it is an organ of the United Nations which established the Tribunal. In addition, the Chamber takes judicial notice of the contents of Décret-Loi no. 01/81 and Arrete ministeriel no. 01/03, which are the copies of certain portions of the laws of Rwanda and properly qualify for judicial notice. The Chamber stresses, however, that by taking judicial notice of the existence and authenticity of the other documents in Appendix B, the Chamber does not take judicial notice of the facts recited therein.

131. The Prosecutor, citing a Decision in the ICTY Simic case argues that the test for the judicial notice of the contents of documents ought to be whether the documents amount to a "readily accessible source of indispensable accuracy".[19]

132. The Defence do not object to judicial notice of Annex B, which is mainly composed of legislation, but submit that the content of such legislation is no evidence of its application.

133. The Chamber finds that the Laws of Rwanda (*Décrets-loi*, items 1 and 4), certain parts of the Rwandan Law from "*Codes et lois du Rwanda*" (items 2, 3, and 5), the *Arrêtés présidentiels* (items 6 and 7) and the Constitution of the Republic of Rwanda (item 9, added by Addendum) are proper subjects for judicial notice, pursuant to Rule 94 (A), as they are matters of public notoriety that should not normally require proof. The Chamber notes that, in the Semanza Decision of 3 November 2000, the Chamber judicially noticed documents by the United Nations Security Council similar to item 8 of Annex B. Accordingly, the Chamber takes judicial notice of the existence and authenticity of the documents listed in Annex B, but does not take judicial notice of the facts recited therein.

134. The Chamber concurs with the ruling of Trial Chamber III in the Semanza Decision of 6 February 2002, in which "in the interest of completeness and accuracy" the Chamber *proprio motu* took judicial notice of *Décret-loi No 18/75* that modified *Décret-loi No 10/75*. In the instant case, having noted the Defence's submissions in this respect, the Chamber *proprio motu* takes judicial notice of the legislation in Annex B and of any subsequent modification or amendments made to it, up until 31 December 1994.

ADMISSION INTO EVIDENCE OF ANNEX C

135. The Defence allege that the Prosecution's request in relation to Annex C pursuant to Rule 89(C),

2576

raises important issues such as: the exemption from the rule of law, the admissibility of irrelevant evidence and the violation of the right of the accused to a fair trial through an improper shift of the burden of proof.

136. The Defence argue that an informal document, the contents of which cannot be judicially noticed, must be tendered in evidence by its author, unless the opposing party consents thereto, which is not the case. The Defence argue that rules governing the admissibility of evidence require, *inter alia*, that such evidence be reliable, relate to specific facts and be relevant, whereas the Prosecutor simply alleges that the documents contained in Annex C have probative value.

137. Concerning the admission into evidence of the book titled "The United Nations and Rwanda 1993-1996" (paragraph 5 of Annex C), the Defence indicate that questions of relevance can be raised in relation to information contained in the book and that opinions and conclusions comprised in the book cannot be admitted into evidence unless made by an expert witness, pursuant to Rule 94*bis*.

138. Finally, the Defence argue that to admit into evidence disputed facts of questionable relevance would amount to compelling the Accused to adduce evidence in rebuttal of such facts without knowing what probative value these documents may have. Only the Constitution of Rwanda, referred to in paragraph 10 of Annex C, should be treated like other documents present in Annex B.

139. The Prosecutor argues that Annex C consists of documents with probative value, as recognised in both the Semanza Decision and the *Akayesu* Judgement, where the vast majority of the documents were judicially noticed as to their authenticity because of their probative value regarding the historical and political context of the offences with which the accused was charged.

140. The Chamber finds that in order to "best favour a fair determination of the matter before it" (sub-Rule (B)), the Parties should, as a matter of principle, have an opportunity to examine the evidence presented by the opposing Party in the course of the proceedings, following the scheme for the admission and presentation of evidence established by the Rules[20]. Rule 89(C) states that "a Chamber may admit any relevant evidence which it deems to have probative value". However, the Chamber is not convinced that justice will be best served if, in the instant case by the exercise of its discretionary power, it admitted into evidence the documents listed in Annex C, insofar as their relevancy and probative value have not been demonstrated by the Prosecution. (Our emphasis).

141. Accordingly, the Chamber denies the request to admit into evidence the documents listed in Annex C, pursuant to Rule 89(C) of the Rules.

142. Finally, the Chamber concurs with the remarks of Trial Chamber I in the Ntakirutimana Decision concerning facts which were not judicially noticed in the instant proceedings but which could possibly be judicially noticed in a different context; the Chamber does not take judicial notice of the aforementioned facts in the specific context of the "Butare Cases" involving six accused jointly tried.

FOR THE ABOVE REASONS, THE TRIBUNAL

DENIES the Defence "Motion by the Accused Pauline Nyiramasuhuko and Élie Ndayambaje to Rule Inadmissible the Prosecution Motion for Judicial Notice and Admission of Evidence."

DENIES the Defence « Requête d'extrême urgence sollicitant l'autorisation de déposer une duplique à la réplique du Procureur à la réponse de Pauline Nyiramasuhuko à la requête aux fins de constat judiciaire et d'admission de présomptions factuelles, aux vues d'éléments nouveaux n'apparaissant pas

dans la requête initiale du procureur », filed on 12 September 2001. 2577

DENIES the Prosecution's Motion to Rule Inadmissible Nsabimana's Reply;

TAKES JUDICIAL NOTICE of items 41 and 42 contained in Annex A, as facts of common knowledge, pursuant to Rule 94(A).

TAKES JUDICIAL NOTICE of the authenticity of the documents contained in Annex B to the Motion, pursuant to Rule 94(A), including any subsequent modification or amendments up until 31 December 1994, as follows:

(1) *Décret-loi* No. 10/75, *Organisation et fonctionnement de la préfecture, 11 mars 1975*;

(2) *Organisation territoriale de la République, 15 avril 1963, annexe II, limites des communes*, at paragraph III;

(3) *Loi sur l'organisation communale, 23 novembre 1963, article 1*;

(4) *Décret-loi création de la Gendarmerie nationale (23 janvier 1974)*;

(5) *Ordonnance législative No. R/85/25, Création de l'Armée rwandaise (10 mai 1962, article 4);*

(6) *Arrêté présidentiel No. 86/08, Intégration de la Police dans l'Armée rwandaise (26 juin 1973, articles 1, 2);*

(7) *Arrêté présidentiel No. 01/02, Statut des officiers des forces armées rwandaises (3 janvier 1977, article 2);*

(8) UN Document S/RES/872 (1993) 5 October 1993 ;

(9) The Constitution of the Republic of Rwanda, 10 June 1991, Art. 45 (*Gazette,* 1991, p. 615).

DENIES the Motion in all other respects.

Arusha, 15 May 2002,

William H. Sekule	Winston C. Matanzima Maqutu	Arlette Ramaroson
Presiding Judge	Judge	Judge

[Seal of the Tribunal]

---

[1] Unofficial translation of the title of the Submission "Urgent Motion Requesting Additional Time to Reply to the

2578

Prosecutor's Motion for Judicial Notice."

[2] Unofficial translation of the title of the Submission "Motion by Joseph Kanyabashi Requesting Authorisation to File a Reply to the Prosecutor's Response on the Motion for Judicial Notice and Admission of Evidence."

[3] Unofficial translation of the Submissions "Preliminary Response to the Prosecutor's Motion for Judicial Notice and Admission of Evidence", "First Supplements to the Response to the Prosecutor's Motion for Judicial Notice and Admission of Evidence".

[4] Unofficial translation of the submission "Pauline Nyiramasuhuko's Response to the Prosecutor's Motion for Judicial Notice and Admission of Evidence".

[5] Unofficial translation of the submission "Extremely Urgent Motion for Authorisation to File a Reply to the Prosecutor's Response to Pauline Nyiramasuhuko's Reply to the Motion for Judicial Notice and Admission of Evidence in View of New Facts" and "Reply by Pauline Nyiramasuhuko to Prosecutor's Response to Pauline Nyiramasuhuko's Reply to the Motion for Judicial Notice and Admission of Evidence".

[6] Unofficial translation of the submission "Extremely Urgent Motion to Hear the Parties on Judicial Notice and Admission of Evidence".

[7] Unofficial translation of the Submission "Response of the Accused Alphonse Nteziryayo to the Prosecutor's Motion for Judicial Notice and Admission of Evidence."

[8] Unofficial translation of the Submission "Reply to the Prosecutor's Supplemental Reply in Support of the Motion for Judicial Notice and Admission of Evidence Only on the Issue of Deadlines."

[9] Unofficial translation of the submission "First Supplements to the Response to the Prosecutor's Motion for Judicial Notice and Admission of Evidence."

[10] See "Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts", the Prosecutor v. Sikirica et al., Case No. ICTY-IT-95-87, 27 September 2000,

[11] "Semanza Decision of 3 November 2000", at paragraph 23.

[12] *Id.* at para. 24.

[13] *Id.* at par. 31.

[14] *Id.* at para. 35.

[15] Pursuant to Rule 94, the Chamber in the "Semanza Decision of 3 November 2000"decided as follows: "Some of the facts the Prosecutor seeks judicial notice of in Appendix A belong to that genus of 'common knowledge' or "notorious historical facts" permitting a court to dispense with the submission of formal proofs. For example, the Prosecutor first calls on the Chamber to take judicial notice of the fact that Rwandan citizens were classified into three ethnic groups, namely, Hutu, Tutsi and Twa. Similarly, the fact that during the period from 6 April 1994 to 17 July 1994 there existed throughout Rwanda 'widespread and systematic attacks' against the civilian population based on certain invidious classifications including Tutsi ethnic identity, is a notorious historical fact of which this Chamber may take judicial notice. Moreover, the powers of the office of *Bourgmestre* are a proper subject of judicial notice because it falls squarely into the category of matters that are of common knowledge within the jurisdiction of this Tribunal and which may readily be determined by reference to such reliable sources such as the written laws of Rwanda."

[16]Appeals Chamber Decision, Prosecutor v. Kupreskic, 8 May 2001.

[17] Ntakirutimana, para. 36

[18] Semanza at para. 38.

2579

[19] "Decision on the Pre-trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the International Character of the Conflict in Bosnia-Herzegovina", the Prosecutor v. Simic et al, Case No. ICTY-IT-95-9-PT, 25 March 1999, at par. 3.

[20] "Decision on Prosecutor's Appeal on Admissibility of Evidence, Dissenting Opinion of Judge Patrick Robinson", the Prosecutor v. Aleksovski, Case No-ICTY- IT-95-14/1-AR73, 16 February 1999, par.5.

2580

PROSECUTION INDEX OF AUTHORITIES

5. *Prosecutor v Akayesu*, ICTR-96-4-T, Judgment, 2 September 1998.



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

CHAMBER I - CHAMBRE I

OR : ENG

Before:

Judge Laïty Kama, Presiding
Judge Lennart Aspegren
Judge Navanethem Pillay

Registry:

Mr. Agwu U. Okali

Decision of: 2 September 1998

THE PROSECUTOR
VERSUS
JEAN-PAUL AKAYESU

Case No. ICTR-96-4-T

JUDGEMENT

The Office of the Prosecutor:

Mr. Pierre-Richard Prosper

Counsel for the Accused:

Mr. Nicolas Tiangaye
Mr. Patrice Monthé

List of Contents

1. INTRODUCTION

1.1. The International Tribunal

1.2. The Indictment

1.3. Jurisdiction of the Tribunal

Article 2: Genocide
Article 3: Crimes against Humanity
Article 4: Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II
Article 6: Individual Criminal Responsibility

1.4. The Trial

1.4.1. Procedural Background
1.4.2. The Accused's line of defence

1.5. The Accused and his functions in Taba (paragraphs 3-4 of the Indictment)

De jure powers
De facto powers

2. HISTORICAL CONTEXT OF THE EVENTS IN RWANDA IN 1994

3. GENOCIDE IN RWANDA IN 1994?

4. EVIDENTIARY MATTERS

5. FACTUAL FINDINGS

5.1. General allegations (Paragraphs 5-11 of the Indictment)

5.2 Killings (Paragraphs 12, 13, 18, 19 & 20 of the Indictment)

5.2.1. Paragraph 12 of the Indictment
5.2.2. Paragraph 13 of the Indictment
5.2.3. Paragraph 18 of the Indictment
5.2.4. Paragraph 19 and 20 of the Indictment

5.3 Meeting

5.3.1. Paragraphs 14 and 15 of the Indictment

5.4 Beatings (Torture/Cruel Treatment) (Paragraphs 16, 17, 21, 22 & 23 of the Indictment)

5.5 Sexual Violence (Paragraphs 12A & 12B of the Indictment)

6. THE LAW

6.1 Cumulative Charges

6.2. Individual criminal responsibility (Article 6 of the Statute)

6.3. Genocide (Article 2 of the Statute)

6.3.1. Genocide
6.3.2. Complicity in Genocide
6.3.3. Direct and Public Incitement to commit Genocide

6.4. Crimes against Humanity (Article 3 of the Statute)

6.5. Violations of Common Article 3 and Additional Protocol II (Article 4 of the Statute)

7. LEGAL FINDINGS

7.1. Counts 6, 8, 10 and 12 - Violations of Common Article 3 (murder and cruel treatment) and Count 15 - Violations of Common Article 3 and Additional Protocol II (outrages upon personal dignity, in particular rape...)

7.2. Count 5 - Crimes against humanity (murder)

7.3. Count 7 - Crimes against Humanity (murder)

7.4. Count 9 - Crimes against Humanity (murder)

7.5. Count 4 - Direct and Public Incitement to commit Genocide

7.6. Count 11 - Crimes against Humanity (torture)

7.7. Count 13 (rape) and Count 14 (other inhumane acts) - Crimes against Humanity

7.8. Count 1 - Genocide, Count 2 - Complicity in Genocide

7.9. Count 3 - Crimes against Humanity (extermination)

8. VERDICT

---

1. INTRODUCTION

1.1. The International Tribunal

1. This judgment is rendered by Trial Chamber I of the International Tribunal for the prosecution of persons responsible for genocide and other serious violations of international humanitarian law

committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January and 31 December 1994 (the "Tribunal"). The judgment follows the indictment and trial of Jean Paul Akayesu, a Rwandan citizen who was bourgmestre of Taba commune, Prefecture of Gitarama, in Rwanda, at the time the crimes alleged in the indictment were perpetrated.

2. The Tribunal was established by the United Nations Security Council by its resolution 955 of 8 November 1994.1 After having reviewed various official United Nations reports2 which indicated that acts of genocide and other systematic, widespread and flagrant violations of international humanitarian law had been committed in Rwanda, the Security Council concluded that the situation in Rwanda in 1994 constituted a threat to international peace and security within the meaning of Chapter VII of the United Nations Charter. Determined to put an end to such crimes and " convinced that...the prosecution of persons responsible for such acts and violations ... would contribute to the process of national reconciliation and to the restoration and maintenance of peace", the Security Council, acting under the said Chapter VII established the Tribunal.3 Resolution 955 charges all States with a duty to cooperate fully with the Tribunal and its organs in accordance with the Statute of the Tribunal (the "Statute"), and to take any measures necessary under their domestic law to implement the provisions of the Statute, including compliance with requests for assistance or orders issued by the Tribunal . Subsequently, by its resolution 978 of 27 February 1995, the Security Council "urge[d] the States to arrest and detain, in accordance with their national law and relevant standards of international law, pending prosecution by the International Tribunal for Rwanda or by the appropriate national authorities, persons found within their territory against whom there is sufficient evidence that they were responsible for acts within the jurisdiction of the International Tribunal for Rwanda".4

3. The Tribunal is governed by its Statute, annexed to the Security Council Resolution 955, and by its Rules of Procedure and Evidence (the "Rules"), adopted by the Judges on 5 July 1995 and amended subsequently.5 The two Trial Chambers and the Appeals Chamber of the Tribunal are composed of eleven Judges in all, three sitting in each Trial Chamber and five in the Appeals Chamber. They are elected by the United Nations General Assembly and represent, in accordance with Article 12(3) (c) of the Statute, the principal legal systems of the world. The Statute stipulates that the members of the Appeals Chamber of the other special internatinal criminal tribunal, namely the Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 ("the Tribunal for the former Yugoslavia"), shall also serve as members of the Appeals Chamber of the Tribunal for Rwanda.

4. Under the Statute, the Tribunal has the power to prosecute persons responsible for serious violations of international human law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January and 31 December 1994. According to Articles 2 to 4 of the Statute relating to its *ratione materiae* jurisdiction, the Tribunal has the power to prosecute persons who committed genocide as defined in Article 2 of the Statute, persons responsible for crimes against humanity as defined in Article 3 of the Statute and persons responsible for serious violations of Article 3 Common to the Geneva Conventions of 12 August 1949 on the protection of victims of war6, and of Additional Protocol II thereto of 8 June 1977, a crime defined in Article 4 of the Statute 7. Article 8 of the Statute provides that the Tribunal has concurrent jurisdiction with national courts over which it, however, has primacy.

5. The Statute stipulates that the Prosecutor, who acts as a separate organ of the Tribunal, is responsible for the investigation and prosecution of the perpetrators of such violations. Upon determination that a prima facie case exists to proceed against a suspect, the Prosecutor shall prepare an indictment containing a concise statement of the facts and the crime or crimes with which the accused is charged. Thereafter, he or she shall transmit the indictment to a Trial Judge for review and, if need be,

confirmation. Under the Statute, the Prosecutor of the Tribunal for the former Yugoslavia shall also serve as the Prosecutor of the Tribunal for Rwanda. However, the two Tribunals maintain separate Offices of the Prosecutor and Deputy Prosecutors. The Prosecutor of the Tribunal for Rwanda is assisted by a team of investigators, trial attorneys and senior trial attorneys, who are based in Kigali, Rwanda. These officials travel to Arusha whenever they are expected to plead a case before the Tribunal.

1.2. The Indictment

6. The Indictment against Jean-Paul Akayesu was submitted by the Prosecutor on 13 February 1996 and was confirmed on 16 February 1996. It was amended during the trial, in June 1997, with the addition of three counts (13 to 15) and three paragraphs (10A, 12A and 12B). The Amended Indictment is here set out in full:

> "The Prosecutor of the International Criminal Tribunal for Rwanda, pursuant to his authority under Article 17 of the Statute of the Tribunal, charges:
>
> **JEAN PAUL AKAYESU**
>
> with **GENOCIDE, CRIMES AGAINST HUMANITY** and **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS**, as set forth below:
>
> Background
>
> 1. On April 6, 1994, a plane carrying President Juvénal Habyarimana of Rwanda and President Cyprien Ntaryamira of Burundi crashed at Kigali airport, killing all on board. Following the deaths of the two Presidents, widespread killings, having both political and ethnic dimensions, began in Kigali and spread to other parts of Rwanda.
>
> 2. Rwanda is divided into 11 prefectures, each of which is governed by a prefect. The prefectures are further subdivided into communes which are placed under the authority of bourgmestres. The bourgmestre of each commune is appointed by the President of the Republic, upon the recommendation of the Minister of the Interior. In Rwanda, the bourgmestre is the most powerful figure in the commune. His *de facto* authority in the area is significantly greater than that which is conferred upon him *de jure*.
>
> The Accused
>
> 3. **Jean Paul AKAYESU**, born in 1953 in Murehe sector, Taba commune, served as bourgmestre of that commune from April 1993 until June 1994. Prior to his appointment as bourgmestre, he was a teacher and school inspector in Taba.
>
> 4. As bourgmestre, **Jean Paul AKAYESU** was charged with the performance of executive functions and the maintenance of public order within his commune, subject to the authority of the prefect. He had exclusive control over the communal police, as well as any gendarmes put at the disposition of the commune. He was responsible for the execution of laws and regulations and the administration of justice, also subject only to the prefect's authority.

General Allegations

5. Unless otherwise specified, all acts and omissions set forth in this indictment took place between 1 January 1994 and 31 December 1994, in the commune of Taba, prefecture of Gitarama, territory of Rwanda.

6. In each paragraph charging genocide, a crime recognized by Article 2 of the Statute of the Tribunal, the alleged acts or omissions were committed with intent to destroy, in whole or in part, a national, ethnic or racial group.

7. The victims in each paragraph charging genocide were members of a national, ethnic, racial or religious group.

8. In each paragraph charging crimes against humanity, crimes recognized by Article 3 of the Tribunal Statute, the alleged acts or omissions were committed as part of a widespread or systematic attack against a civilian population on national, political, ethnic or racial grounds.

9. At all times relevant to this indictment, a state of internal armed conflict existed in Rwanda.

10. The victims referred to in this indictment were, at all relevant times, persons not taking an active part in the hostilities.

10A. In this indictment, acts of sexual violence include forcible sexual penetration of the vagina, anus or oral cavity by a penis and/or of the vagina or anus by some other object, and sexual abuse, such as forced nudity.

11. The accused is individually responsible for the crimes alleged in this indictment. Under Article 6(1) of the Statute of the Tribunal, individual criminal responsibility is attributable to one who plans, instigates, orders, commits or otherwise aids and abets in the planning, preparation or execution of any of the crimes referred to in Articles 2 to 4 of the Statute of the Tribunal.

Charges

12. As bourgmestre, **Jean Paul AKAYESU** was responsible for maintaining law and public order in his commune. At least 2000 Tutsis were killed in Taba between April 7 and the end of June, 1994, while he was still in power. The killings in Taba were openly committed and so widespread that, as bourgmestre, **Jean Paul AKAYESU** must have known about them. Although he had the authority and responsibility to do so, **Jean Paul AKAYESU** never attempted to prevent the killing of Tutsis in the commune in any way or called for assistance from regional or national authorities to quell the violence.

12A. Between April 7 and the end of June, 1994, hundreds of civilians (hereinafter "displaced civilians") sought refuge at the bureau communal. The majority of these displaced civilians were Tutsi. While seeking refuge at the bureau communal, female displaced civilians were regularly taken by armed local militia and/or communal police and subjected to sexual violence, and/or beaten on or near the bureau communal premises. Displaced civilians were also murdered frequently on or near the bureau communal

premises. Many women were forced to endure multiple acts of sexual violence which were at times committed by more than one assailant. These acts of sexual violence were generally accompanied by explicit threats of death or bodily harm. The female displaced civilians lived in constant fear and their physical and psychological health deteriorated as a result of the sexual violence and beatings and killings.

12B. **Jean Paul AKAYESU** knew that the acts of sexual violence, beatings and murders were being committed and was at times present during their commission. **Jean Paul AKAYESU** facilitated the commission of the sexual violence, beatings and murders by allowing the sexual violence and beatings and murders to occur on or near the bureau communal premises. By virtue of his presence during the commission of the sexual violence, beatings and murders and by failing to prevent the sexual violence, beatings and murders, **Jean Paul AKAYESU** encouraged these activities.

13. On or about 19 April 1994, before dawn, in Gishyeshye sector, Taba commune, a group of men, one of whom was named Francois Ndimubanzi, killed a local teacher, Sylvere Karera, because he was accused of associating with the Rwandan Patriotic Front ("RPF") and plotting to kill Hutus. Even though at least one of the perpetrators was turned over to **Jean Paul AKAYESU**, he failed to take measures to have him arrested.

14. The morning of April 19, 1994, following the murder of Sylvere Karera, **Jean Paul AKAYESU** led a meeting in Gishyeshye sector at which he sanctioned the death of Sylvere Karera and urged the population to eliminate accomplices of the RPF, which was understood by those present to mean Tutsis. Over 100 people were present at the meeting. The killing of Tutsis in Taba began shortly after the meeting.

15. At the same meeting in Gishyeshye sector on April 19, 1994, **Jean Paul AKAYESU** named at least three prominent Tutsis -- Ephrem Karangwa, Juvénal Rukundakuvuga and Emmanuel Sempabwa -- who had to be killed because of their alleged relationships with the RPF. Later that day, Juvénal Rukundakuvuga was killed in Kanyinya. Within the next few days, Emmanuel Sempabwa was clubbed to death in front of the Taba bureau communal.

16. **Jean Paul AKAYESU**, on or about April 19, 1994, conducted house-to-house searches in Taba. During these searches, residents, including Victim V, were interrogated and beaten with rifles and sticks in the presence of **Jean Paul AKAYESU**. **Jean Paul AKAYESU** personally threatened to kill the husband and child of Victim U if she did not provide him with information about the activities of the Tutsis he was seeking.

17. On or about April 19, 1994, **Jean Paul AKAYESU** ordered the interrogation and beating of Victim X in an effort to learn the whereabouts of Ephrem Karangwa. During the beating, Victim X's fingers were broken as he tried to shield himself from blows with a metal stick.

18. On or about April 19, 1994, the men who, on **Jean Paul AKAYESU**'s instructions, were searching for Ephrem Karangwa destroyed Ephrem Karangwa's house and burned down his mother's house. They then went to search the house of Ephrem Karangwa's brother-in-law in Musambira commune and found Ephrem Karangwa's three brothers there. The three brothers -- Simon Mutijima, Thaddée Uwanyiligira and Jean Chrysostome Gakuba -- tried to escape, but **Jean Paul AKAYESU** blew his whistle to alert local residents to the attempted escape and ordered the people to capture the brothers. After the

brothers were captured, **Jean Paul AKAYESU** ordered and participated in the killings of the three brothers.

19. On or about April 19, 1994, **Jean Paul AKAYESU** took 8 detained men from the Taba bureau communal and ordered militia members to kill them. The militia killed them with clubs, machetes, small axes and sticks. The victims had fled from Runda commune and had been held by **Jean Paul AKAYESU**.

20. On or about April 19, 1994, **Jean Paul AKAYESU** ordered the local people and militia to kill intellectual and influential people. Five teachers from the secondary school of Taba were killed on his instructions. The victims were Theogene, Phoebe Uwineze and her fiance (whose name is unknown), Tharcisse Twizeyumuremye and Samuel. The local people and militia killed them with machetes and agricultural tools in front of the Taba bureau communal.

21. On or about April 20, 1994, **Jean Paul AKAYESU** and some communal police went to the house of Victim Y, a 68 year old woman. **Jean Paul AKAYESU** interrogated her about the whereabouts of the wife of a university teacher. During the questioning, under **Jean Paul AKAYESU**'s supervision, the communal police hit Victim Y with a gun and sticks. They bound her arms and legs and repeatedly kicked her in the chest. **Jean Paul AKAYESU** threatened to kill her if she failed to provide the information he sought.

22. Later that night, on or about April 20, 1994, **Jean Paul AKAYESU** picked up Victim W in Taba and interrogated her also about the whereabouts of the wife of the university teacher. When she stated she did not know, he forced her to lay on the road in front of his car and threatened to drive over her.

23. Thereafter, on or about April 20, 1994, **Jean Paul AKAYESU** picked up Victim Z in Taba and interrogated him. During the interrogation, men under **Jean Paul AKAYESU**'s authority forced Victims Z and Y to beat each other and used a piece of Victim Y's dress to strangle Victim Z.

Counts 1-3
(Genocide)
(Crimes against Humanity)

By his acts in relation to the events described in paragraphs 12-23, **Jean Paul AKAYESU** is criminally responsible for:

COUNT 1: **GENOCIDE**, punishable by Article 2(3)(a) of the Statute of the Tribunal;

COUNT 2: Complicity in **GENOCIDE**, punishable by Article 2(3)(e) of the Statute of the Tribunal; and

COUNT 3: **CRIMES AGAINST HUMANITY** (extermination), punishable by Article 3(b) of the Statute of the Tribunal.

Count 4
(Incitement to Commit Genocide)

By his acts in relation to the events described in paragraphs 14 and 15, **Jean Paul AKAYESU** is criminally responsible for:

COUNT 4: Direct and Public Incitement to Commit **GENOCIDE**, punishable by Article 2 (3)(c) of the Statute of the Tribunal.

Counts 5-6
(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation the murders of Juvénal Rukundakuvuga, Emmanuel Sempabwa, Simon Mutijima, Thaddée Uwanyiligira and Jean Chrysostome Gakuba, as described in paragraphs 15 and 18, **Jean Paul AKAYESU** committed:

COUNT 5: **CRIMES AGAINST HUMANITY** (murder) punishable by Article 3(a) of the Statute of the Tribunal; and

COUNT 6: **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS**, as incorporated by Article 4(a)(murder) of the Statute of the Tribunal.

Counts 7-8
(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation the murders of 8 detained men in front of the bureau communal as described in paragraph 19, **Jean Paul AKAYESU** committed:

COUNT 7: **CRIMES AGAINST HUMANITY** (murder) punishable by Article 3(a) of the Statute of the Tribunal; and

COUNT 8: **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS**, as incorporated by Article 4(a)(murder) of the Statute of the Tribunal.

Counts 9-10
Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation to the murders of 5 teachers in front of the bureau communal as described in paragraph 20, **Jean Paul AKAYESU** committed:

COUNT 9: **CRIMES AGAINST HUMANITY** (murder) punishable by Article 3(a) of the Statute of the Tribunal; and

COUNT 10 **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS**, as incorporated by Article 4(a)(murder) of the Statute of the Tribunal.

Counts 11-12
(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation to the beatings of U, V, W, X, Y and Z as described in paragraphs 16, 17, 21, 22 and 23, **Jean Paul AKAYESU** committed:

COUNT 11:**CRIMES AGAINST HUMANITY** (torture), punishable by Article 3(f) of the Statute of the Tribunal; and

COUNT 12: **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS**, as incorporated by Article 4(a)(cruel treatment) of the Statute of the Tribunal.

In addition and/or in the alternative to his individual responsibility under Article 6(1) of the Statute of the Tribunal, the accused, is individually responsible under Article 6(3) of the Statute of the Tribunal for the crimes alleged in Counts 13 through 15. Under Article 6(3), an individual is criminally responsible as a superior for acts of a subordinate if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

Counts 13-15
(Crimes Against Humanity)
(Violations of Article 3 common to the Geneva Conventions)

By his acts in relation to the events at the bureau communal, as described in paragraphs 12 (A) and 12(B), **Jean Paul AKAYESU** committed:

COUNT 13:**CRIMES AGAINST HUMANITY** (rape), punishable by Article 3(g) of the Statute of the Tribunal; and

COUNT 14: **CRIMES AGAINST HUMANITY**, (other inhumane acts), punishable by Article 3(i) of the Statute of the Tribunal; and

COUNT 15:**VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND OF ARTICLE 4(2)(e) OF ADDITIONAL PROTOCOL 2**, as incorporated by Article 4(e)(outrages upon personal dignity, in particular rape, degrading and humiliating treatment and indecent assault) of the Statute of the Tribunal.

___(Signed)_____.
Louise Arbour
Prosecutor

1.3. Jurisdiction of the Tribunal

7. The subject-matter jurisdiction of the ICTR is set out in Articles 2,3 and 4 of the Statute:

Article 2: Genocide

1. The International Tribunal for Rwanda shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the

other acts enumerated in paragraph 3 of this article.

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

a) Killing members of the group;

b) Causing serious bodily or mental harm to members of the group;

c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

d) Imposing measures intended to prevent births within the group;

e) Forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

a) Genocide;

b) Conspiracy to commit genocide;

c) Direct and public incitement to commit genocide;

d) Attempt to commit genocide;

e) Complicity in genocide.

Article 3: CRIMES AGAINST HUMANITY

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds:

a) Murder;

b) Extermination;

c) Enslavement;

d) Deportation;

e) Imprisonment;

f) Torture;

g) Rape;

h) Persecutions on political, racial and religious grounds;

i) Other inhumane acts.

Article 4: Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II

The International Tribunal for Rwanda shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include, but shall not be limited to:

a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

b) Collective punishments;

c) Taking of hostages;

d) Acts of terrorism;

e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

f) Pillage;

g) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples;

h) Threats to commit any of the foregoing acts.

8. In addition, Article 6 states the principle of individual criminal responsibility:

Article 6: Individual Criminal Responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the present Statute, shall be individually responsible for the crime.

2. The official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or

had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal for Rwanda determines that justice so requires.

1.4. The Trial

1.4.1. Procedural Background

9. Jean-Paul Akayesu was arrested in Zambia on 10 October 1995. On 22 November 1995, the Prosecutor of the Tribunal, pursuant to Rule 40 of the Rules, requested the Zambian authorities to keep Akayesu in detention for a period of 90 days, while awaiting the completion of the investigation.

10. On 13 February 1996, the then Prosecutor, Richard Goldstone8, submitted an Indictment against Akayesu, which was subsequently amended on 17 June 1997. It contains a total of 15 counts covering genocide, crimes against humanity and violations of Article 3 Common to the 1949 Geneva Convention and Additional Protocol II of 1977 thereto. More specifically, Akayesu was individually charged with genocide, complicity in genocide, direct and public incitement to commit genocide, extermination, murder, torture, cruel treatment, rape, other inhumane acts and outrages upon personal dignity, which he allegedly committed in Taba commune of which he was the bourgmestre at the time of the alleged acts.

11. The Indictment was confirmed and an arrest warrant, accompanied by an order for continued detention, was issued by Judge William H. Sekule on 16 February 1996. The following week, the Indictment was submitted by the Registrar to the Zambian authorities, to be served upon the Accused. Akayesu was transferred to the Detention Facilities of the Tribunal in Arusha on 26 May 1996, where he is still detained awaiting judgment.

12. The initial appearance of the Accused, pursuant to Rule 62 of the Rules, took place on 30 May 1996 in the presence of his counsel before Trial Chamber I, composed of Judge Laity Kama, presiding, Judge Lennart Aspegren and Judge Navanethem Pillay. The prosecution team, led by Honoré Rakotomanana9 Deputy Prosecutor of the Tribunal, was composed of Yacob Haile-Mariam, Mohamed Chande Othman and Pierre-Richard Prosper10. The Accused pleaded not guilty to all the counts against him. On the same date, the Chamber ordered the continued detention of the Accused while awaiting his trial11. Simultaneous interpretation in French and English, and where necessary Kinyarwanda, was provided at the hearings.

13. The Accused having been found indigent by the Tribunal, in accordance with the provisions of the Directive on Assignment of Defence Counsel12, the Registrar of the Tribunal assigned Johan Scheers as defence counsel for the Accused and counsel's fees were paid by the Tribunal. By a decision of 31 October 1996, the Chamber directed the Registrar of the Tribunal to withdraw the assignment of Johan Scheers as defence counsel for Akayesu, pursuant to Article 19 of the Directive on Assignment of Defence Counsel, and to immediately assign Michael Karnavas as the new defence counsel for the Accused. In the same decision, the Chamber postponed the trial until 9 January 1997, at the request of the Accused13. On 20 November 1996, the Chamber granted a request for a further change of defence counsel filed by the Accused on 11 November 1996, pursuant to Article 19 of the Directive. On 9 January 1997, the Registrar assigned Nicolas Tiangaye and Patrice Monthé, who served as defence counsel for the Accused until the end of the trial. On 16 January 1997, the Chamber rejected a third

motion for change of defence counsel filed by the Accused on 9 January 199714. The decision of 16 January 1997 also put an end to the interim measures adopted by the Chamber on 13 January 1997, temporarily authorizing the Accused to cross-examine the witnesses himself, along with his two counsel

14. On 27 May 1996, the then counsel for the Accused, Johan Scheers, filed a preliminary motion under Rule 73 of the Rules15, requesting the Chamber to (i) rule that the criminal proceedings were inadmissible for reasons of flagrant violations of the rights of Defence; (ii) order the hearing of witnesses and that Defence investigations be conducted; (iii) exclude from the proceedings, all indirect witnesses to the acts for which the Accused is charged; and (iv) order the release of the Accused pending the trial on the merits. During the oral presentation of the motion at the hearing of 26 September 1996, however, the Defence raised issues beyond the framework of the said motion by advancing complaints regarding, on the one hand, the detention conditions of the Accused during his imprisonment in Zambia and, on the other hand, the delay by the Prosecutor in disclosing the Indictment and supporting material. In its decision of 27 September 199616, the Chamber rejected the entire motion on the grounds that the objections raised by the Defence and the manner in which they were presented, did not provide sufficient basis for the Chamber to rule on the merits under Rule 73 of the Rules. That same day, the Chamber adjourned the trial at the request of the Defence and set 31 October 199617 as the official opening date of the trial on the merits.

15. On 29 October 1996, the Chamber granted the Prosecutor's motion of 23 October 1996 for the transfer of a witness detained in Rwanda in order for him to testify before the Tribunal. A similar motion by the Defence, filed on 30 October 1997, was granted by the Chamber, it being ordered that three witnesses then detained in Rwanda be transferred to the Tribunal's Detention Facilities for a period of not more than two months so as to testify in the trial18. However, two subsequent requests by the Defence for the transfer and appearance in court of five and thirteen witnesses detained in Rwanda respectively were rejected, on the basis, *inter alia*, that the Defence was unable to demonstrate how the appearance of each witness was undoubtedly material in the discovery of the truth or that the conditions stipulated in Rule 90*bis* (b) of the Rules had been met19.

16. Besides the above-mentioned motions, several pre-trial motions were filed by the Defence, including a motion for the defendant to sit at counsel table during trial, a motion for an expedited in camera hearing regarding Prosecutorial misconduct and a motion to compel the Prosecutor to conduct a fair and just investigation. These motions were not granted.

17. The trial of the Accused on the merits opened on 9 January 1997 before Trial Chamber I, composed of Judge Laity Kama, presiding, Judge Lennart Aspegren and Judge Navanethem Pillay. Pursuant to Rule 84 of the Rules, Honoré Rakotomanana and Yacob Haile-Mariam made the opening statement for the Prosecutor, which was followed by the opening statement for the Defence, made by Nicolas Tiangaye and Patrice Monthé. During the initial phase of the trial which took place over 26 trial days until 24 May 1997, 22 witnesses, including five expert witnesses, testified for the Prosecutor. Subsequent to the presentation of the Prosecutor's evidence, an *in camera* status conference was held after which the Chamber, at the request of the Defence, adjourned the trial until 29 September 1997.

18. All Prosecutor and Defence eye-witnesses requiring protection benefited from measures guaranteeing the confidentiality of their testimony 20. No information which could in any way identify the witnesses was given. During the hearings, letters of the alphabet were used as pseudonyms to refer to protected witnesses and screens isolated the said witnesses from the public, but not from the Accused and his counsel. One Defence witness was heard *in camera*.

19. On 13 January 1997, as an interim measure pending a Chamber decision on a request by the Accused for the replacement of his counsel, Akayesu was authorized by the Chamber to cross-examine,

along with his assigned counsel, prosecution witnesses. The pertinent decision was rendered on 16 January 199721, whereby the request for replacement of Counsel was dismissed and the interim measure terminated.

20. Most of the Rwandan witnesses spoke in Kinyarwanda and their testimonies were interpreted into the two working languages of the Tribunal (French and English). By Decision of 9 March 1998, the Chamber dismissed a Defence motion, based on Rule 91 of the Rules, to direct the Prosecutor to investigate an alleged false testimony by prosecution witness "R". The Chamber found that for the Defence to raise doubts as to the reliability of statements made by a witness, was not by itself sufficient to establish strong grounds for believing that the witness may have knowingly and wilfully given false testimony 22.

21. During the hearing of 23 January 1997, the Chamber requested the Prosecutor, in view of the exceptional nature of the offences, to submit all written witness statements already made available by her to the Defence. The Prosecutor objected to the request; hence the Chamber, by a decision rendered on 28 January 1997, pursuant to Rules 89(A), 89(C) and 98 of the Rules, ordered the Prosecutor to submit all available written witness statements to the Chamber in the case and that all such statements to which reference had been made by either the Prosecutor or the Defence shall be admitted as evidence and form part of the record. However, this was subject to the caveat that disclosure of all the written statements did not necessarily entail their admissibility as evidence23.

22. On 4 February 1997, the Prosecutor, who had not yet complied with the order of 28 January 1997, filed a motion requesting the Chamber to reconsider and rescind the said order. The Prosecutor submitted, *inter alia*, that the order of 28 January 1997 represented an unjustified change in the established order for production of evidence and thus did not satisfy the provisions of Rule 85, that Rule 98 simply allows the Chamber to order the production of specific additional evidence and not the disclosure of all the evidence, that it involves the Chamber in the process of disclosure and, in actual fact, circumvents Rule 66 (A), and that the order is prejudicial to the parties. On 6 march 1997, the Chamber declared the Prosecutor's motion groundless, and expressed surprise, in the circumstances, at receiving a motion asking it to reconsider and rescind its order, instead of a motion for clarification. The Chamber specified in its decision that the order of 28 January 1997 could only be interpreted with respect to the witness statements already communicated to the Defence24. On 16 April 1997, the Prosecutor filed a notice of intent to comply with the Chamber's order to submit witness statements.

23. As stated above, 24 May 1997 marked the end of the first part of the trial of the Accused with the testimony of the last prosecution witness. However, on 16 June 1997, the Prosecutor submitted a request to bring an expedited oral motion before the Chamber seeking an amendment of the Indictment. During the hearing held to that end on 17 June 1997, the Prosecutor sought leave to add three further Counts, namely, Count 13: rape, a Crime Against Humanity, punishable under Article 3 (g) of the Statute, Count 14: inhumane acts, a Crime Against Humanity, punishable under Article 3 (i) of the Statute, and Count 15: outrages on personal dignity, notably rape, degrading and humiliating treatment and indecent assault, a Violation of Article 3 Common to the Geneva Conventions and of Article 4(2)(e) of Additional Protocol II, as incorporated in Article 4(e) of the Statute. The Chamber granted leave to the Prosecutor to amend the Indictment and postponed the date for resumption of the trial to 23 October 199725

24. The second phase of the trial started on 23 October 1997 with the initial appearance of Akayesu for the new counts in a public session before the Chamber. The Accused pleaded not guilty to each of the new counts. The Prosecutor then proceeded to present six new witnesses, including an investigator with the Office of the Prosecutor. In all, the Prosecutor put 28 witnesses on the stand over 31 trial days. The Defence, for its part, presented its evidence over the course of 12 trial days between 4 November 1997

and 13 March 1998. It called 13 witnesses, including the Accused, to the stand. A total of 155 exhibits were submitted during the trial.

25. During the second phase of the trial, the Defence requested and obtained the issuance of a subpoena for Major-General Roméo Dallaire, former force Commander of UNAMIR (United Nations Assistance Mission in Rwanda), whose immunity had been partially lifted by the UN Secretary-General, to appear as a witness for the Defence 26. The Chamber also granted leave to a representative of the United Nations Secretariat to appear as an Amicus Curiae to make a statement on the lifting of the immunity Major-General Roméo Dallaire enjoys by virtue of his position as former force Commander of UNAMIR27

26. However, the Chamber did not grant the Defence motion for the issuance of a subpoena for two persons accused before the Tribunal to appear as Defence witnesses, on the grounds that their fundamental rights, as recognized by Article 20(4)(g) of the Statute, would perhaps be violated, and that there would be a risk that their appearance as witnesses in the case could cause prejudice to them28. A further Defence motion for the appearance of another accused as an expert witness was similarly dismissed29. The Chamber held therein that the impartiality of the potential expert witness, who is accused by the Tribunal for crimes related to those with which Akayesu is charged, could not be assured and consequently that he did not fulfil the requisite conditions for appearing as an expert witness. Furthermore, the Chamber found that for this particular Accused to be compelled to appear as an expert witness in the case would be prejudicial to him and could possibly violate his fundamental rights, as recognized by the provisions of Article 20(4)(g) of the Statute and Article 14(3)(g) of the International Covenant of Civil and Political Rights of 1966.

27. The Chamber dismissed a Defence motion for a site visit and the conduct of a forensic analysis of the remains of three alleged victims. The Chamber found that a new forensic analysis would not be appropriate nor, in any case, instrumental in the discovery of the truth, on the basis, *inter alia*, that a number of the purported mass graves, including, without a doubt, those supposedly in the vicinity of the Taba bureau communal' had been subject of previous exhumations. Moreover, the Chamber felt that the arguments of the Defence Counsel in support of the motion were pertinent mainly to evaluating the credibility of certain witness statements and not to showing the necessity for an exhumation and forensic analysis, as requested30

28. None of the parties presented witnesses for rebuttal purposes. The Accused testified in his own defence on 12 March 1998 and was cross-examined the next day by the Prosecutor. The latter presented her final arguments on 19 and 23 March, and the Defence presented its closing arguments on 26 March 1998. The trial on the merits was held over a period of 60 days of hearings, since 9 January 1997. The case was adjourned on 26 March 1998 for deliberation on the Judgment by the Chamber.

1.4.2. The Accused's line of defence

29. The Accused has pleaded not guilty to all counts of the Indictment, both at his initial appearance, held on 30 May 1996, and at the hearing of 23 October 1997 when he pleaded not guilty to each of the new counts which had been added to the Indictment when it was amended on 17 June 1997.

30. In essence, the Defence case - insofar as the Chamber has been able to establish it - is that the Accused did not commit, order or participate in any of the killings, beatings or acts of sexual violence alleged in the Indictment. The Defence concedes that a genocide occurred in Rwanda and that massacres of Tutsi took place in Taba Commune, but it argues that the Accused was helpless to prevent them, being outnumbered and overpowered by one Silas Kubwimana and the Interahamwe. The Defence

pointed out that, according to prosecution witness R, Akayesu had been so harassed by the Interahamwe that at one point he had had to flee Taba commune. Once the massacres had become widespread, the Accused was denuded of all authority and lacked the means to stop the killings.

31. The Defence claims that the Chamber should not require the Accused to be a hero, to have laid down his life - as, for example, did the bourgmestre of Mugina - in a futile attempt to prevent killings and beatings. The Defence alluded to the fact that General Dallaire, in charge of UNAMIR and 2,500 troops, was unable to prevent the genocide. How, then, was Akayesu, with 10 communal policemen at his disposal, to fare any better? Moreover, the Defence argue, no bourgmestre in the whole of Rwanda was able to prevent the massacres in his Commune, no matter how willing he was to do so.

32. As for acts of sexual violence, the Defence case is somewhat different from that for killings and beatings, in that, whereas for the latter the Defence does not contest that there were killings and beatings, it does deny that there were acts of sexual violence committed, at least at the Bureau Communal. During his testimony the Accused emphatically denied that any rapes had taken place at the Bureau Communal, even when he was not there. The Chamber notes the Accused's emphatic denial of facts which are not entirely within his knowledge.

33. As general remarks, the Defence alluded to the fragility of human testimony as opposed to documentary evidence, and specifically referred to the evidence of Dr. Mathias Ruzindana, who had testified about problems in relying on eye-witness accounts of Rwandans31. The Defence also raised problems associated with alleged "syndicates of informers", in which groups of Rwandans supposedly collaborated to concoct testimony against a person for revenge or other motives. This allegation is specifically dealt with below.

34. As regards the Accused, the Defence pointed out that, though the Prosecutor admitted that the Accused had opposed massacres before 18 April 1994, the Prosecutor could not demonstrate that he was a "genocidal ideologue", since one did not adopt the ideology of genocide overnight. Hence, the Defence argued, he could not be convicted of genocide.

35. In general, the Defence argued that the Accused was a "scapegoat", who found himself Accused before the Chamber only because he was a Hutu and a bourgmestre at the time of the massacres.

36. Turning to the specific allegations contained in the Indictment, the Defence case is that there was no change in Akayesu's attitude or behaviour before and after the Murambi meeting of 18 April 1998. Both before and after, he attempted to save Tutsi lives. Witness DBB testified that the Accused gave a Tutsi woman (witness DEEX) a laissez-passer, although he could not say whether the accused knew at the time that the woman was a Tutsi or not. Witness DEEX confirmed that she was given a laissez-passer by the accused. Witnesses DIX and DJX also heard that Akayesu had saved Tutsi lives.

37. The Defence also challenged the premise that the Murambi meeting of 18 April 1994 was the key event which led to a complete change in the accused's behaviour. Since, the Defence argued, it had not been shown that orders for the extermination of the Tutsi were given at the Murambi meeting by the interim government, it follows that the accused could not have returned to his Commune a changed man because of those non-existent orders. The Defence pointed out that only one prosecution witness and one Defence witness had attended the Murambi meeting, and that neither testified that an explicit message to kill the Tutsi had been given.

38. Regarding the Gishyeshye meeting of 19 April 1994, the Defence argued that the accused was forced by the Interahamwe to read a document which allegedly mentioned the names of RPF accomplices, but

that the accused tried to dissuade the population from being incited by the document, arguing that the mere appearance of names on a list did not mean that the persons named were accomplices of the RPF. The Defence also noted further "contradictions" in the accounts given by witnesses of the Gishyeshye meeting.

39. As regards the killings of the eight Runda refugees and the five teachers, the Defence pointed out that the only witness to these killings was witness K, and that the accused had, at the time of his interview by the OTP in Zambia, cited witness K as a possible Defence witness. It begged credulity that the accused would contemplate calling as a Defence witness a person whom he knew had seen him order such killings.

40. Concerning the killings of the Karangwa brothers, the Defence argued that there was such uncertainty as to how they were killed, and by what instruments, that a conviction could not stand in the absence of these material averments. It was because of these inconsistencies and uncertainties that the Defence had asked for an exhumation of the bodies, which had not been granted.

41. The charges of beatings the Defence contested on the grounds that no medical examination had been conducted on the alleged victims to verify that the injuries which they claimed were sustained as a result of the accused's actions could genuinely be so attributed.

42. The charges of offences of sexual violence, the Defence argued, were added under the pressure of public opinion and were not credibly supported by the evidence. Witness J's account, for example, of living in a tree for one week after her family were killed and her sister raped, while several months pregnant, was simply not credible but rather the product of fantasy the Defence claimed - "of interest to psychiatrists, but not justice".32

43. The Chamber has considered the Defence case extremely carefully and it will be treated here in the course of making the various factual and legal findings. There is one aspect which, however, should be dealt with here.

Putting the case to a witness

44. In the Defence closing argument, Mr. Nicholas Tiangaye, made the suggestion that some, if not all of the Prosecution witnesses who had testified against Jean-Paul Akayesu did so because they were colluding in a "syndicate of informers" which would denounce a particular individual for political reasons or in order to take over his property. In this connection, Mr. Tiangaye quoted Rene Degni-Segui, the Special Rapporteur of the Commission on Human Rights on Rwanda, who recounted a story of a demonstrably innocent Rwandan who had been denounced by 15 witnesses as a participant in the genocide. Mr. Tiangaye concluded thus:

> "... there were cases of calumny which existed and which enabled people to denounce others regarding their participation in genocide in order to be able to take over their property."

Mr. Tiangaye then went on to say:

> "So, what do we do, Mr. President, ladies and gentlemen, when witnesses come to tell lies before the Chamber, what do we do?" 33

45. To the extent that Defence counsel invites the Chamber to disbelieve the testimony of Prosecution witnesses because they may belong to a syndicate of informers or that they *may* be denouncing Akayesu in order to take over his property, and that they have therefore lied before the Chamber, it is to be noted this is a very serious allegation of false testimony or perjury, which is a criminal offence. Indeed, Defence counsel during the course of the trial made a motion for a certain prosecution witness to be investigated for false testimony; which motion was rejected in a Decision of this Trial Chamber in which it gave its reasons.34. That matter does not concern the Chamber here. What is of concern is whether the Chamber should give any weight, in its deliberations, to the possibility raised by Defence counsel that prosecution witnesses may have been lying for one of the above-mentioned motives.

46. The Chamber holds that, as a blanket allegation to undermine the credibility of prosecution witnesses, this allegation can carry no weight, for two reasons. First, an attack on credibility which is not particularised with respect to individual witnesses is no attack at all on those witnesses' credibility; it is merely a generalised and unsubstantiated suspicion. Doubt can only arise where the criteria for doubt are fulfilled. To state that all prosecution witnesses should be disbelieved because some Rwandan witnesses elsewhere have lied is similar to saying, "some money is counterfeit, therefore all money might be counterfeit". If, and this is the second point, the Defence wish to challenge prosecution witnesses as members of an informer's syndicate, or to allege that they are lying in order to be able to confiscate the accused's property, then the Defence must *lay the foundations for that challenge and put the challenge to the witness in question during cross-examination.* This is both a matter of practicality and of principle. The practical matter is this: if the Defence does put to a witness the allegation that he is lying because he wishes to take the accused's property, then this may elicit a convincing admission or rebuttal. The witness may break down and reveal, by his words or demeanour, that he has indeed been lying for that purpose; alternatively, he may offer a convincing rebuttal, for example, by pointing out that the accused has no property which the witness could wish to misappropriate. Either way, the matter might be resolved. To never put the crucial question to the witness is to deprive the Chamber of such a possible resolution. As a matter of principle, it is only fair to a witness, whom the Defence wishes to accuse of lying, to give him or her an opportunity to hear that allegation and to respond to it. This is a rule in Common law, 35 but it is also simply a matter of justice and fairness to victims and witnesses, principles recognised in all legal systems throughout the world.

47. It is to be noted that during the trial the Defence did not put, nor even suggest, to a single prosecution witness that he or she was lying because he or she had been drawn into a syndicate of informers and instructed as to how to testify against the accused, or that the witness was lying because he or she wished to take the accused's property. In these circumstances, Defence counsel's attempt in his closing arguments to tar all prosecution witnesses with the same broad brush of suspicion cannot be accepted by the Chamber. Thus the credibility of each witness must be assessed on its merits, taking it to account the witness's demeanour and the consistency and credibility or otherwise of the answers given by him or her under oath.

1.5. The Accused and his functions in Taba (paragraphs 3-4 of the Indictment)

48. Paragraphs 3 and 4 of the Indictment appear under the heading, "the Accused". Taking these paragraphs in turn, paragraph 3 reads as follows:

> The Accused
>
> 3. Jean Paul AKAYESU, born in 1953 in Murehe sector, Taba commune, served as

bourgmestre of that commune from April 1993 until June 1994. Prior to his appointment as bourgmestre, he was a teacher and school inspector in Taba.

49. The Chamber confirms paragraph 3, which is common cause between the Prosecution and the Defence. On the basis of the evidence presented at trial, the Chamber finds the following facts have been established with regard to the Accused generally.

50. The Accused, Akayesu was born in 1953 in Murehe sector, Taba commune in Rwanda, where he also grew up. He was an active athlete in Taba and a member of the local football team. In 1978 he married a local woman from the same commune, whom he had then known for ten years. They are still married and have five children together.

51. Before being appointed bourgmestre in 1993, the Accused served as a teacher and was later promoted to Primary School Inspector in Taba. In this capacity he was in charge of inspecting the education in the commune and acted as head of the teachers. He would occasionally fill in as a substitute teacher and was popular among pupils and students of different educational levels in the commune. Generally speaking, the Accused was a well known and popular figure in the local community.

52. Akayesu became politically active within the commune in 1991 and on 1 July of the same year, following the transition into multipartyism, he was one of the signatories to the statute and a founding member of the new political party R called,Mouvement Démocratique Républicain MDR Politically the goal of the MDR was not to be an extension of the traditional MDR Parmehutu, but rather an updated version thereof, diametrically opposed to the MRND. The MDR focused on pointing out the errors of the MRND such as delays in the provision of infrastructure, roads, schools, health facilities, lack of electricity, etc.. Eventually, Akayesu was elected local president of the MDR in Taba commune. A sizeable proportion of the population in Taba became members of the MDR, and as the party grew, a certain animosity between members of the MDR and the MRND began to appear, resulting in several acts of violence. The other parties within the Commune, the Parti Social Démocratique, PSD and the Parti Libéral, PL cooperated with the MDR but, like the MDR, both parties experienced similar difficulties in cooperating with the MRND.

53. On a personal level, Akayesu was considered a man of high morals, intelligence and integrity, possessing the qualities of a leader, who appeared to have the trust of the local community. These abilities were in all likelihood the main reasons why different groups in the commune, among others the leaders of the MDR, communal representatives and religious leaders, considered Akayesu a suitable candidate for bourgmestre in Taba for the 1993 elections. The Accused himself admits to having been reluctant to run for the post of bourgmestre, but was pressured into candidacy by the aforementioned groups, according to several witnesses, including Akayesu himself.

54. In April 1993, Akayesu was elected bourgmestre after an election contested by four candidates. He then served as bourgmestre of Taba Commune from April 1993 until June 1994. According to the Accused, the duties of a bourgmestre were diverse. In short, he was in charge of the total life of the commune in terms of the economy, infrastructure, markets, medical care and the overall social life.Traditionally the role of the bourgmestre had always been to act as the representative of the President in the commune. Therefore the arrival of multipartyism did not particularly change the considerable amount of unofficial powers conferred upon the bourgmestre by the people in the commune. The bourgmestre was the leader of the commune and commonly treated with great respect and deference by the population.

55. In Taba Commune, Akayesu played a major role in leading the people. He would give advice on

various matters concerning security, economics or on the social well-being of the citizens. His advice would generally be followed and he was considered a father-figure or parent of the commune, to whom people would also come for informal advice. After a period of economic difficulties in Taba Commune due to corruption under the previous administration, a clear difference could be detected when Akayesu took office, as people would now settle their debts trusting the new administration. According to those of his colleagues appearing as witnesses before the Chamber, Akayesu was performing his task as bourgmestre well, prior to the period which is the subject of the Indictment.

56. Paragraph 4 of the Indictment reads as follows:

> 4. As bourgmestre, Jean Paul AKAYESU was charged with the performance of executive functions and the maintenance of public order within his commune, subject to the authority of the prefect. He had exclusive control over the communal police, as well as any gendarmes put at the disposition of the commune. He was responsible for the execution of laws and regulations and the administration of justice, also subject only to the prefect's authority.

57. The Chamber finds it necessary to explore in some detail the powers of the bourgmestre and, in particular, to distinguish between the *de facto* and *de jure* powers of a bourgmestre. In so doing, the Chamber will also deal with the allegation in paragraph 2 of the Indictment which reads, "In Rwanda, the bourgmestre is the most powerful figure in the commune. His *de facto* authority in the area is significantly greater than that which is conferred upon him *de jure*".

Background

58. A commune is governed by a bourgmestre in conjunction with the communal council which is composed of representatives of the different sectors in the commune. Below the sectors are the cellules and at the lowest level are the units of ten households. The latter two are really party structures, rather than administrative subdivisions.

59. Before the advent of multi-partyism, appointment and removal of a bourgmestre was the prerogative of the State President, political loyalty being the criterion. The bourgmestre was the representative of the central government in the commune but embodied at the same time the commune as a semi-autonomous unit. In that capacity, he would, for example, arrange contracts or represent the commune in court. He also had the authority to allocate the resources of the commune, including the land. He had the sole responsibility and authority over the communal police and could call upon the national gendarmerie to restore order. In addition, he was a judicial officer. Moreover, as the trusted representative of the President, he had a series of unofficial powers and duties, to such an extent that he was the central person in the daily life of the ordinary people. Citizens needed his protection in order to function in society. The bourgmestre held considerable sway over the communal council. Although an elected body, the council was less a representative body of the interest of the population than it was simply a channel for passing orders down to the people.

60. The introduction of multipartyism in 1991 had its effect on the local and national power structures from 1992 onwards. The MRND had to sacrifice the advantages which it enjoyed when it was the Siamese twin of the administration. A number of bourgmestres were removed on the advice of a pluralistic evaluation commission. The subsequent local elections were a clear victory for the opposition. Other bourgmestres were simply ousted by militia of an opposition party. Since then, the bourgmestres were no longer necessarily the representatives of the State President or of the central authority. Instead, they became primarily the representatives of their political party at the local level. But

in any case, they would still remain the most important local representatives of power at the centre.

***De jure* powers**

61. The office of bourgmestre in Rwanda is similar to the office of maire in France or bourgmestre in Belgium36. It is an executive civilian position in the territorial administrative subdivision of commune. The primary function of the bourgmestre is to execute the laws adopted by the communal legislature, i.e., the elected communal council37. He "embodies the communal authority"38

The communal administration

62. The relationship between a bourgmestre and the communal workforce is spelt out in the body of law which is called administrative law in Civil Law countries (as opposed to labour law which regulates employment in the private sector). The bourgmestre has the power to hire (appoint) and fire (remove) communal employees after advice from the communal council39. The President of the Republic decrees by law the legal status (rights and duties) of the communal personnel. Although the legal situation (administrative law) may be very different from the private sector (labour law), it is very much a relationship of employer and employee and, therefore, strictly limited to the scope of the employment.

The communal police

63. The bourgmestre, without being a part of the communal police, has ultimate authority over it and is entirely responsible for its organisation, functioning and control.40

64. The communal police is a civilian police whose members do not fall under the military penal code Sanctions and procedures for sanctions are the subject of administrative law. A bourgmestre has only disciplinary jurisdiction (e.g. blame, suspension) over his communal police.

65. Although the law states that only the bourgmestre has authority over the police41, he is, however, not its commander. Article 108 of the Loi sur l'organisation communale states, "Le commandement de la Police communale est assuré par un brigadier placé sous l'autorité du bourgmestre". Therefore, the relationship between the bourgmestre and the communal police is comparable to the relationship between a Minister of Defence and the High Command of the armed forces.

66. In case of public disturbances, the prefect can assume direct control over the communal police.42

Gendarmerie Nationale

67. Paragraph 4 of the Indictment states that Akayesu as a bourgmestre had exclusive control over the communal police as well as any gendarmes put at the disposal of the commune.

68. The Gendarmerie Nationale is a military force whose task it is to maintain public order when it is requested to do so43.

69. It is the prefect, not the bourgmestre who can request the intervention of the Gendarmerie44. The Gendarmes put at the disposal of the commune at the request of the prefect operate under the bourgmestre's authority45. It is far from clear, however, that in such circumstances a bourgmestre would have command authority over a military force.46

Powers of a bourgmestre in times of war or national emergency

70. Apart from asking the prefect to request the Gendarmerie to intervene (*supra*), there are few legal provisions on the powers of a bourgmestre in times of war or national emergency.

71. A decree of 20 October 1959 (by the Belgian authorities) on the state of emergency is apparently still on the books. It gives the bourgmestre the power, once the the state of emergency has been declared, to order the evacuation, removal and internment of persons.47

***De facto* powers**

72. A number of witnesses testified before the Chamber as to the *de facto* powers of the bourgmestre and there is indeed evidence to support the Prosecutor's assertion that the bourgmestre enjoyed significant *de facto* authority.

73. The expert witness, Alison DesForges, testified that the bourgmestre was the most important authority for the ordinary citizens of a Commune, who in some sense exercised the powers of a chief in pre-colonial times.

74. Witness E said that the bourgmestre was considered as the "parent" of all the population whose every order would be respected. Witness S went further and stated that the people would normally follow the orders of the administrative authority, i.e. the bourgmestre, even if those orders were illegal or wrongful. Witness V said that the people could not disobey the orders of the bourgmestre.

75. On the other hand, Witness DAAX, who was the prefect of the Gitarama prefecture in which the accused was bourgmestre - and hence the Accused's hierarchical superior - testified that the bourgmestre had to work within the ambit of the law and could not exceed his *de jure* powers, and that if he did so, the prefect would intervene.

76. Witness R, himself a former bourgmestre, said that the duties and responsibilities of the bourgmestre were those prescribed and decreed by law, which the bourgmestre had to respect. The witness conceded, however, that the popularity of a bourgmestre might affect the extent to which his orders and advice were obeyed within the Commune. Witness R also admitted that, at least during the transitional period, certain bourgmestres exceeded their *de jure* powers with impunity, for example imprisoning their political rivals or embezzling from communal resources.

77. In light of the above, the Chamber finds it proved beyond a reasonable doubt that, as paragraph 4 of the Indictment states, "As bourgmestre, Jean Paul AKAYESU was charged with the performance of executive functions and the maintenance of public order within his commune, subject to the authority of the prefect". The Chamber does find it proved that "[the bourgmestre] had exclusive control over the communal police, [...][and authority over] any gendarmes put at the disposal of the commune". The Chamber does find it proved that "[the bourgmestre] was responsible for the execution of laws and regulations and the administration of justice, also subject only to the prefect's authority". The Chamber does find it proved that, "In Rwanda, the bourgmestre is the most powerful figure in the commune. His *de facto* authority in the area is significantly greater than that which is conferred upon him *de jure*".

2. HISTORICAL CONTEXT OF THE EVENTS IN RWANDA IN 1994

78. It is the opinion of the Chamber that , in order to understand the events alleged in the Indictment, it is necessary to say, however briefly, something about the history of Rwanda, beginning from the pre-colonial period up to 1994.

79. Rwanda is a small, very hilly country in the Great Lakes region of Central Africa. Before the events of 1994, it was the most densely populated country of the African continent (7.1 million inhabitants for 26,338 square kilometres). Ninety per cent of the population lives on agriculture. Its per capita income is among the lowest in the world, mainly because of a very high population pressure on land.

80. Prior to and during colonial rule, first, under Germany, from about 1897, and then under Belgium which, after driving out Germany in 1917, was given a mandate by the League of Nations to administer it, Rwanda was a complex and an advanced monarchy. The monarch ruled the country through his official representatives drawn from the Tutsi nobility. Thus, there emerged a highly sophisticated political culture which enabled the king to communicate with the people.

81. Rwanda then, admittedly, had some eighteen clans defined primarily along lines of kinship. The terms Hutu and Tutsi were already in use but referred to individuals rather than to groups. In those days the distinction between the Hutu and Tutsi was based on lineage rather than ethnicity. Indeed, the demarcation line was blurred: one could move from one status to another, as one became rich or poor, or even through marriage.

82. Both German and Belgian colonial authorities, if only at the outset as far as the latter are concerned, relied on an elite essentially composed of people who referred to themselves as Tutsi, a choice which, according to Dr. Alison Desforges, was born of racial or even racist considerations. In the minds of the colonizers, the Tutsi looked more like them, because of their height and colour, and were, therefore, more intelligent and better equipped to govern.

83. In the early 1930s, Belgian authorities introduced a permanent distinction by dividing the population into three groups which they called ethnic groups, with the Hutu representing about 84% of the population, while the Tutsi (about 15%) and Twa (about 1%) accounted for the rest. In line with this division, it became mandatory for every Rwandan to carry an identity card mentioning his or her ethnicity. The Chamber notes that the reference to ethnic background on identity cards was maintained, even after Rwanda's independence and was, at last, abolished only after the tragic events the country experienced in 1994.

84. According to the testimony of Dr. Alison Desforges, while the Catholic Church which arrived in the wake of European colonizers gave the monarch, his notables and the Tutsi population privileged access to education and training, it tried to convert them. However, in the face of some resistance, the missionaries for a while undertook to convert the Hutu instead. Yet, when the Belgians included being Christian among the criteria for determining the suitability of a candidate for employment in the civil service, the Tutsi, hitherto opposed to their conversion, became more willing to be converted to Christianity. Thus, they carried along most Hutu. Quoting a witness from whom she asked for an explanation for the massive conversion of Hutu to Christianity, Dr. Desforges testified that the reasons for the conversion were to be found in the cult of obedience to the chiefs which is highly developed in the Rwandan society. According to that witness, "you could not remain standing while your superiors were on their knees praying". For these reasons, therefore, it can be understood why at the time, that is, in the late 1920s and early 1930s, the church, like the colonizers, supported the Tutsi monopoly of power.

85. From the late 1940s, at the dawn of the decolonization process, the Tutsi became aware of the benefits they could derive from the privileged status conferred on them by the Belgian colonizers and the Catholic church. They then attempted to free themselves somehow from Belgian political stewardship and to emancipate the Rwandan society from the grip of the Catholic church. The desire for independence shown by the Tutsi elite certainly caused both the Belgians and the church to shift their alliances from the Tutsi to the Hutu, a shift rendered more radical by the change in the church's

philosophy after the second world war, with the arrival of young priests from a more democratic and egalitarian trend of Christianity, who sought to develop political awareness among the Tutsi- dominated Hutu majority.

86. Under pressure from the United Nations Trusteeship Council and following the shift in alliances just mentioned, Belgium changed its policy by granting more opportunities to the Hutu to acquire education and to hold senior positions in government services. This turn-about particularly angered the Tutsi, especially because, on the renewal of its mandate over Rwanda by the United Nations, Belgium was requested to establish representative organs in the Trust territory, so as to groom the natives for administration and, ultimately, grant independence to the country. The Tutsi therefore began the move to end Belgian domination, while the Hutu elite, for tactical reasons, favoured the continuation of the domination, hoping to make the Hutu masses aware of their political weight in Rwanda, in a bid to arrive at independence, which was unavoidable, at least on the basis of equality with the Tutsi. Belgium particularly appreciated this attitude as it gave it reason to believe that with the Hutu, independence would not spell a severance of ties.

87. In 1956, in accordance with the directives of the United Nations Trusteeship Council, Belgium organized elections on the basis of universal suffrage in order to choose new members of local organs, such as the grassroots representative Councils. With the electorate voting on strictly ethnic lines, the Hutu of course obtained an overwhelming majority and thereby became aware of their political strength The Tutsi, who were hoping to achieve independence while still holding the reins of power, came to the realization that universal suffrage meant the end of their supremacy; hence, confrontation with the Hutu became inevitable.

88. Around 1957, the first political parties were formed and, as could be expected, they were ethnically rather than ideologically based. There were four political parties, namely the Mouvement démocratique répubicain, Parmehutu ("MDR Parmehutu"), which clearly defined itself as the Hutu grassroots movement; the Union Nationale Rwandaise ("UNAR"), the party of Tutsi monarchists; and, between the two extremes, the two others, Aprosoma, predominantly Hutu, and the Rassemblement démocratique rwandais ("RADER"), which brought together moderates from the Tutsi and Hutu elite.

89. The dreaded political unrest broke out in November 1959, with increased bloody incidents, the first victims of which were the Hutu. In reprisal, the Hutu burnt down and looted Tutsi houses. Thus became embedded a cycle of violence which ended with the establishment on 18 October 1960, by the Belgian authorities, of an autonomous provisional Government headed by Grégoire Kayibanda, President of MDR Parmehutu, following the June 1960 communal elections that gave an overwhelming majority to Hutu parties. After the Tutsi monarch fled abroad, the Hutu opposition declared the Republic of Gitarama, on 28 January 1961, and set up a legislative assembly. On 6 February 1961, Belgium granted self-government to Rwanda. Independence was declared on 1 July 1962, with Grégoire Kayibanda at the helm of the new State, and, thus, President of the First Republic.

90. The victory of Hutu parties increased the departure of Tutsi to neighbouring countries from where Tutsi exiles made incursions into Rwanda. The word Inyenzi, meaning cockroach, came to be used to refer to these assailants. Each attack was followed by reprisals against the Tutsi within the country and in 1963, such attacks caused the death of at least ten thousand of them, further increasing the number of those who went into exile. Concurrently, at the domestic level, the Hutu regime seized this opportunity to allocate to the Hutu the lands abandoned by Tutsi in exile and to redistribute posts within the Government and the civil service, in favour of the Hutu, on the basis of a quota system linked to the proportion of each ethnic group in the population.

91. The dissensions that soon surfaced among the ruling Hutu led the regime to strengthen the primacy

of the MDR Parmehutu party over all sectors of public life and institutions, thereby making it the *de facto* sole party. This consolidated the authority of President Grégoire Kayibanda as well as the influence of his entourage, most of who came from the same region as he, that is the Gitarama region in the centre of the country. The drift towards ethnic and regional power became obvious. From then onwards, a rift took root within the Hutu political Establishment, between its key figures from the Centre and those from the North and South who showed great frustration. Increasingly isolated, President Kayibanda could not control the ethnic and regional dissensions. The disagreements within the regime resulted into anarchy, which enabled General Juvénal Habyarimana, Army Chief of Staff, to seize power through a coup on 5 July 1973. General Habyarimana dissolved the First Republic and established the Second Republic. Scores of political leaders were imprisoned and, later, executed or starved to death, as was the case with the former President, Grégoire Kayibanda.

92. Following a trend then common in Africa, President Habyarimana, in 1975, instituted the one-party system with the creation of the Mouvement révolutionnaire national pour le développement (MRND), of which every Rwandan was a member *ipso facto*, including the newborn. Since the party encompassed everyone, there was no room for political pluralism. A law passed in 1978 made Rwanda officially a one-party State with the consequence that the MRND became a "State-party", as it formed one and the same entity with the Government. According to Dr. Desforges, the local administrative authority was, at the same time, the representative of the party within his administrative unit. There was therefore a single centralized organization , both for the State and the party, which stretched from the Head of State down to basic units known as cellules, with even smaller local organs , each comprising ten households, below the cellules. The cellules and local organs were, indeed, more of party organs, than administrative units. They were the agencies for the implementation of Umuganda, the mobilization programme which required people to allocate half a day's labour per week to some communal project, such as the construction of schools or road repairs.

93. According to testimonies given before the Chamber, particularly that of Dr. Desforges, Habyarimana's accession to power aroused a great deal of enthusiasm and hope, both inside and outside the country, and also among members of the Tutsi ethnic group. Indeed, the regime at the outset did guard against pursuing a clearly anti-Tutsi policy. Many Tutsi were then prepared to reach a compromise. However, as the years went by, power took its toll and Habyarimana's policies became clearly anti-Tutsi. Like his predecessor, Grégoire Kayibanda, Habyarimana strengthened the policy of discrimination against the Tutsi by applying the same quota system in universities and government services. A policy of systematic discrimination was pursued even among the Hutu themselves, in favour of Hutu from Habyarimana's native region, namely Gisenyi and Ruhengeri in the north-west, to the detriment of Hutu from other regions. This last aspect of Habyarimana's policy, considerably weakened his power: henceforth, he faced opposition not only from the Tutsi but also from the Hutu, who felt discriminated against and most of whom came from the central and southern regions. In the face of this situation, Habyarimana chose to relentlessly pursue the same policy like his predecessor who favoured his region, Gitarama. Like Kayibanda, he became increasingly isolated and the base of his regime narrowed down to a small intimate circle dubbed "Akazu", meaning the "President's household". This further radicalized the opposition whose ranks swelled more and more. On 1 October 1990, an attack was launched from Uganda by the Rwandan Patriotic Front (RPF) whose forebear, the Alliance rwandaise pour l'unité nationale ("ARUN"), was formed in 1979 by Tutsi exiles based in Uganda. The attack provided a pretext for the arrest of thousands of opposition members in Rwanda considered as supporters of the RPF.

94. Faced with the worsening internal situation that attracted a growing number of Rwandans to the multi-party system, and pressured by foreign donors demanding not only economic but also political reforms in the form of much greater participation of the people in the country's management, President Habyarimana was compelled to accept the multi-party system in principle. On 28 December 1990, the

preliminary draft of a political charter to establish a multi-party system was published. On 10 June 1991 the new constitution introducing the multi-party system was adopted, followed on 18 June by the promulgation of the law on political parties and the formation of the first parties, namely :

- the Mouvement démocratique républicain (MDR), considered to be the biggest party in terms of membership and claiming historical links with the *MDR*-Parmehutu of Grégoire Kayibanda; its power-base was mainly the centre of the country, around Gitarama;

- the Parti social démocrate (PSD), whose membership included a good number of intellectuals, recruited its members mostly in the South, in Butare;

- the Parti libéral(PL); and

- the Parti démocrate chrétien (PDC).

95. At the same time, Tutsi exiles, particularly those in Uganda organized themselves not only to launch incursions into Rwandan territory but also to form a political organization, the Rwandese Patriotic Front (RPF), with a military wing called the Rwandan Patriotic Army (RPA). The first objective of the exiles was to return to Rwanda. But they met with objection from the Rwandan authorities and President Habyarimana, who is alleged to have said that land in Rwanda would not be enough to feed all those who wanted to return. On these grounds, the exiles broadened their objectives to include the overthrow of Habyarimana.

96. The above-mentioned RPF attack on 1 October 1991 sent shock waves throughout Rwanda. Members of the opposition parties formed in 1991, saw this as an opportunity to have an informal alliance with the RPF so as to further destabilize an already weakened regime. The regime finally accepted to share power between the MRND and the other political parties and, around March 1992, the Government and the opposition signed an agreement to set up a transitional coalition government headed by a Prime Minister from the MDR. Out of the nineteen ministries, the MRND obtained only nine. Pressured by the opposition, the MRND accepted that negotiations with the RPF be started. The negotiations led to the first cease-fire in July 1992 and the first part of the Arusha Accords48. The July 1992 cease-fire tacitly recognized RPF control over a portion of Rwandan territory in the north-east. The protocols signed following these accords included the October 1992 protocol establishing a transitional government and a transitional assembly and the participation of the RPF in both institutions. The political scene was now widened to comprise three blocs: the Habyarimana bloc, the internal opposition and the RPF. Experience showed that President Habyarimana accepted these accords only because he was compelled to do so, but had no intention of complying with what he himself referred to as "un chiffon de papier", meaning a scrap of paper.

97. Yet, the RPF did not drop its objective of seizing power. It therefore increased its military attacks. The massive attack of 8 February 1993 seriously undermined the relations between the RPF and the Hutu opposition parties, making it easy for Habyarimana supporters to convene an assembly of all Hutu Thus, the bond built on Hutu kinship once again began to prevail over political differences. The three blocs mentioned earlier gave way to two ethnic- based opposing camps: on the one hand, the RPF, the supposed canopy of all Tutsi and, on the other hand, the other parties said to be composed essentially of the Hutu.

98. In March 1992, a group of Hutu hard-liners founded a new radical political party, the Coalition pour la défense de la republique (CDR), or Coalition for the Defence of the Republic, which was more extremist than Habyarimana himself and opposed him on several occasions.

99. To make the economic, social and political conflict look more like an ethnic conflict, the President's entourage, in particular, the army, persistently launched propaganda campaigns which often consisted o fabricating events. Dr. Alison Desforges in her testimony referred to this as "mirror politics", whereby a person accuses others of what he or she does or wants to do. In this regard, in the morning hours of 5 October 1990, the Rwandan army simulated an attack on Kigali and, immediately thereafter, the Government claimed that the city had just been infiltrated by the RPF, with the help of local Tutsi accomplices. Some eight thousand Tutsi and members of the Hutu opposition were arrested the next morning. Several dozens of them died in jail. Another example of mirror politics is the March 1992 killings in Bugesera which began a week after a propaganda agent working for the Habyarimana government distributed a tract claiming that the Tutsi of that region were preparing to kill many Hutu. The MRND militia, known as Interahamwe, participated in the Bugesera killings. It was the first time that this party's militia participated in killings of this scale. They were later joined by the militia of other parties or wings of Hutu extremist parties, including, in particular, the CDR militia known as the Impuzamugambi.

100. Mirror politics was also used in Kibulira, in the north-west, and in the Bagoguye region. In both cases, the population was goaded on to defend itself against fabricated attacks supposed to have been perpetrated by RPF infiltrators and to attack and kill their Tutsi neighbours. In passing, mention should be made of the role that Radio Rwanda and, later, the RTLM, founded in 1993 by people close to President Habyarimana, played in this anti-Tutsi propaganda. Besides the radio stations, there were other propaganda agents, the most notorious of whom was a certain Léon Mugesera, vice-president of the MRND in Gisenyi Préfecture and lecturer at the National University of Rwanda, who published two pamphlets accusing the Tutsi of planning a genocide of the Hutu49. During an MRND meeting in November 1992, the same Léon Mugesera called for the extermination of the Tutsi and the assassination of Hutu opposed to the President. He made reference to the idea that the Tutsi allegedly came from Ethiopia and, hence, that after they had been killed, they should be thrown into the Rwandan tributaries of the Nile, so that they should return to where they are supposed to have come from50. He exhorted his listeners to avoid the error of earlier massacres during which some Tutsi, particularly children, were spared.

101. On the political front, a split was noticed in almost all the opposition parties on the issue of the proposed signing of a final peace agreement. This schismatic trend began with the MDR party, the main rival of the MRND, whose radical faction, later known as MDR Power, affiliated with the CDR and the MRND.

102. On 4 August 1993, the Government of Rwanda and the RPF signed the final Arusha Accords and ended the war which started on 1 October 1990. The Accords provided, *inter alia*, for the establishment of a transitional government to include the RPF, the partial demobilization and integration of the two opposing armies (13,000 RPF and 35,000 FAR troops), the creation of a demilitarized zone between the RPF-controlled area in the north and the rest of the country, the stationing of an RPF battalion in the city of Kigali, and the deployment, in four phases, of a UN peace-keeping force, the United Nations Assistance Mission for Rwanda (UNAMIR), with a two-year mandate.

103. On 23 October 1993, the President of Burundi, Melchior Ndadaye, a Hutu, was assassinated in the course of an attempted coup by Burundi Tutsi soldiers. Dr. Alison Desforges testified that in Rwanda, Hutu extremists exploited this assassination to prove that it was impossible to agree with the Tutsi, since they would always turn against their Hutu partners to kill them. A meeting held at the Kigali stadium at the end of October 1993 was entirely devoted to the discussion of the assassination of President Ndadaye, and in a very virulent speech, Froduald Karamira, senior national vice-President of the Interahamwe, is alleged to have called for unreserved solidarity among all the Hutu, solidarity transcending the divide of political parties. He reportedly concluded his speech with a call for "Hutu-

Power".

104. The assassination of President Ndadaye gave President Habyarimana and the CDR the opportunity to denounce, in a joint MRND - CDR statement issued at the end of 1993, the Arusha Accords, calling them treason. However, a few days later, pursuing his policy of prevarication towards the international community, Habyarimana signed another part of the peace accords. Indeed, the Arusha Accords no longer existed, except on paper. The President certainly did take the oath of office, but the installation of a transitional government was delayed, mainly by divisions within the political parties and the ensuing infightings.

105. The leaders of the CDR and the PSD were assassinated in February 1994. In Kigali, in the days that followed, the Interahamwe and the Impuzamugambi massacred Tutsi as well as Habyarimana's Hutu opponents. The Belgian Foreign Minister informed his representative at the UN of the worsening situation which "could result in an irreversible explosion of violence"51 . At the same time, as he stated in his testimony before the Tribunal, UNAMIR commander, Major-General Dallaire, alerted the United Nations in New York of the discovery of arms caches and requested a change in UNAMIR's engagement rules to enable him to seize the arms; but the request was turned down. Meanwhile, anti-Tutsi propaganda on the media intensified. The RTLM constantly stepped up its attacks which became increasingly targeted and violent.

106. At the end of March 1994, the transitional government was still not set up and Rwanda was on the brink of bankruptcy. International donors and neighbouring countries put pressure on the Habyarimana government to implement the Arusha Accords.
On 6 April 1994, President Habyarimana and other heads of State of the region met in Dar-es-Salaam (Tanzania) to discuss the implementation of the peace accords. The aircraft carrying President Habyarimana and the Burundian President, Ntaryamirai, who were returning from the meeting, crashed around 8:30 pm near Kigali airport. All aboard were killed.

107. The Rwandan army and the militia immediately erected roadblocks around the city of Kigali. Before dawn on April 7 1994, in various parts of the country, the Presidential Guard and the militia started killing the Tutsi as well as Hutu known to be in favour of the Arusha Accords and power-sharing between the Tutsi and the Hutu. Among the first victims, were a number of ministers of the coalition government, including its Prime Minister, Agathe Uwilingiyimana (MDR), the president of the Supreme Court and virtually the entire leadership of the parti social démocrate (PSD). The constitutional vacuum thus created cleared the way for the establishment of the self-proclaimed Hutu-power interim government, mainly under the aegis of retired Colonel Théoneste Bagosora.

108. Soldiers of the Rwandan Armed Forces (FAR) executed ten Belgian blue helmets, thereby provoking the withdrawal of the Belgian contingent which formed the core of UNAMIR. On April 21 1994, the UN Security Council decided to reduce the peace-keeping force to 450 troops.

109. In the afternoon of 7 April 1994, RPF troops left their quarters in Kigali and their zone in the north, to resume open war against the Rwandan Armed Forces. Its troops from the north moved south, crossing the demilitarized zone, and entered the city of Kigali on April 12 1994, thus forcing the interim government to flee to Gitarama.

110. On April 12 1994, after public authorities announced over Radio Rwanda that "we need to unite against the enemy , the only enemy and this is the enemy that we have always known...it's the enemy who wants to reinstate the former feudal monarchy", it became clear that the Tutsi were the primary targets. During the week of 14 to 21 April 1994, the killing campaign reached its peak. The President of

the interim government, the Prime Minister and some key ministers travelled to Butare and Gikongoro, and that marked the beginning of killings in these regions which had hitherto been peaceful. Thousands of people, sometimes encouraged or directed by local administrative officials, on the promise of safety, gathered unsuspectingly in churches, schools, hospitals and local government buildings. In reality, this was a trap intended to lead to the rapid extermination of a large number of people.

111. The killing of Tutsi which henceforth spared neither women nor children, continued up to 18 July 1994, when the RPF triumphantly entered Kigali. The estimated total number of victims in the conflict varies from 500,000 to 1,000,000 or more.

3. GENOCIDE IN RWANDA IN 1994?

112. As regards the massacres which took place in Rwanda between April and July 1994, as detailed above in the chapter on the historical background to the Rwandan tragedy, the question before this Chamber is whether they constitute genocide. Indeed, it was felt in some quarters52 that the tragic events which took place in Rwanda were only part of the war between the Rwandan Armed Forces (the RAF) and the Rwandan Patriotic Front (RPF). The answer to this question would allow a better understanding of the context within which the crimes with which the accused is charged are alleged to have been committed.

113. According to paragraph 2 of Article 2 of the Statute of the Tribunal, which reflects verbatim the definition of genocide as contained in the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter, "the Convention on Genocide")53, genocide means any of the following acts referred to in said paragraph, committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such, namely, *inter alia*: killing members of the group; causing serious bodily or mental harm to members of the group.

114. Even though the number of victims is yet to be known with accuracy, no one can reasonably refute the fact that widespread killings were perpetrated throughout Rwanda in 1994.

115. Indeed, this is confirmed by the many testimonies heard by this Chamber. The testimony of Dr. Zachariah who appeared before this Chamber on 16 and 17 January 1997 is enlightening in this regard. Dr. Zachariah was a physician who at the time of the events was working for a non-governmental organisation, "Médecins sans frontières." In 1994 he was based in Butare and travelled over a good part of Rwanda upto its border with Burundi. He described in great detail the heaps of bodies which he saw everywhere, on the roads, on the footpaths and in rivers and, particularly, the manner in which all these people had been killed. At the church in Butare, at the Gahidi mission, he saw many wounded persons in the hospital who, according to him, were all Tutsi and who, apparently, had sustained wounds inflicted with machetes to the face, the neck, and also to the ankle, at the Achilles' tendon, to prevent them from fleeing. The testimony given by Major-General Dallaire, former Commander of the United Nations Assistance Mission for Rwanda (UNAMIR) at the time of the events alleged in the Indictment, who was called by the defence, is of a similar vein. Major-General Dallaire spoke of troops of the Rwandan Armed Forces and of the Presidential Guard going into houses in Kigali that had been previously identified in order to kill. He also talked about the terrible murders in Kabgayi, very near Gitarama, where the interim Government was based and of the reports he received from observers throughout the country which mentioned killings in Gisenyi, Cyangugu and Kibongo.

116. The British cameraman, Simon Cox, took photographs of bodies in many churches in Remera, Biambi, Shangi, between Cyangugu and Kibuye, and in Bisesero. He mentioned identity cards strewn on the ground, all of which were marked "Tutsi". Consequently, in view of these widespread killings the

victims of which were mainly Tutsi, the Chamber is of the opinion that the first requirement for there to be genocide has been met, the killing and causing serious bodily harm to members of a group.

117. The second requirement is that these killings and serious bodily harm, as is the case in this instance be committed with the intent to destroy, in whole or in part, a particular group targeted as such.

118. In the opinion of the Chamber, there is no doubt that considering their undeniable scale, their systematic nature and their atrociousness, the massacres were aimed at exterminating the group that was targeted. Many facts show that the intention of the perpetrators of these killings was to cause the complete disappearance of the Tutsi. In this connection, Alison Desforges, an expert witness, in her testimony before this Chamber on 25 February 1997, stated as follows: "on the basis of the statements made by certain political leaders, on the basis of songs and slogans popular among the Interahamwe, I believe that these people had the intention of completely wiping out the Tutsi from Rwanda so that-as they said on certain occasions - their children , later on , would not know what a Tutsi looked like, unless they referred to history books". Moreover, this testimony given by Dr. Desforges was confirmed by two prosecution witnesses, witness KK and witness OO, who testified separately before the Tribunal that one Silas Kubwimana had said during a public meeting chaired by the accused himself that all the Tutsi had to be killed so that someday Hutu children would not know what a Tutsi looked like.

119. Furthermore, as mentioned above, Dr. Zachariah also testified that the Achilles' tendons of many wounded persons were cut to prevent them from fleeing. In the opinion of the Chamber, this demonstrates the resolve of the perpetrators of these massacres not to spare any Tutsi. Their plan called for doing whatever was possible to prevent any Tutsi from escaping and, thus, to destroy the whole group. Witness OO further told the Chamber that during the same meeting, a certain Ruvugama, who was then a Member of Parliament, had stated that he would rest only when no single Tutsi is left in Rwanda".

120. Dr. Alison Desforges testified that many Tutsi bodies were often systematically thrown into the Nyabarongo river, a tributary of the Nile. Indeed, this has been corroborated by several images shown to the Chamber throughout the trial. She explained that the underlying intention of this act was to "send the Tutsi back to their place of origin", to "make them return to Abyssinia", in keeping with the allegation that the Tutsi are foreigners in Rwanda, where they are supposed to have settled following their arrival from the Nilotic regions.54

121. Other testimonies heard, especially that of Major-General Dallaire, also show that there was an intention to wipe out the Tutsi group in its entirety, since even newborn babies were not spared. Even pregnant women, including those of Hutu origin, were killed on the grounds that the foetuses in their wombs were fathered by Tutsi men, for in a patrilineal society like Rwanda, the child belongs to the father's group of origin. In this regard, it is worthwhile noting the testimony of witness PP, heard by the Chamber on 11 April 1997, who mentioned a statement made publicly by the accused to the effect that if a Hutu woman were impregnated by a Tutsi man, the Hutu woman had to be found in order "for the pregnancy to be aborted". According to prosecution witnesses KK, PP and OO, the accused expressed this opinion on other occasions in the form of a Rwandese proverb according to which if a snake wraps itself round a calabash, there is nothing that can be done, except to break the calabash' (" Iyo inzoka yiziritse ku gisabo, nta kundi bigenda barakimena)55. In the context of the period in question, this proverb meant that if a Hutu woman married to a Tutsi man was impregnated by him, the foetus had to be destroyed so that the Tutsi child which it would become should not survive. It should be noted in this regard that in Rwandese culture, breaking the "gisabo", which is a big calabash used as a churn was considered taboo. Yet, if a snake wraps itself round a gisabo, obviously, one has no choice but to ignore this taboo in order to kill the snake.

122. In light of the foregoing, it is now appropriate for the Chamber to consider the issue of specific intent that is required for genocide (*mens rea* or *dolus specialis*). In other words, it should be established that the above-mentioned acts were targeted at a particular group as such. In this respect also, many consistent and reliable testimonies , especially those of Major-General Dallaire, Dr. Zachariah, victim V, prosecution witness PP, defence witness DAAX, and particularly that of the accused himself unanimously agree on the fact that it was the Tutsi as members of an ethnic group which they formed in the context of the period56 in question, who were targeted during the massacres57.

123. Two facts, in particular, which suggest that it was indeed the Tutsi who were targeted should be highlighted: Firstly, at the roadblocks which were erected in Kigali immediately after the crash of the President's plane on 6 April 1994 and, later on, in most of the country's localities, members of the Tutsi population were sorted out. Indeed, at these roadblocks which were manned, depending on the situation, either by soldiers, troops of the Presidential Guard and/or militiamen, the systematic checking of identity cards indicating the ethnic group of their holders, allowed the separation of Hutu from Tutsi, with the latter being immediately apprehended and killed, sometimes on the spot. Secondly, the propaganda campaign conducted before and during the tragedy by the audiovisual media, for example, "Radio Television des Milles Collines"(RTLM), or the print media, like the Kangura58 newspaper. These various news media overtly called for the killing of Tutsi, who were considered as the accomplices of the RPF and accused of plotting to take over the power lost during the revolution of 1959. Some articles and cartoons carried in the *Kangura* newspaper, entered in evidence, are unambiguous in this respect. In fact, even exhibit 25A could be added to this lot. Exhibit 25A is a letter from the "GZ" staff headquarters dated 21 September 1992 and signed by Deofratas Nsabimana, Colonel, BEM, to which is annexed a document prepared by a committee of ten officers and which deals with the definition of the term enemy. According to that document, which was intended for the widest possible dissemination, the enemy fell into two categories, namely:" the primary enemy" and the "enemy supporter". The primary enemy was defined as "the extremist Tutsi within the country or abroad who are nostalgic for power and who have NEVER acknowledged and STILL DO NOT acknowledge the realities of the Social Revolution of 1959, and who wish to regain power in RWANDA by all possible means, including the use of weapons". On the other hand, the primary enemy supporter was "anyone who lent support in whatever form to the primary enemy". This document also stated that the primary enemy and their supporters came mostly from social groups comprising, in particular, "Tutsi refugees", "Tutsi within the country", "Hutu dissatisfied with the current regime", "Foreigners married to Tutsi women" and the "Nilotic-hamitic tribes in the region".

124. In the opinion of the Chamber, all this proves that it was indeed a particular group, the Tutsi ethnic group, which was targeted. Clearly, the victims were not chosen as individuals but, indeed, because they belonged to said group; and hence the victims were members of this group selected as such. According to Alison Desforges's testimony, the Tutsi were killed solely on account of having been born Tutsi.

125. Clearly therefore, the massacres which occurred in Rwanda in 1994 had a specific objective, namely the extermination of the Tutsi, who were targeted especially because of their Tutsi origin and no because they were RPF fighters. In any case, the Tutsi children and pregnant women would, naturally, not have been among the fighters.

126. Consequently, the Chamber concludes from all the foregoing that genocide was, indeed, committed in Rwanda in 1994 against the Tutsi as a group. Furthermore, in the opinion of the Chamber, this genocide appears to have been meticulously organized. In fact, Dr. Alison Desforges testifying before the Chamber on 24 May 1997, talked of "centrally organized and supervised massacres". Indeed, some evidence supports this view that the genocide had been planned. First, the existence of lists of Tutsi to be eliminated is corroborated by many testimonies. In this respect, Dr. Zachariah mentioned the case of patients and nurses killed in a hospital because a soldier had a list including their names. There are also

the arms caches in Kigali which Major-General Dallaire mentioned and regarding whose destruction he had sought the UN's authorization in vain. Lastly, there is the training of militiamen by the Rwandan Armed Forces and of course, the psychological preparation of the population to attack the Tutsi, which preparation was masterminded by some news media, with the RTLM at the forefront.

127. Finally, in response to the question posed earlier in this chapter as to whether the tragic events that took place in Rwanda in 1994 occurred solely within the context of the conflict between the RAF and the RPF, the Chamber replies in the negative, since it holds that the genocide did indeed take place against the Tutsi group, alongside the conflict. The execution of this genocide was probably facilitated by the conflict, in the sense that the fighting against the RPF forces was used as a pretext for the propaganda inciting genocide against the Tutsi, by branding RPF fighters and Tutsi civilians together, through dissemination via the media of the idea that every Tutsi was allegedly an accomplice of the Inkotanyi. Very clearly, once the genocide got under way, the crime became one of the stakes in the conflict between the RPF and the RAF. In 1994, General Kagame, speaking on behalf of the RPF, declared that a cease fire could possibly not be implemented until the massacre of civilians by the government forces59 had stopped.

128. In conclusion, it should be stressed that although the genocide against the Tutsi occurred concomitantly with the above-mentioned conflict, it was, evidently, fundamentally different from the conflict. The accused himself stated during his initial appearance before the Chamber, when recounting a conversation he had with one RAF officer and Silas Kubwimana, a leader of the Interahamwe, that the acts perpetrated by the Interahamwe against Tutsi civilians were not considered by the RAF officer to be of a nature to help the government armed forces in the conflict with the RPF60. Note is also taken of the testimony of witness KK which is in the same vein. This witness told the Chamber that while she and the children were taken away, an RAF soldier allegedly told persons who were persecuting her that "instead of going to confront the Inkotanyi at the war front, you are killing children, although children know nothing; they have never done politics". The Chamber's opinion is that the genocide was organized and planned not only by members of the RAF, but also by the political forces who were behind the "Hutu-power", that it was executed essentially by civilians including the armed militia and even ordinary citizens, and above all, that the majority of the Tutsi victims were non-combatants, including thousands of women and children, even foetuses. The fact that the genocide took place while the RAF was in conflict with the RPF, can in no way be considered as an extenuating circumstance for it.

129. This being the case, the Chamber holds that the fact that genocide was indeed committed in Rwanda in 1994 and more particularly in Taba, cannot influence it in its decisions in the present case. Its sole task is to assess the individual criminal responsibility of the accused for the crimes with which he is charged, the burden of proof being on the Prosecutor61. In spite of the irrefutable atrocities of the crime committed in Rwanda, the judges must examine the facts adduced in a most dispassionate manner, bearing in mind that the accused is presumed innocent Moreover, the seriousness of the charges brought against the accused makes it all the more necessary to examine scrupulously and meticulously all the inculpatory and exonerating evidence, in the context of a fair trial and in full resect of all the rights of the Accused.

4. EVIDENTIARY MATTERS

130. The Chamber will address certain general evidentiary matters of concern which arose in relation to the evidence produced by the parties during this trial. These matters include the assessment of evidence, the impact of trauma on witnesses, questions of interpretation from Kinyarwanda into French and English, and cultural factors which might affect an understanding of the evidence presented.

Assessment of Evidence

131. In its assessment of the evidence, as a general principle, the Chamber has attached probative value to each testimony and each exhibit individually according to its credibility and relevance to the allegations at issue. As commonly provided for in most national criminal proceedings, the Chamber has considered the charges against the accused on the basis of the testimony and exhibits offered by the parties to support or challenge the allegations made in the Indictment. In seeking to establish the truth in its judgment, the Chamber has relied as well on indisputable facts and on other elements relevant to the case, such as constitutive documents pertaining to the establishment and jurisdiction of the Tribunal, even if these were not specifically tendered in evidence by the parties during trial. The Chamber notes that it is not restricted under the Statute of the Tribunal to apply any particular legal system and is not bound by any national rules of evidence. In accordance with Rule 89 of its Rules of Procedure and Evidence, the Chamber has applied the rules of evidence which in its view best favour a fair determination of the matter before it and are consonant with the spirit and general principles of law.

Unus Testis, Nullus Testis

132. The Chamber notes that during trial, only one testimony was presented in support of certain facts alleged in the Indictment; hence the question arises as to the principle found in Civil Law systems: *unus testis, nullus testis* (one witness is no witness) whereby corroboration of evidence is required if it is to be admitted.

133. Without wishing to delve into a debate on the applicability of the rule of corroboration of evidence in this judgment, the Chamber recalls that the proceedings before it are conducted in accordance solely with the Statute of the Tribunal and its Rules and, as provided for by Rule 89(A), it shall not be bound by national rules of evidence. Furthermore, where evidentiary matters are concerned, the Chamber is bound only to the application of the provisions of its Statute and Rules, in particular Rule 89 of the Rules which sets out the general principle of the admissibility of any relevant evidence which has probative value, provided that it is in accordance with the requisites of a fair trial.

134. Rule 96(i) of the Rules alone specifically deals with the issue of corroboration of testimony required by the Chamber. The provisions of this Rule, which apply only to cases of testimony by victims of sexual assault, stipulate that no corroboration shall be required. In the Tadic judgment rendered by the ICTY, the Trial Chamber ruled that this "Sub-rule accords to the testimony of a victim of sexual assault the same presumption of reliability as the testimony of victims of other crimes, something which had long been denied to victims of sexual assault in common law [which] certainly does not [...] justify any inference that in cases of crimes other than sexual assault, corroboration is required. The proper inference is, in fact, directly to the contrary"62.

135. In view of the above, the Chamber can rule on the basis of a single testimony provided such testimony is, in its opinion, relevant and credible.

136. The Chamber can freely assess the probative value of all relevant evidence. The Chamber had thus determined that in accordance with Rule 89, any relevant evidence having probative value may be admitted into evidence, provided that it is being in accordance with the requisites of a fair trial. The Chamber finds that hearsay evidence is not inadmissible *per se* and has considered such evidence, with caution, in accordance with Rule 89.

Witness statements

137. During the trial, the Prosecutor and the Defence relied on pre-trial statements from witnesses for the purpose of cross-examination. The Chamber ordered that any such statements to which reference was made in the proceedings be submitted in evidence for consideration63. In many instances, the Defence has alleged inconsistencies and contradictions between the pre-trial statements of witnesses and their evidence at trial. The Chamber notes that these pre-trial statements were composed following interviews with witnesses by investigators of the Office of the Prosecution. These interviews were mostly conducted in Kinyarwanda, and the Chamber did not have access to transcripts of the interviews, but only translations thereof. It was therefore unable to consider the nature and form of the questions put to the witnesses, or the accuracy of interpretation at the time. The Chamber has considered inconsistencies and contradictions between these statements and testimony at trial with caution for these reasons, and in the light of the time lapse between the statements and the presentation of evidence at trial, the difficulties of recollecting precise details several years after the occurrence of the events, the difficulties of translation, and the fact that several witnesses were illiterate and stated that they had not read their written statements. Moreover, the statements were not made under solemn declaration and were not taken by judicial officers. In the circumstances, the probative value attached to the statements is, in the Chamber's view, considerably less than direct sworn testimony before the Chamber, the truth of which has been subjected to the test of cross-examination.

False testimony

138. Rule 91 of the Rules (False Testimony under Solemn Declaration) provides for, *inter alia*, the investigation and possible prosecution of a witness whom the Chamber believes may have knowingly and wilfully given false testimony. As held by the Chamber in its decision rendered thereon in relation to a Defence motion requesting the Chamber to direct the Prosecutor to investigate the alleged false testimony by a witness 64, Rule 91(B) provides:

> *Either* the Chamber establishes *proprio motu* that strong grounds exist for believing that a witness has knowingly and wilfully given false testimony, and thence directs the Prosecutor to investigate the matter with a view to the preparation and submission of an Indictment for false testimony;
>
> *Or*, at the request of a party, it invites the Prosecutor to investigate the matter with a view to the preparation and submission of an Indictment for false testimony; and in this case, the onus is on the party to convince the Chamber that there exist strong grounds for believing that a witness has knowingly and wilfully given false testimony;

139. Further, the Chamber held in the decision, that the onus is on the party pleading a case of false testimony to prove the falsehoods of the witness statements, that they were made with harmful intent, or at least that they were made by a witness who was fully aware that they were false, and their possible bearing upon the judge's decisions. The Chamber found that for the Defence to raise only doubts as to the credibility of the statements made by the witness was not sufficient to establish strong grounds for believing that the witness may have knowingly and wilfully given false testimony, and that the assessment of credibility pertains to the rendering of the final judgment.

140. The majority of the witnesses who appeared before the Chamber were eye-witnesses, whose testimonies were based on events they had seen or heard in relation to the acts alleged in the Indictment. The Chamber noted that during the trial, for a number of these witnesses, there appeared to be contradictions or inaccuracies between, on the one hand, the content of their testimonies under solemn declaration to the Chamber, and on the other, their earlier statements to the Prosecutor and the Defence. This alone is not a ground for believing that the witnesses gave false testimony. Indeed, an often levied criticism of testimony is its fallibility. Since testimony is based mainly on memory and sight, two huma n

characteristics which often deceive the individual, this criticism is to be expected. Hence, testimony is rarely exact at to the events experienced. To deduce from any resultant contradictions and inaccuracies that there was false testimony, would be akin to criminalising frailties in human perceptions. Moreover, inaccuracies and contradictions between the said statements and the testimony given before the Court are also the result of the time lapse between the two. Memory over time naturally degenerates, hence it would be wrong and unjust for the Chamber to treat forgetfulness as being synonymous with giving false testimony. Moreover, false testimony requires the necessary *mens rea* and not a mere wrongful statement.

141. Were the Chamber to have strong grounds for believing that the witness had knowingly and wilfully given false testimony, with the intent to impede the due process of Justice, then Rule 91 of the Rules would be applied accordingly.

The impact of trauma on the testimony of witnesses

142. Many of the eye-witnesses who testified before the Chamber in this case have seen atrocities committed against their family members or close friends, and/or have themselves been the victims of such atrocities. The possible traumatism of these witnesses caused by their painful experience of violence during the conflict in Rwanda is a matter of particular concern to the Chamber. The recounting of this traumatic experience is likely to evoke memories of the fear and the pain once inflicted on the witness and thereby affect his or her ability fully or adequately to recount the sequence of events in a judicial context. The Chamber has considered the testimony of those witnesses in this light.

143. The Chamber is unable to exclude the possibility that some or all of these witnesses did actually suffer from post traumatic or extreme stress disorders, and has therefore carefully perused the testimonies of these witnesses, those of the Prosecutor as well as those of the Defence, on the assumption that this might possibly have been the case. Inconsistencies or imprecisions in the testimonies, accordingly, have been assessed in the light of this assumption, personal background and the atrocities they have experienced or have been subjected to. Much as the Witness Protection Programme and the orders for protection of witnesses issued by the Chamber during this trial were designed primarily to reduce the danger for witnesses in coming to the Tribunal to testify, these measures may also have provided for some alleviation of stress. Reducing the physical danger to the witnesses in Rwanda, and ordering the non-disclosure of their identities to the media and the public, as well as accommodating them during their presence at the seat of the Tribunal in safe houses where medical and psychiatric assistance was available, are, in any event, measures conducive to easing the level of stress.

144. The Chamber has thanked each witness for his or her testimony during the trial proceedings and wishes to acknowledge in its judgment the strength and courage of survivors who have recounted their traumatic experiences, often reliving extremely painful emotions. Their testimony has been invaluable t the Chamber in its pursuit of truth regarding the events which took place in the commune of Taba in 1994.

Interpretation from Kinyarwanda into French and English

145. The majority of the witnesses in this trial testified in Kinyarwanda. The Chamber notes that the interpretation of oral testimony of witnesses from Kinyarwanda into one of the official languages of the Tribunal has been a particularly great challenge due to the fact that the syntax and everyday modes of expression in the Kinyarwanda language are complex and difficult to translate into French or English. These difficulties affected the pre-trial interviews carried out by investigators in the field, as well as the

interpretation of examination and cross-examination during proceedings in Court. Most of the testimony of witnesses at trial was given in the language, Kinyarwanda, first interpreted into French, and then from French into English. This process entailed obvious risks of misunderstandings in the English version of words spoken in the source language by the witness in Kinyarwanda. For this reason, in cases where the transcripts differ in English and French, the Chamber has relied on the French transcript for accuracy. In some cases, where the words spoken are central to the factual and legal findings of the Chamber, the words have been reproduced in this judgment in the original Kinyarwanda.

146. The words Inkotanyi, Inyenzi, Icyitso/Ibyitso, Interahamwe and the expressions used in Kinyarwanda for "rape", because of their significance to the findings of the Chamber, are considered particularly, as follows: The Chamber has relied substantially on the testimony of Dr. Mathias Ruzindana, an expert witness on linguistics, for its understanding of these terms. The Chamber notes that Dr. Ruzindana stated in his testimony that in ascertaining the specific meaning of certain words and expressions in Kinyarwanda, it is necessary to place them contextually, both in time and in space.

147. The origin of the term Inkotanyi can be traced back to the 19th Century, at which time it was the name of one of the warrior groups of a Rwandese king, King Rwabugiris. There is no evidence to suggest that this warrior group was monoethnic. Dr. Ruzindana suggested that the name Inkotanyi was borne with pride by these warriors. At the start of the war between the RPF and the Government of Rwanda, the RPF army wing was called Inkotanyi. As such, it should be assumed that the basic meaning of the term Inkotanyi is the RPF army. Based on the analysis of a number of Rwandan newspapers and RTLM cassettes, as well as his personal experiences during the conflict, Dr. Ruzindana believed the term Inkotanyi had a number of extended meanings, including RPF sympathizer or supporter, and, in some instances, it even seemed to make reference to Tutsi as an ethnic group.

148. The basic everyday meaning of the term *Inyenzi* is cockroach. Other meanings of the term stem from the history of Rwanda. During the revolution' of 1959, refugees, mainly Tutsi, fled the country. Throughout the 1960's incursions on Rwandan soil were carried out by some of these refugees, who would enter and leave the country under the cover of the night, only rarely to be seen in the morning. This activity was likened to that of cockroaches, which are rarely seen during the day but often discovered at night, and accordingly these attackers were called Inyenzi. A similar comparison, between insurgent Tutsi refugees and cockroaches, was made when the RPF army carried out a number of attacks in Rwanda in 1990. It was thought that the Inyenzi of 1990 were the children of the Inyenzi of the 1960's. "The cockroach begets another cockroach and not a butterfly" was an article heading in the magazine Kangura. Another article in this publication made the reference even more explicitly, saying "The war between us and the Inyenzi-Inkotanyi has lasted for too long. It is time we told the truth. The present war is a war between Hutu and Tutsi. It has not started today, it is an old one."65

149. Unlike the term Inkotanyi, the term Inyenzi had a negative, even abusive, connotation. The radio station RTLM broadcast on 20 April 1994, "They are a gang of Tutsi extremists who called themselves Inkotanyi while they are no more than Inyenzi," and in a speech on 22 November 1992, Léon Mugesera said "Don't call them Inkotanyi, they are true Inyenzi". The term Inyenzi was widely used by extremist media, by those who had refused to accept the Arusha Peace Accords and those who wanted to exterminate the Tutsi, in whole or in part. It was often contained in RTLM broadcasts, a radio which, in the opinion of Dr. Ruzindana, was anti-Tutsi in its broadcastings.66

150. The term Icyitso, or Ibyitso in the plural, has been in usage in Kinyarwanda for quite some time. It is a common term which means accomplice. In ancient Rwandan history, a king wanting to launch an attack on neighbouring countries would send spies to the targeted country. These spies would recruit collaborators who would be known as Ibyitso. In Rwanda, the term has a negative connotation. Thus it should not be seen as being synonymous with supporter', a term which can be viewed both positively

and negatively, but perhaps rather "collaborator". The term evolved, as early as 1991, to include not only collaborators, but all Tutsi. The editor of Kangura stated in 1993, "When the war started, Hutu talked openly about the Tutsi, or they referred to them, indirectly, calling them Ibyitso"67.

151. The term Interahamwe derives from two words put together to make a noun, intera and hamwe. Intera comes from the verb gutera' which can mean both to attack and to work. It was documented that in 1994, besides meaning to work or to attack, the word gutera could also mean to kill. Hamwe means together. Therefore Interahamwe could mean to attack or to work together, and, depending on the context, to kill together. The Interahamwe were the youth movement of the MRND. During the war, the term also covered anyone who had anti-Tutsi tendencies, irrespective of their political background, and who collaborated with the MRND youth.

152. The terms gusambanya, kurungora, kuryamana and gufata ku ngufu were used interchangeably by witnesses and translated by the interpreters as "rape". The Chamber has consulted its official trial interpreters to gain a precise understanding of these words and how they have been interpreted. The word gusambanya means "to bring (a person) to commit adultery or fornication". The word kurungora means "to have sexual intercourse with a woman". This term is used regardless of whether the woman is married or not, and regardless of whether she gives consent or not. The word kuryamana means "to share a bed" or "to have sexual intercourse", depending on the context. It seems similar to the colloquial usage in English and in French of the term "to sleep with". The term gufata ku ngufu means "to take (anything) by force" and also "to rape".

153. The context in which these terms are used is critical to an understanding of their meaning and their translation. The dictionary entry for kurungora 68, the most generic term for sexual intercourse, includes as an example of usage of this word, the sentence "Mukantwali yahuye n'abasore batatu baramwambura baramurongora," for which the dictionary translation into French is "Mukantwali a recontré trois jeunes gens qui l'ont dévalisée et violée" (in English "Mukantwali met three young men who robbed her of her belongings and raped her.")

154. The Chamber notes that the accused objected on one occasion to the translation of the words stated by Witness JJ ("Batangira kujya babafata ku ngufu babakoresha ibyo bashaka") as "They began to rape them." It was clarified that the witness said "they had their way with them." The Chamber notes that in this instance the term used, babafata ku ngufu, is the term which of the four terms identified in the paragraph above is the term most closely connected to the concept of force. Having reviewed in detail with the official trial interpreters the references to "rape" in the transcript, the Chamber is satisfied that the Kinyarwanda expressions have been accurately translated.

Cultural Factors Affecting the Evidence of Witnesses

155. Dr. Mathias Ruzindana noted that most Rwandans live in an oral tradition in which facts are reported as they are perceived by the witness, often irrespective of whether the facts were personally witnessed or recounted by someone else. Since not many people are literate or own a radio, much of the information disseminated by the press in 1994 was transmitted to a larger number of secondary listeners by word of mouth, which inevitably carries the hazard of distortion of the information each time it is passed on to a new listener. Similarly, with regard to events in Taba, the Chamber noted that on examination it was at times clarified that evidence which had been reported as an eyewitness account was in fact a second-hand account of what was witnessed. Dr. Ruzindana explained this as a common phenomenon within the culture, but also confirmed that the Rwandan community was like any other and that a clear distinction could be articulated by the witnesses between what they had heard and what they had seen. The Chamber made a consistent effort to ensure that this distinction was drawn throughout the trial proceedings.

156. According to the testimony of Dr. Ruzindana, it is a particular feature of the Rwandan culture that people are not always direct in answering questions, especially if the question is delicate. In such cases, the answers given will very often have to be "decoded" in order to be understood correctly. This interpretation will rely on the context, the particular speech community, the identity of and the relation between the orator and the listener, and the subject matter of the question. The Chamber noted this in the proceedings. For example, many witnesses when asked the ordinary meaning of the term Inyenzi were reluctant or unwilling to state that the word meant cockroach, although it became clear to the Chamber during the course of the proceedings that any Rwandan would know the ordinary meaning of the word. Similar cultural constraints were evident in their difficulty to be specific as to dates, times, distances and locations. The Chamber also noted the inexperience of witnesses with maps, film and graphic representations of localities, in the light of this understanding, the Chamber did not draw any adverse conclusions regarding the credibility of witnesses based only on their reticence and their sometimes circuitous responses to questions.

5. FACTUAL FINDINGS

5.1. General allegations (Paragraphs 5-11 of the Indictment)

Events Alleged

157. Paragraphs 5 to 11 of the indictment appear under the heading, "General Allegations". These general allegations are, for the most part, mixed questions of fact and law relating to the general elements of genocide, crimes against humanity, and violations of international humanitarian law, the crimes set forth in Articles 2, 3 and 4 of the Statute of the Tribunal, under which the Accused is charged. Several witnesses testified before the Chamber with regard to historical background and the general situation in Rwanda prior to and during 1994. The Chamber has substantially relied on the testimonies of Dr. Ronie Zachariah, Ms. Lindsey Hilson, Mr. Simon Cox, Dr. Alison Desforges, who testified as an expert witness, and General Romeo Dallaire, the force commander of UNAMIR at the time of these events as well as United Nations reports of which it takes judicial notice, for its general findings on the factual allegations set forth in paragraphs 5-11 of the indictment.

158. Dr. Zachariah, the Chief Medical and Field Coordinator for Medecins sans frontieres ("MSF"), based in the Butare region, testified that he witnessed widespread massacres of civilians in Rwanda from 13 to 24 April 1994. He stated that he travelled from Butare to Gitarama on 13 April 1994 in order to provide medical supplies to a hospital in Gitarama which had received 40 to 50 injured people. From 25 kilometres outside Gitarama, Dr. Zachariah said he and his team began to see refugees on the road, who reported the killings of civilians at roadblocks. At one of these barriers, Dr. Zachariah stated that his driver was treated aggressively by a guard manning the roadblock, because the driver was Tutsi and the Tutsi were accused of helping the RPF. Dr. Zachariah testified that it soon became apparent upon arrival at Gitarama Hospital that Tutsi civilians were being targeted for attack on a massive scale. Subsequently, Dr. Zachariah witnessed attacks on civilian populations, and killings of civilians. He recounted visiting Kibeho Church on 16 April 1994, where two to four thousand Tutsi civilians were apparently killed, and Butare on 17 April 1994, where a Burundian Tutsi was apparently beaten to death at a checkpoint, and where his purchase officer reported seeing the bodies of 5-10 dead civilians at every checkpoint on the road from Kigali. These checkpoints were apparently manned by well-armed, drunken soldiers and civilians. On the road from Butare to Burundi on 19 April 1994, Dr. Zachariah sated that saw civilians being massacred in villages throughout the countryside and at roadblocks. In his words:

> "All the way through we could see on the [...] hillside, where there were communities, people [...] being pulled out by people with machetes, and we could see piles of bodies. In fact the entire landscape was becoming spotted with corpses, with bodies, all the way from

there until almost Burundi's border".

(Hearing of 16 January 1997, pp 98-99)

159. At the Rwanda-Burundi border, on the same day, Dr. Zachariah testified that he saw a group of 60 to 80 civilians fleeing towards the Burundian border, from men armed with machetes. He stated that most of these civilians were hacked to death before they reached the border. Returning from the Burundian border, on 21 April 1994, Dr Zachariah stated that he had spoken to eye-witnesses who had informed him of the killings of approximately 40 Tutsi MSF personnel, in the Saga camps in Butare. He stated that his driver's entire family had been killed on the outskirts of Butare by *Interahamwe* and he had been informed of these killings by his driver who had managed to escape death. Dr. Zachariah testified that he had witnessed, on 22 April 1994, the aftermath of the massacre of the family of a moderate Hutu, Mr. Souphene, the sub-Prefect of Butare, by the Presidential Guard, and, on the same day, the killings of children in the Hotel Pascal in Butare and the executions of tens of Tutsi patients and nurses in Butare Hospital, including a Hutu nurse who was pregnant by a Tutsi man and whose child would therefore be Tutsi. Dr. Zachariah stated that he then decided to evacuate his team from Rwanda and he arrived at the Burundian border on 24 April 1994. On the way to the border and at the border, he stated that he had crossed streams and rivers in which the mutilated corpses of men, women and children floated by at an estimated rate of five bodies every minute. Dr. Zachariah stated under cross-examination that in his opinion the attacks were both "organised and systematic".

160. Lindsey Hilson, a journalist, testified that she was in Kigali from 7 February 1994 to mid-April 1994. Following the aeroplane crash of 6 April 1994 in which the Presidents of Rwanda and Burundi were killed, she said she heard from others and saw for herself the ensuing killings of Tutsi in the capital. On the third day after the aeroplane crash, she toured Kigali with aid workers and saw victims suffering from machete and gunshot wounds. In Kigali central hospital, where she described the situation as "absolutely terrible", wounded men, women and children of all ages were packed into the wards, and hospital gutters were "running red with blood". At the morgue she saw "a big pile like a mountain of bodies outside and these were bodies with slash wounds, with heads smashed in, many of them naked, men and women". She estimated that the pile outside the morgue contained about five hundred bodies, with more bodies being brought in all the time by pickup trucks. She stated that she also saw teams of convicts around Kigali collecting bodies in the backs of trucks for mass burial, as well as groups of armed men roaming the city with machetes, clubs and sticks.

161. Simon Cox, a cameraman and photographer, testified that he was on an assignment in Rwanda during the time of the events set forth in the indictment. He said he entered Rwanda from Uganda, arriving in the border town of Mulindi, in the third week of April 1994. Thence he headed south with an RPF escort and found evidence of massacres of civilian men, women and children, whom it appeared from their identity cards were mostly Tutsi, in church compounds. En route to Rusumo, in the south-east of the country, he visited hospitals where Tutsi civilians suffering from machete wounds were being treated, some of whom he interviewed. At the Tanzanian border, near Rusumo, by the Kagera river which flows towards Lake Victoria, Mr. Cox saw and filmed corpses floating by at the rate of several corpses per minute. Later, at the beginning of May, he was in Kigali and saw more bodies of dead civilians on the roads. The Chamber viewed film footage taken by Mr. Cox.

162. On a second trip, in June 1994, Mr. Cox visited the western part of Rwanda, arriving in Cyangugu from Zaire (now the Democratic Republic of Congo) and travelling north towards Kibuye. On that journey, he visited orphanages populated by Tutsi children whose parents had been massacred or disappeared. He visited a church in Shangi where a Priest described how the whole of his congregation who had been Tutsi had been hiding inside the church, because they had heard disturbances, and they were eventually all killed by large armed gangs of people, some of whom were equipped with hand

grenades. The church had previously survived five repeated attacks. Mr. Cox himself examined the church and outbuildings and found graves, much blood and other evidence of killings. On the way to Kibuye, he saw further evidence of freshly dug mass graves in churchyards. Later, in the hills of Bisesero, he saw some 800 Tutsi civilians "in a desperate, desperate state", many apparently starving and with severe machete and bullet wounds, and with a great many corpses strewn all over the hills.

163. The testimony of an expert witness, Alison Desforges, which has been referred to and summarised above in the "Context of the conflict" section, also indicates that Tutsi and so-called moderate Hutu civilians were targeted for attacks on a massive scale in Rwanda at the time of the events which are the subject of this indictment.

164. In addition, the Chamber heard the testimony of General Romeo Dallaire, who was the force commander of UNAMIR in April 1994. General Dallaire described before the Chamber the massacres of civilian Tutsi which took place in Rwanda in 1994. He also testified in relation to the armed conflict which took place between the RPF and the FAR at the same time as the massacres. This conflict appeared to be a civil war between two well-organised armies. In this context, General Dallaire referred to the FAR and the RPF as "two armies", "two belligerents" or "two sides to the conflict." He noted that the mandate of the UNAMIR was to assist these two parties in implementing the Arusha Peace Accords which were signed on 4 October 1993. Subsequently, other military agreements were signed between the parties, including cease-fire agreements and agreements for arms-free zones. General Dallaire testified that the FAR was under the control of the government of Rwanda and that the RPF was under the control of Paul Kagame. The FAR and RPF occupied different sides of a clearly demarcated demilitarised zone, and according to General Dallaire, the RPF comprised 12,000-13,000 soldiers deployed in three groups: two groups for reaction in the western flank of the demilitarised zone and another group in the eastern flank with six independent battalions. The RPF headquartered in Mulundi, and had a lightweight battalion stationed in Kigali. General Dallaire testified that the RPF troops were disciplined and possessed a well-structured leadership which was answerable to authority and which respected instruction.

165. In addition to the testimony of these witnesses, the Chamber takes judicial notice of the following United Nations reports, which extensively document the massacres which took place in Rwanda in 1994: notably, the *Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 935 (1994)*, U.N. Doc. S/1994/1405 (1994); *Report of the Special Rapporteur of the Commission on Human Rights on Extrajudicial, Summary or Arbitrary Executions, Bacre Waly Ndiaye, on his mission to Rwanda from 8-17 April 1993*, U.N. Doc. E/CN.4/1994/7/Add.1 (1993); *Special Report of the Secretary-General on UNAMIR, containing a summary of the developing crisis in Rwanda and proposing three options for the role of the United Nations in Rwanda,* S/1994/470, 20 April 1994; *Report of the United Nations High Commissioner for Human Rights, Mr. José Ayala Lasso, on his mission to Rwanda 11-12 May 1994,* U.N. Doc. E/CN.4/S-3/3 (1994). See also, generally, the collection of United Nations documents in *The United Nations and Rwanda, 1993-1996,* The United Nations Blue Books Series, Volume X, Department of Public Information, United Nations, New York.

166. The Chamber notes that witnesses from Taba also attested to the mass killings which took place around the country.

Factual Findings

167. Paragraph 5 of the indictment alleges, "Unless otherwise specified, all acts and omissions set forth in this indictment took place between 1 January 1994 and 31 December 1994, in the commune of Taba, prefecture of Gitarama, territory of Rwanda". This allegation, which supports the legal finding that the Chamber has territorial and temporal jurisdiction over the crimes charged, is not contested, and the

Chamber finds that it has been established by the evidence presented.

168. Paragraph 6 of the indictment alleges that the acts set forth in each paragraph of the indictment charging genocide, i.e. paragraphs 12-24, "were committed with intent to destroy, in whole or in part, a national, ethnic or racial group". That acts of violence committed in Rwanda during this time were committed with the intent to destroy the Tutsi population is evident not only from the testimony cited above of Dr. Zachariah, Ms. Hilson, Mr. Cox, Dr. Desforges and General Dallaire, but also from the witnesses who testified with regard to events in the commune of Taba. Witness JJ testified that she was driven away from her home, which was destroyed after a man came to the hill near where she lived and said that the bourgmestre had sent him so that no Tutsi would remain on the hill that night. At the meeting which was held on the morning of 19 April 1994, at which the Accused spoke, Witness OO testified that it was said by another speaker that all the Tutsi should be killed so that some day a child could be born who would have to ask what a Tutsi had looked like. She also quoted this speaker as saying "I will have peace when there will be no longer a Tutsi in Rwanda.". Witness V testified that Tutsi were thrown into the Nyabarongo river, which flows towards the Nile, and told to "meet their parents in Abyssinia", signifying that the Tutsi came from Abyssinia (Ethiopia) and that they "should go back to where they came from" (hearing of 24 January 1997, p.7)

169. In light of this evidence, the Chamber finds beyond a reasonable doubt that the acts of violence which took place in Rwanda during this time were committed with the intent to destroy the Tutsi population, and that the acts of violence which took place in Taba during this time were a part of this effort.

170. Paragraph 7 of the indictment alleges that the victims in each paragraph charging genocide were members of a national, ethnic, racial or religious group. The Chamber notes that the Tutsi population does not have its own language or a distinct culture from the rest of the Rwandan population. However, the Chamber finds that there are a number of objective indicators of the group as a group with a distinct identity. Every Rwandan citizen was required before 1994 to carry an identity card which included an entry for ethnic group (ubwoko in Kinyarawanda and ethnie in French), the ethnic group being Hutu, Tutsi or Twa. The Rwandan Constitution and laws in force in 1994 also identified Rwandans by reference to their ethnic group. Article 16 of the Constitution of the Rwandan Republic, of 10 June 1991, reads, "All citizens are equal before the law, without any discrimination, notably, on grounds of race, colour, origin, ethnicity, clan, sex, opinion, religion or social position". Article 57 of the Civil Code of 1988 provided that a person would be identified by "sex, ethnic group, name, residence and domicile." Article 118 of the Civil Code provided that birth certificates would include "the year, month, date and place of birth, the sex, the ethnic group, the first and last name of the infant." The Arusha Accords of 4 August 1993 in fact provided for the suppression of the mention of ethnicity on official documents (see Article 16 of the Protocol on diverse questions and final dispositions).

171. Moreover, customary rules existed in Rwanda governing the determination of ethnic group, which followed patrilineal lines of heredity. The identification of persons as belonging to the group of Hutu or Tutsi (or Twa) had thus become embedded in Rwandan culture. The Rwandan witnesses who testified before the Chamber identified themselves by ethnic group, and generally knew the ethnic group to which their friends and neighbours belonged. Moreover, the Tutsi were conceived of as an ethnic group by those who targeted them for killing.

172. As the expert witness, Alison Desforges, summarised:

> "The primary criterion for [defining] an ethnic group is the sense of belonging to that ethnic group. It is a sense which can shift over time. In other words, the group, the definition of the group to which one feels allied may change over time. But, if you fix any given moment in

time, and you say, how does this population divide itself, then you will see which ethnic groups are in existence in the minds of the participants at that time. The Rwandans currently, and for the last generation at least, have defined themselves in terms of these three ethnic groups. In addition reality is an interplay between the actual conditions and peoples' subjective perception of those conditions. In Rwanda, the reality was shaped by the colonial experience which imposed a categorisation which was probably more fixed, and not completely appropriate to the scene. But, the Belgians did impose this classification in the early 1930's when they required the population to be registered according to ethnic group. The categorisation imposed at that time is what people of the current generation have grown up with. They have always thought in terms of these categories, even if they did not, in their daily lives have to take cognizance of that. This practice was continued after independence by the First Republic and the Second Republic in Rwanda to such an extent that this division into three ethnic groups became an absolute reality".

173. Paragraph 8 of the indictment alleges that the acts set forth in each paragraph of the indictment charging crimes against humanity, i.e. paragraphs 12-24, "were committed as part of a widespread or systematic attack against a civilian population on national, political, ethnic or racial grounds". As set forth in the evidence, the scale of the attack was extraordinary. Defence counsel called the events which took place in Rwanda in 1994 "the greatest human tragedy" at the end of this century. Around the country, a massive number of killings took place within a very short time frame. Tutsi were clearly the target of the attack - at roadblocks, in shelters, and in their own homes. Hutu sympathetic to or supportive of Tutsi were also massacred. That the attack was systematic is evidenced by the unusually large shipments of machetes into the country shortly before it occurred. It is also evidenced by the structured manner in which the attack took place. Teachers and intellectuals were targeted first, in Taba as well as the rest of the country. Through the media and other propaganda, Hutu were encouraged systematically to attack Tutsi. For these reasons, the Chamber finds beyond a reasonable doubt that a widespread and systematic attack began in April 1994 in Rwanda, targeting the civilian Tutsi population and that the acts referred to in paragraphs 12-24 of the indictment were acts which formed part of this widespread and systematic attack.

174. Paragraph 9 of the indictment states, "At all times relevant to this indictment, a state of internal armed conflict existed in Rwanda". The Chamber notes the testimony of General Dallaire, a witness called by the Defence, that the FAR was and the RPF were "two armies" engaged in hostilities, that the RPF had soldiers systematically deployed under a command structure headed by Paul Kagame, and that FAR and RPF forces occupied different sides of a clearly demarcated demilitarised zone. Based on the evidence presented, the Chamber finds beyond a reasonable doubt that armed conflict existed in Rwanda during the events alleged in the indictment, and that the RPF was an organised armed group, under responsible command, which exercised control over territory in Rwanda and was able to carry out sustained and concerted military operations.

175. Paragraph 10 of the indictment reads, "The victims referred to in this indictment were, at all relevant times, persons not taking an active part in the hostilities". The victims referred to in the indictment, several of whom testified before the Chamber, were farmers, teachers and refugees. The Chamber notes that the Defence did not challenge the civilian status of the victims by making any submissions or leading any evidence connecting any of the victims to the RPF or the hostilities that prevailed in 1994.Since the allegations in Paragraphs 13, 17 and those pertaining to Juvenal Rukundakuvuga and Emmanuel Sempabwa in paragraph 15 of the indictment have not been proved beyond a reasonable doubt, the Chamber finds that it is futile to determine whether these alleged victims were in fact civilians, taking no active part in the hostilities that prevailed in 1994. In light of the evidence presented by the Prosecutor, the Chamber finds beyond a reasonable doubt that all the other victims referred to in the indictment were civilians, not taking any active part in the hostilities that

prevailed in 1994.

176. Paragraph 10A was added to the indictment when it was amended to include charges of sexual violence, set forth in Paragraphs 12A and 12B of the indictment. It is not an allegation of fact, rather it appears to be a definition of sexual violence proposed by the Prosecutor.

177. Paragraph 11 of the indictment sets forth the definition of individual criminal responsibility in Article 6(1) of the Statute of the Tribunal and alleges that the Accused is individually responsible for the crimes alleged in the indictment. The Chamber does not consider this to be a factual allegation but rather a matter of legal issue, which is addressed in the legal findings on each count. The Chamber notes that no general allegation has been made by the Prosecution in connection with Counts 13, 14 and 15, under which the Accused is charged with individual criminal responsibility under Article 6(3), as well as Article 6(1) of the Tribunal's Statute.

5.2 Killings (Paragraphs 12, 13, 18, 19 & 20 of the Indictment)

5.2.1. Paragraph 12 of the Indictment

178. The Chamber now considers paragraph 12 of the Indictment, which alleges the responsibility of the Accused, his knowledge of the killings which took place in Taba between 7 April and the end of June 1994, and his failure to attempt to prevent these killings or to call for assistance from regional or national authorities.

179. Paragraph 12 of the Indictment reads as follows:

> 12. As bourgmestre, Jean Paul AKAYESU was responsible for maintaining law and public order in his commune. At least 2000 Tutsi were killed in Taba between April 7 and the end of June, 1994, while he was still in power. The killings in Taba were openly committed and so widespread that, as bourgmestre, Jean Paul AKAYESU must have known about them. Although he had the authority and responsibility to do so, Jean Paul AKAYESU never attempted to prevent the killing of Tutsi in the commune in any way or called for assistance from regional or national authorities to quell the violence.

180. Many witnesses testified regarding the responsibilities of the bourgmestre. Witness DZZ, a former police officer, testified that as bourgmestre, the Accused was responsible for maintaining law and public order in the commune. Witness R, a former bourgmestre, confirmed this testimony, as did Witness V and expert witness Alison DesForges. The responsibilities of the bourgmestre are set forth in Rwandese law, which provides in Article 108 of the Law on the Organization of the Commune that the brigadier has command of the communal police, under the authority of the bourgmestre. Moreover, according to the testimony of witness NN and others, the accused's authority over the communal police continued, and he continued to issue them orders, throughout the period in question. Many witnesses testified as to their perception of the authority of the bourgmestre. Witness K and Witness NN both stated that as bourgmestre, the Accused was the leader of the commune, and Witness S, Witness V and Ephrem Karangwa, the current bourgmestre of Taba, all testified that the people of the commune respected and followed every order of the Accused, as bourgmestre. The bourgmestre was the most important person in the Commune and its "parent" according to Ephrem Karangwa. He was "paramount for the life of the whole commune" and the representative of the executive power in the commune, according to Witness R, himself a former bourgmestre The Accused himself acknowledged that he was responsible for the maintenance of law and order in the commune. Accordingly, the Chamber finds that this proposition has been established.

181. With regard to the allegation that at least 2000 Tutsi were killed in Taba from 7 April to the end of June 1994, the Chamber notes that while many witnesses testified to widespread killings in Taba, very few witnesses were able to estimate numbers of people killed. Ephrem Karangwa, the present bourgmestre of Taba, testified that the population of Taba has decreased by 7,000 persons since April 1994, and he described mass graves in each sector of the commune. While some part of the population decrease may be attributed to refugees leaving the commune, it is clear from the testimony of many witnesses that a substantial number of people were killed in Taba. The number 2000 has not been contested by the Defence, and it seems to the Chamber, based on the evidence of killing and mass graves, a modest estimate of the number of people killed in Taba during this period. The testimony also uniformly establishes that virtually all of these people were Tutsi. Accordingly, the Chamber finds that it has been established beyond a reasonable doubt that at least 2000 Tutsi were killed in Taba from 7 April to the end of June 1994. It has also been established that the accused remained bourgmestre throughout this period.

182. The Indictment alleges that the killings in Taba were openly committed and so widespread that the Accused must have known about them. A number of witnesses, including Witness PP and Witness V, testified that they informed the Accused of the killings which were taking place in Taba. Others, such as Witness NN, testified that the Accused was present at the bureau communal and elsewhere when killings took place, and that he witnessed these killings. Others, including Witness KK, Witness NN, Witness G Witness W, Witness J, Witness C, Witness JJ and Witness V, have testified that the Accused supervised and actively participated in the killings. The Accused himself acknowledged that he knew such killings were taking place. He testified that he was told that there were killings everywhere in Taba, and that it was the Tutsi who were being killed. He stated that on 19 April 1994, killings spread to most of the commune of Taba. The issue is not contested, and it has been established that the Accused knew that killings were taking place and were widespread in Taba during the period in question.

183. The final allegation of paragraph 12 is that although he had the authority and responsibility to do so, Jean Paul Akayesu never attempted to prevent the killing of Tutsi in the commune in any way or called for assistance from regional or national authorities to quell the violence. The Accused contends that he did not have the power necessary to prevent the killings from taking place. The Chamber notes that the issue to be addressed is whether he ever attempted to do so. In the light of the evidence, the Chamber considers that it is necessary to distinguish between the period before 18 April 1994, when the key meeting between members of the interim government and the bourgmestres took place in Murambi, in Gitarama, and the period after 18 April 1994. Indeed, on the Prosecution's own case, a marked change in the accused's personality and behaviour took place after 18 April 1994.

184. There is a substantial amount of evidence establishing that before 18 April 1994 the Accused did attempt to prevent violence from taking place in the commune of Taba. Many witnesses testified to the efforts of the Accused to maintain peace in the commune and that he opposed by force the Interahamwe's attempted incursions into the commune to ensure that the killings which had started in Kigali on 7 April 1994 did not spread to Taba. Witness W testified that on the order of the Accused to the population that they must resist these incursions, members of the Interahamwe were killed. Witness K testified that Taba commune was calm during the period when Akayesu wanted that there be calm. She said he would gather the population in a meeting and tell them that they had to be against the acts of violence in the commune. Witness A testified that when the Interahamwe tried to enter the commune of Taba, the bourgmestre did everything to fight against them, and called on the residents to go to the borders of the commune to chase them away. The Accused testified that he intervened when refugees from Kigali were being shot at by the Interahamwe. The police returned fire and three Interahamwe were killed. The Accused testified that he confiscated their weapons and their vehicle.

185. The Accused testified that he asked for three gendarmes at the meeting with the Prime Minister in

Gitarama on 18 April 1994, to help him maintain order and security and to stop the killing of Tutsi. The only witnesses to attend the Murambi meeting were prosecution witness R, an MDR bourgmestre in Gitarama prefecture like the accused, and Defence witness DAAX, the former prefect of Gitarama. Witness R recalled three meetings of the bourgmestres in Gitarama prefecture convened by the prefect after 6 April 1994, and in his statement to the Office of the Prosecutor he said that the accused did ask for gendarmes at one of those meetings. When testifying before the Chamber, Witness R did not remember the accused having spoken at the Murambi meeting of 18 April 1994, although in his earlier statement to the Office of the Prosecutor, he stated that the accused had spoken at that meeting. Because of these inconsistencies, Defence counsel submitted a motion requesting the Chamber to consider a prosecution for false testimony, which this Chamber rejected in a Decision of 9 March 1998. As the Chamber stated in that Decision, it did not deem the matter appropriate for an investigation into false testimony, but rather it was a matter for the evaluation of the credibility of the witness in question. In this case, the Chamber considers that, despite discrepancies between Witness R's testimony and his prior statement to the Prosecutor relating to the sequence of the meetings addressed by the accused, if taken in the light most favourable to the accused, it corroborates the accused's account that at some point after 6 April 1994, and in all likelihood at the Murambi meeting of 18 April 1994, the accused asked for gendarmes to assist with the problems of security in his commune. Given the accused's testimony on this point, and its corroboration in part by the sole prosecution witness who was present at the Murambi meeting, the accused's version of events - that he did call for assistance from the national and regional authorities - must be credited.

186. Moreover, Defence witness DAAX, the former prefect of Gitarama supports the accused's account Witness DAAX testified that he convened three meetings of bourgmestres between 6 April 1994 and 18 April 1994 - all of which were attended by the accused - the third meeting being the one which was moved from Gitarama to Murambi at the last minute at the request of the Prime Minister so that the Prime Minister and other Ministers could address the prefect and bourgmestres. At this third meeting, the prefect testified, the accused took the floor and complained of the problems of security in his commune, in common with the Prefect and other bourgmestres. Witness DAAX's testimony agrees with that of the accused that the Prime Minister did not reply directly to the bourgmestre's expressions of concern about security in their Communes, but that he rather read parts of a prepared policy speech and threatened the complaining bourgmestres with dismissal. Witness DAAX further testified that at least one bourgmestre, the bourgmestre of Mugina, was killed shortly after the meeting as a result. Witness DAAX also testified that the accused had to flee his commune due to pressure from the Interahamwe at some point between 6 April 1994 and 18 April 1994, and in any event after the first two meetings referred to above but before the third meeting. Witness DAAX said the Accused never officially requested gendarmes from him, unlike the bourgmestre of Mugina. Witness DAAX lost contact with the Accused after 18 April 1994. The Chamber notes that the Accused does not assert that he requested assistance from the prefect of Gitarama but rather from the Prime Minister, during the course of the meeting.

187. A substantial amount of evidence has been presented indicating that the conduct of the Accused did, however, change significantly after the meeting on 18 April 1994, and many witnesses, including Witnesses E, W, PP, V and G, testified to the collaboration of the Accused with the Interahamwe in Taba after this date. Witness A testified that he was surprised to see that the Accused had become a friend of the Interahamwe. The Accused contends that he was overwhelmed. Witness DAX and Witness DBB, both witnesses for the Defence, testified that the Interahamwe threatened to kill the Accused if he did not cooperate with them. The Accused testified that he was coerced by the Interahamwe and particularly by Silas Kubwimana, the head of the Interahamwe with whom he was seen quite frequently during this time. The Chamber notes that in his pre-trial written statement, the Accused gave a very different account of Silas Kubwimana, describing his mandate in the commune as that of a "peace-maker".

188. The Chamber recognises the difficulties a bourgmestre encountered in attempting to save lives of Tutsi in the period in question. Prosecution witness R, who was the bourgmestre of another commune, i n Gitarama prefecture, testified that there was very little he or other bourgmestres could do to prevent massacres in his commune once killings became widespread after 18 April 1994. He averred that a bourgmestre could do nothing openly to combat the killings after that date or he would risk being killed what little he could do had to be done clandestinely. The Defence case is that this is precisely what the accused did.

189. Defence witnesses, DAAX, DAX, DCX, DBB and DCC confirm that the accused failed to prevent killings after 18 April 1994 and expressed the opinion that it was not possible for him to do anything with ten communal policemen at his disposal against more than a hundred Interahamwe.

190. The Defence contends that, despite pressure from the Interahamwe, the Accused continued to save lives after 18 April 1994. There is some evidence on this matter, referred to in the section on "the accused's line of Defence".

191. There is also evidence indicating that after 18 April 1994, there were people that came to the Accused for help, and he turned them away, and there is evidence that the Accused witnessed, participated in, supervised, and even ordered killings in Taba. Witness JJ testified that after her arrival a the bureau communal, where she came to seek refuge, she went to the Accused on behalf of a group of refugees, begging him to kill them with bullets so that they would not be hacked to death with machetes She said he asked his police officers to chase them away and said that even if there were bullets he would not waste them on the refugees.

192. The Chamber finds that the allegations set forth in paragraph 12 cannot be fully established. The Accused did take action between 7 April and 18 April to protect the citizens of his commune. It appears that he did also request assistance from national authorities at the meeting on 18 April 1994. Accordingly, the Accused did attempt to prevent the killing of Tutsi in his Commune, and it cannot be said that he never did so.

193. Nevertheless, the Chamber finds beyond a reasonable doubt that the conduct of the Accused changed after 18 April 1994 and that after this date the Accused did not attempt to prevent the killing of Tutsi in the commune of Taba. In fact, there is evidence that he not only knew of and witnessed killings. but that he participated in and even ordered killings. The fact that on one occasion he helped one Hutu woman protect her Tutsi children does not alter the Chamber's assessment that the Accused did not generally attempt to prevent the killings at all after 18 April. The Accused contends that he was subject to coercion, but the Chamber finds this contention greatly inconsistent with a substantial amount of concordant testimony from other witnesses. It is also inconsistent with his own pre-trial written statement. Witness C testified to having heard the accused say to an Interahamwe " I do not think that what we are doing is proper. We are going to have to pay for this blood that is being shed..",a statement which indicates the Accused's knowledge of the wrongfulness of his acts and his awareness of the consequences of his deeds. For these reasons, the Chamber does not accept the testimony of the Accused regarding his conduct after 18 April, and finds beyond a reasonable doubt that he did not attempt to prevent killings of Tutsi after this date. Whether he had the power to do so is not at issue, as he never even tried and as there is evidence establishing beyond a reasonable doubt that he consciously chose the course of collaboration with violence against Tutsi rather than shielding them from it.

5.2.2. Paragraph 13 of the Indictment

Alleged facts:

194. Paragraph 13 of the Indictment is worded as follows:

> "On or about 19 April 1994, before dawn, in Gishyeshye sector, Taba commune, a group of men, one of whom was named François Ndimubanzi, killed a local teacher, Sylvère Karera, because he was accused of associating with the Rwandan Patriotic Front ("RPF") and plotting to kill Hutu. Even though at least one of the perpetrators was turned over to **Jean-Paul Akayesu**, he failed to take measures to have him arrested".

195. It is alleged that, by the acts with which he is charged in this paragraph, Akayesu is guilty of the offences which form the subject of three counts:

> Count 1 of the Indictment charges him with the crime of genocide, punishable under Article 2(3)(a) of the Statute;
>
> Count 2 charges him with the crime of complicity in genocide, punishable under Article 2 (3)(e) of the Statute; and
>
> Count 3 charges him with the crime of extermination which is a Crime against Humanity, punishable under Article 3(b) of the Statute.

196. In order to prove the acts alleged against Akayesu under paragraph 13 of the Indictment, it is necessary to first establish that Sylvère Karera, a teacher, was killed in the Gishyeshye sector, Taba commune, on 19 April 1994, before dawn, by a group of men, one of whom was named François Ndimubanzi and that he was killed because he was accused of associating with the RPF and plotting to kill Hutu. The Chamber must then be satisfied that at least one of the perpetrators of this killing was indeed turned over to Jean-Paul Akayesu, and that he failed to take measures to have him arrested.

With regard to the killing of Sylvère Karera in the Gishyeshye sector, Taba commune, on or about 19 April 1994, before dawn:

197. Several Prosecution witnesses, particularly, those who appeared under the pseudonyms A, W, E and U, as well as Ephrem Karangwa, provided information on the killing of teacher Sylvère Karera in the night of 18 to 19 April 1994.

198. Witness A, a Hutu man, testified that, during the night of 18 to 19 April 1994, he heard people shouting that thieves had killed people at Remera school and calling on the population to stop them. Witness A affirmed that, on 19 April 1994, he had gone to Remera school. There he learnt from the headmaster that the prefect of studies, who turned out to be Sylvère Karera, had been killed. The witness saw the body of the teacher before it was covered with a pink sheet at the request of the headmaster.

199. Ephrem Karangwa, a Tutsi man, called by the Prosecutor as a witness who, at the material time, performed the functions of Inspecteur de police judiciaire of the Taba commune, stated before the Chamber that Sylvère Karera, a teacher at the Remera Rukoma school complex, was killed in the night of 18 to 19 April 1994 by members of the Interahamwe.

200. Witness W, a Tutsi, who resided in Taba, where he worked as a teacher, testified that on returning from night patrols in which he had participated during the night of 18 to 19 April 1994, he learnt that the prefect of studies at the public primary school, Rukoma, had just been killed.

201. Questioned on the death of Sylvère Karera, witness E stated that he had gone, in the night of 18 to

19 April 1994, to the entrance of Remera school. He did not directly see Karera's body, but had heard that the body was in the school premises. No one stopped him from entering the school, but he had preferred to go to the place from where the noise came which had brought him out of his home.

202. Prosecution witness U also heard that a teacher, named Karera, had been killed. She stated that throughout the night, she had heard people shouting in the streets and announcing, particularly, that Karera had been killed.

203. The Defence has never disputed the killing of Sylvère Karera in the night of 18 to 19 April 1994. The accused has himself confirmed, during his appearance as witness before the Chamber, that the teacher Sylvère Karera had been killed in the night of 18 to 19 April 1994.

Concerning the allegation that Sylvère Karera was killed by a group of men, one of whom was named François Ndimubanzi, and that he was killed because he was accused of associating with the RPF and plotting to kill Hutu:

204. The Chamber notes that though the Indictment alleges that Sylvère Karera was killed by a group of men, one of whom was named François Ndimubanzi, the Prosecutor has adduced no evidence to show number and identity of the perpetrators of the killing.

205. As for the reasons alleged by the Prosecutor for the killing of Sylvère Karera, that is, associating with the RPF and plotting to kill Hutu, the Defence stated, in its concluding arguments, that they should be dismissed on the ground that Sylvère Karera was, according to the Defence, Hutu and that the Prosecutor's allegations that this teacher was killed because he was accused of plotting to kill Hutu were therefore without merit.

Concerning the allegation that at least one of the perpetrators of the killing of Sylvère Karera was turned over to Jean-Paul Akayesu and that he failed to take measures to have him arrested:

206. Though the Indictment alleges that at least one of the perpetrators of the killing of Sylvère Karera was turned over to Akayesu, the Prosecutor has adduced no evidence to support this allegation.

207. Witness E stated that, in the night of 18 to 19 April 1994, after going to the school entrance where Sylvère Karera had been killed, he went to the place from where camethe noise which had brought him out of his home. At Gishyeshye, from where came the noise, near a roadblock, he saw the body of another person who had been killed. A crowd gathered. It was said that teacher Karera was killed and that the remains near the roadblock were those of the Interahamwe who had just killed Karera. Apart from that dead Interahamwe, no other person was held responsible for killing Karera. Witness E specified that he had heard that Sylvère Karera had been killed by that Interahamwe alone.

208. The witness called by the Prosecutor under the pseudonym Z, a Tutsi man, stated that, on or about 19 April 1994, in the early hours of the day following the killing of a Tutsi teacher in Remera and that of his murderer, who was killed by persons in charge of maintaining security, he and other persons stood near the body of the teacher's murderer. Akayesu, who was armed, separated members of the Interahamwe from the population. According to witness Z, Akayesu, in referring to the body on the spot, reportedly deplored the killing of this person.

209. Prosecution witness A testified that, in the night of 18 to 19 April 1994, an Interahamwe was killed. No investigation was conducted. He was simply buried immediately.

210. Prosecution witness U stated that some men told him, on 19 April 1994, that a person had been killed and that Akayesu had gone to where the body was and held a meeting there.

211. Several other witnesses indicated to the Chamber that a crowd had formed early in the morning of 19 April 1994, in Gishyeshye, around the body of a young member of the Interahamwe. That meeting is at the root of the allegations brought by the Prosecutor against Akayesu under paragraphs 14 and 15 of the Indictment. The factual findings of the Chamber on the holding of the said meeting are elaborated upon below.

212. The Prosecutor accepted this version of facts in her concluding arguments. She had then told the Chamber that, following the killing of the Tutsi teacher, Sylvère Karera, in the middle of the night of 18 to 19 April 1994, in Remera, by some members of the Interahamwe, the people of the commune had gone out into the streets to find out what was happening, wondering why a teacher had been killed. Later, according to the Prosecutor's statement, they caught one member of the Interahamwe in Gishyeshye and killed him.

213. In her concluding arguments, the Prosecutor did not mention any fact designed to show that one of the possible killers of Sylvère Karera was turned over to Jean-Paul Akayesu alive, contrary to what is alleged in paragraph 13 of the Indictment.

214. During cross-examination of the accused appearing as witness in his own trial, the Prosecutor had him confirm that Sylvère Karera was killed in the night of 18 to 19 April 1994 and that later, one member of the Interahamwe, the person who had killed Karera, was also killed. The Prosecutor added that Prosecution witnesses had indeed testified to that.

215. During his appearance before the Chamber as witness, the accused argued that during the night of 18 to 19 April 1994, he was sleeping in the *Bureau Communal*, when towards 4 a.m., a certain Augustin Sebazungu, MDR treasurer at Taba, residing in the Gishyeshye sector, came to inform him that the situation in the sector was tense, following the killing of a young man, a member of the Interahamwe. The *Bourgmestre* then immediately alerted the police and went to the scene, accompanied by two policemen. There he found a body stretched out on the ground, covered with traces of blood, as if it had been hit. The accused affirmed before the Chamber that he seized the opportunity of this gathering which formed as people came to see what was happening, to address the population. He noted that members of the region's Interahamwe had rushed and surrounded the body of their young member. Akayesu told the Chamber that he had condemned the killing of the young man because he felt that it was not in that manner that law and order would be maintained, and that he had indicated that his arrest would simply have been enough.

Factual findings

216. Prosecution witnesses appearing under the pseudonyms A, W, E and U, as well as Ephrem Karangwa, provided information which confirmed the Prosecutor's allegations as to the killing of teacher Sylvère Karera in the night of 18 to 19 April 1994. On the basis of such corroborative evidence, which was not substantially disputed by the Defence, the Chamber is satisfied that Sylvère Karera was actually killed, in Gishyeshye, in the night of 18 to 19 April 1994.

217. The Chamber notes however that the Prosecutor has not adduced conclusive evidence to support her allegations relating to the number and identity of the perpetrators of the killing of Sylvère Karera as well as the reasons for this murder.

218. With regard to the allegation that at least one of the perpetrators of the killing of Sylvère Karera had been turned over to Jean-Paul Akayesu and that he failed to take any measures to have him arrested, for the reasons explained above and in the absence of pertinent evidence, the Chamber finds that the Prosecutor has not established beyond reasonable doubt that at least one of the perpetrators of the killing of Sylvère Karera was turned over alive to Akayesu, and that he failed to take any measures to have him arrested.

5.2.3. Paragraph 18 of the Indictment

219. Paragraph 18 of the Indictment reads as follows:

> 18. On or about April 19, 1994, the men who, on Jean Paul AKAYESU's instructions, were searching for Ephrem Karangwa destroyed Ephrem Karangwa's house and burned down his mother's house. They then went to search the house of Ephrem Karangwa's brother-in-law in Musambira commune and found Ephrem Karangwa's three brothers there. The three brothers -- Simon Mutijima, Thaddée Uwanyiligira and Jean Chrysostome Gakuba -- tried to escape, but Jean Paul AKAYESU blew his whistle to alert local residents to the attempted escape and ordered the people to capture the brothers. After the brothers were captured, Jean Paul AKAYESU ordered and participated in the killing of the three brothers.

Events alleged

Testimony Of Ephrem Karangwa (Witness d)

220. Ephrem Karangwa was assigned the pseudonym D and placed under the Tribunal's Witness Protection Unit, pursuant to an order of 26 September 1996, but he waived witness protection and elected to testify under his own name.

221. Karangwa testified that he resided in Taba and in April 1994 he was the Inspecteur de Police Judiciaire (IPJ) in the Ministry of Justice for the Prosecutor in Taba commune having taken office in August 1984. As IPJ he investigated criminal complaints and transmitted case files to the Prosecutor. The witness's office was situated in the bureau communal in Taba. The witness testified that the head of any commune was the bourgmestre. The Accused who was the bourgmestre of Taba during the events of April 1994. The witness had known the Accused for about twenty years. The witness did not belong to any political party and he was not allowed to do so by the Minister of Justice. He testified that there was never any tension between him and the Accused and they had a good working relationship.

222. Karangwa testified that in his role as IPJ he became aware that there were problems of a political nature between the political parties in Taba, especially the MDR and the MRND. The MDR had a greater following in Taba and this party was led by the Accused. On one occasion in 1992 there was a demonstration by the MDR which led to violence when the demonstrators tried to forcibly enter the bureau communal. The MDR wanted the bourgmestre at that time removed from office. The matter was investigated by the witness and referred to the Prosecutor for prosecution. The witness did not have any knowledge of the eventual out come of this matter, at the time of testifying. The witness said that he knew of Silas Kubwimana and that he often complained about the Accused and the MDR officials. He said that there existed a file on this complaint at the Prosecutor's office. The witness said that he had become aware of the existence of this file in his official capacity as IPJ.

223. Karangwa testified that on the morning of 7 April 1994, while preparing to go to work he heard an announcement on the radio that the President had been killed. He also heard an announcement calling on

people to remain wherever they were and he therefore decided not to go to work.

224. Karangwa testified that he had spoken to many people about the security situation in Taba. On 14 April 1994, he saw a blue Toyota Minibus pass him. He was informed that this motor vehicle and a white "pick up" were confiscated from the Interahamwe by the people of Kamembe. He was further informed that a police officer was killed and an Interahamwe wounded in this process.

225. Karangwa testified that on the night of 18 April 1994 he was outside his house because he had heard that Tutsi in Runda commune were being killed and since he was a tutsi he was afraid. He stated that Runda and Taba were neighbouring communes. At approximately 1 am on 19 April 1994, a person came to the witness's house and informed him that he had just attended a meeting led by the Accused where plans were being made to kill the witness and to commence killings in Taba in a similar manner to killings that were happening in Runda. This person advised the witness to flee with his family. The witness and his family hid on a hill and at dawn the witness's sisters, mother and wife went on foot to his wife's sisters house in Musambira and he and his brothers stayed behind because they wanted to verify the information that had been given to him. The witness said that he wondered why someone would want to kill him and his family, since they had no problem with anyone.

226. Karangwa testified that from his hiding place on the hill, he could see his house on the opposite hill about 150 metres away. The witness stated that he saw three vehicles drive up to his house between the hours of eight and nine o'clock in the morning. The Accused came in a blue Toyota mini bus, the one that the people had taken away from the Interahamwe. The witness was uncertain as to whether the Accused was driving the blue Toyota Hiace minibus. The witness described the other two vehicles as a white Toyota and a red Toyota. The witness could not see what the Accused had in his hands, but he did see the Accused wearing a military jacket. The Accused and the other people alighted from the motor vehicles and went down to the witness's house. The witness's dogs barked and someone in this group of people fired a round from a firearm and the dogs ran away. The witness stated that he saw this group of people then destroy his house and his mother's house. The witness stated that the houses were looted and burnt. The witness identified prosecution exhibits 50 and 51 as being photographs of the remains of these houses.

227. Karangwa testified that this event confirmed the information that he had received and he then decided to join his family in Musambira. He arrived at Musambira at about 3 o'clock in the afternoon. He saw his family at the house of his brother in law, Laurent Kamondo and they immediately left for Kabgayi, whilst he awaited the arrival of his younger brothers. He stated that he could not stay in the house because he was afraid that the Accused would look for him there. Instead, he hid in an eucalyptus bush on the side of a hill approximately eighty metres from the house.

228. Karangwa testified that he saw two motor vehicles, a blue Toyota Hiace minibus and a red Toyota Hilux approach the house. These vehicles stopped approximately twenty five metres away from the house. This was the same minibus that was taken away from the Interahamwe and the Accused was using it at that time. Many people alighted from the vehicles and walked towards Laurent Kamondo's house. The witness recognised some of these people as the bourgmestre of Musambira, the Accused, a police officer named Emanuel Mushumba from the Taba commune, Mutiji Masivere, Winima Boniface and Munir Yarangaclaude who was the secretary of the MDR party in the commune of Taba (phonetic spelling). The Accused was wearing a military jacket and he had a gun in his hand.

229. Karangwa testified that he heard shouts and whistles as this group of people approached Laurent Kamondo's house. He saw people running and, thereafter, he saw his younger brothers in the court yard with these people. The witness stated that it was then that he realised that his brothers were in Musambira. The witness continued to hear shouts from these people and then he heard the Accused say

that his brothers must be shot. The witness heard gun shots and concluded that his brothers were killed and that the Accused had fired the gun. When asked by the Prosecutor whether he saw the gun that was used to kill his brothers, the witness replied that he saw the Accused carrying a gun when he arrived and that he heard the shots.

230. Karangwa testified that after the killing of his brothers, he fled to Kabgayi, and on arrival at the cathedral, the witness stated that he saw the Accused in a pick up' drive up to the cathedral. The Accused was in the company of two police officers from the Taba commune named Emanuel Mushumba (phonetic spelling) and Ooli Musakarani (phonetic spelling) and a group of people. The witness said that he saw the Accused and these other people alight from the vehicle and look around the courtyard of the cathedral but they did not go inside. They then got back into the motor vehicle and left. The witness was informed by Witness V that the Accused was making enquiries about his whereabouts and he was advised to hide. The witness stayed in the seminary until the end of the war.

231. Karangwa testified that he was not able to leave the seminary but that he heard from many people that the Accused was outside the seminary on many occasions. The Accused was able to come into the compound of the seminary from 30 May 1994. The witness recalled that he remembered that day clearly, because it was on that day that the Accused came to take him away, and he was saved by someone.

232. Karangwa testified that he stayed in Kabgayi from 21 April 1994 to 2 June 1994. At the beginning of 1995 the witness went to work as IPJ in the public prosecutor's office in Gitarama and on 3 January 1996 became the bourgmestre of Taba. The witness said that at that time Tutsi were killed and the only reason the Accused looked for him was because he had worked in the commune and he was Tutsi.

233. In response to a question from the bench, Karangwa stated that the fact that the Accused was present made him responsible for the death of his brothers. When asked for clarification as to whether the Accused ordered the shooting, the witness reaffirmed that the Accused ordered their shooting.

234. Under cross examination, Karangwa testified that he had a very good working relationship with the Accused. The witness stated that the Accused dealt with civil disputes and he referred all criminal matters to the witness. The witness stated that he was generally invited to meetings pertaining to security in Taba. He testified that he saw the Accused between 6 and 10 April 1994 in Kamembe. The Accused was there assessing the security situation, since there was an influx of people that were fleeing Kigali. The Accused sent commune police officers to ensure the security of these people. The Accused at this stage was opposed to any killing.

235. In clarification of an averment in his written statement made to the Office of the Prosecutor (exhibit 105), the witness testified that the Accused held meetings on 18 and 19 April 1994 with a view to planning the genocide. The witness stated that he had not attended any of these meetings but he heard of them. The witness stated that at these meetings a decision was taken that the MDR and the MRND should not fight the Interahamwe and the CDR but they should fight the tutsi. This decision according to the witness, was taken at communal level by the bourgmestre. Although the bourgmestre belonged to the MDR all the political parties at communal level were under his authority. The witness did not go to work from 7 April 1994. The witness stated that he knew that there were major security problems in the commune and expressed the view that if the bourgmestre believed that the witness was competent to resolve these problems, the bourgmestre would have provided the witness with transport to go to work.

236. The witness acknowledged the fact that the Accused fought against the Interahamwe after 6 April 1994 and went on to say that if the Accused had not done so the killing in Taba would have started much

earlier. The Defence Counsel pointed out that in his written statement to the Office of the Prosecutor, the witness stated that he was about a kilometre away from his house when he saw the Accused come to his house with a group of people. The witness denied this and reaffirmed his testimony that he was 150 metres away from his house, on the opposite hill. According to the witness, he was able to identify the Accused by the way that he walked and the clothes that he was wearing. The witness could also hear what was spoken by the Accused and the group of people when they were at his house, although he was 150 metres away. The witness identified the people with the Accused as assistant bourgmestre Civil Mootijima (phonetic spelling), assistant bourgmestre Wimina Boniface (phonetic spelling), manager of a popular bank Aloyce Kubunda (phonetic spelling), businessman Daniel Gasiba (phonetic spelling) and some communal police officers.

237. Karangwa testified under cross-examination, that when the Accused arrived at Laurent Kamondo's house at Musambira he immediately searched the house and found his three brothers. The Accused then killed the witness's three brothers by shooting them. The Defence Counsel pointed out that, in his written statement, the witness had stated that the Accused killed his brother, Jean Kististan (phonetic spelling), by shooting him and when his other two brothers tried to escape they were attacked and killed with machetes by the men who were with the Accused. The Defence Counsel requested an explanation from the witness in respect of this discrepancy. The witness denied that he stated this and maintained that all three of his brothers were shot.

238. Karangwa testified under cross examination, that he left Musambira immediately after his brothers were killed and when he was asked whether he buried is brothers, his response was that he did not have the time to do so. The Defence Counsel pointed out that the witness had stated in his written statement that he had buried his brothers near the house of Laurent Kamondo and requested the witness to explain this discrepancy. The witness denied this and maintained that his brothers were buried by Laurent Kamondo.

Testimony of Witness S

239. Witness S testified that he is a Hutu farmer. In April 1994, he lived in the commune of Musambira. There was safety and security in Musumbira even after 6 April 1994 when the President's plane had crashed but this had changed on 19 April 1994. Witness S was in his house on 19 April 1994. In the morning of the same day, between 9am and 10 am, Ephrem Karangwa's wife, sisters and mother went to Witness S's home. Witness S spoke to these people on their arrival and they had informed him that killings had begun in the Taba commune and many people were leaving their homes and fleeing.

240. Witness S testified that Ephrem Karangwa arrived at his home between 11 am and 12 noon on the same day. On his arrival, his wife, mother and sisters immediately left for Kabgayi. Witness S spoke to Ephrem Karangwa who also informed him that killings had began in Taba. Witness S stepped out of his house and he stated that when he looked in the direction of Taba he could see columns of smoke. Witness S stated that Karangwa left saying that he was waiting for his brothers and on their arrival they would set off for Kabgayi to join the rest of their family.

241. Witness S testified that Ephrem Karangwa's three brothers arrived at his house between 4 and 5 o'clock in the afternoon of 19 April 1994. The three brothers went into the witness's home and asked for their mother and sisters. Witness S informed them that they had already left. He also informed them that Ephrem Karangwa was waiting for them but that he did not know where. The witness said that the three brothers were wearing civilian clothes and they did not have any weapons in their possession. The three brothers together with Witness S went into the house. Whilst in the house, the witness heard the sound of cars. The three brothers went behind the house. Witness S went into the front court yard and he saw the motor vehicle that belonged to the commune of Musumbira. The witness described this motor

vehicle as a red dual cab Hilux "pickup". Witness S then saw the bourgmestre of Musumbira, Justin Nyangwe and the assistant bourgmestre, Martin Kalisa, on the path that led to his house. He also saw the Accused with the assistant bourgmestre of Taba and a few police officers. Witness S did not know all the police officers that were in the group but he recognised them as police officers by the fact that they were wearing police uniforms and they were in possession of firearms. The witness recognised two of these police officers as being from the commune of Musambira. He did not know or recognise the other people in the group. These people were wearing civilian clothes.

242. Witness S testified that he had known the Accused before the events of April 1994. When the witness visited Ephrem Karangwa at his office in the bureau communal, he often saw the Accused. According to Witness S, the Accused was wearing a long military jacket and he had a grenade in his hand. Witness S's father was also in the group of people that came to his house and the witness noticed that his father was injured in his face and he was bleeding. By this time this group of people had arrived and were standing about three metres away from the house. Witness S's father said to him if Ephrem Karangwa was in the house he should hand him over or else they will be killed by this group of people. The Accused at this time was standing next to the bourgmestre of Musambira. The bourgmestre of Musambira asked Witness S if Ephrem Karangwa was in the house. According to the witness he responded by saying that he was not in the house and invited the bourgmestre to search the house if he so wished. The assistant bourgmestre of Musumbira, Martin Kalisa, together with two police officers from Taba searched the house. Witness S was not allowed into the house whilst the search was being conducted and he stood outside. The Accused during this search ordered the police officers to surround the house, to prevent Ephrem Karangwa from running away. By this time many people from the general population of Musambira had gathered to see what was going on and they also acted on the Accused's instruction and surrounded the house.

243. Witness S testified that the people searching the house did not find Ephrem Karangwa. Instead they came out with some cans of sardines and Accused the witness and his family of being "Inyenzi". At this time Ephrem Karangwa's brothers were behind the house with the witness's sister. The witness said he did not see this but he was informed by his sister that the brothers fled. The police officers blew their whistles and said stop these "Inyenzi" from running away and a group of people pursued the three brothers.

244. Witness S testified that he heard people shouting "...stop that Inyenzi..." About ten minutes later, the mob of people returned with the three Karangwa brothers. According to Witness S, they had been beaten and although he did not see the beatings he saw the injuries sustained as a result of the beating. The brothers had certain open wounds that were bleeding and their clothes were torn. The three brothers were made to sit on the lawn about two metres from the entrance to the court yard, in the presence of the Accused. The bourgmestre of Musambira, Justin Nyangwe asked the Accused if he knew these three brothers. The Accused replied that they were from his commune. Justin Nyangwe then asked the Accused what must be done with them and the Accused responded by saying "we need to finish these people off..." and he confirmed this response by saying, they need to be shot. The police officers from Musambira made the three brothers lie on their stomachs. There was a crowd of people that had now gathered and they were asked to step back. All three brothers were shot at close range behind their heads, by two police officers from Musambira. Monzatina (phonetic spelling) shot two of the brothers and Albert shot one of the brothers.

245. Witness S testified that he and his family were told by Justin Nyangwe, the bourgmestre of Musambira, to get into the commune motor vehicle. Whilst they were being taken, Witness S heard people say that they were going to destroy his home because he and his family were "Inyenzi". The Accused and a group of people got into their motor vehicle and drove in the direction of Taba. The motor vehicle that Witness S was in started to move first and as it passed the motor vehicle of the

Accused, the witness could see a person tied in the Accused's motor vehicle. Witness S and his family were taken to the bureau communal of Musambira where they were detained. He later managed to escape, but his three sisters were killed.

246. Under cross-examination, Witness S testified that he met the Accused when he went to the bureau communal in Taba to visit Ephrem Karangwa who worked as an IPJ in the commune. He often visited Ephrem Karangwa at the bureau communal. Witness S also met the assistant bourgmestre of Taba, although he did not know his name.

247. Witness S testified that before the Accused came to his house he went to his grand father's house and that was where he found Witness S's father. On arrival at Witness S's house, the Accused parked his motor vehicle on the tarred road and the bourgmestre of Musumbira parked his motor vehicle outside Witness S's house. Witness S was sitting inside his house at this time and he heard the sound of the engine of this motor vehicle the bourgmestre of Musambira travelled in, which was approximately 25 metres away from the house. The motor vehicle the Accused travelled in was approximately three to four hundred metres away on the tarred road. Witness S reiterated that he did not hear the sound of the engine of the Accused's motor vehicle but rather that of the motor vehicle the bourgmestre of Musumbira travelled in. Witness S realised that the Accused was looking for Ephrem Karangwa when the bourgmestre of Musumbira asked if Ephrem Karangwa was there and also when his father asked him to hand over Ephrem Karangwa to the Accused if he was in the house.

248. Under cross-examination Witness S confirmed that he had made a statement to the Prosecutor of Gitarama. This statement was tendered into evidence by the Defence as part of exhibit 104. Witness S stated that this statement did not pertain to the Accused but rather to the former bourgmestre of Musumbira, who was now in prison as a result of his conduct as mentioned in this statement. Witness S stated that he was asked specific questions about the bourgmestre of Musumbira. The Defence Counsel pointed out to Witness S that this statement mentioned that the Accused was with Kalisa Martin, the bourgmestre of Musambira and Justin Nyandwi. Witness S recalled that he had mentioned the Accused's involvement in respect of the killing of the Karangwa brothers to the Prosecutor of Gitarama but this was omitted from this statement.

249. Witness S testified under cross-examination that he saw the Accused with a grenade in his hand. He recognised this item in the Accused's hand as being a grenade because he saw soldiers with it before the war. Defence Counsel pointed out to Witness S that in his statement to the investigators at the Office of the Prosecutor he stated that the Accused came to his house with a gun and a grenade, whilst in his evidence in chief before the Chamber the witness testified that the Accused only had a grenade. Witness S denied making this statement to the investigators and maintained that he had only seen the Accused with a grenade.

250. Witness S testified that police officers in Musambira normally used whistles to indicate that the market was closing. Whistles were also used when there was a security problem in the region. He stated that the Karangwa brothers were chased by the people because at that time there was a search of homes for hidden people. The Police Officers blew their whistles and shouted "catch these Inyenzi, don't let them get away". The people immediately chased after the Karangwa brothers. The witness stated that the people acted in this manner because it was an order from the authorities. The people generally followed orders given by the authorities even if the order leads to any wrongful conduct. Defence Counsel pointed out that the Karangwa brothers were not armed and they did not pose any threat to the people of Musambira and despite this they were assaulted by the mob of people chasing them, even though they were not ordered to do so. This illustrated that the people committed wrongful acts even if they were not ordered to do so. Witness S did not tender an explanation in response to this issue raised by Defence Counsel.

The Testimony of Witness DAX

251. Witness DAX testified on behalf of the Defence. He stated that he knew Ephrem Karangwa and they are friends. He also knew Ephrem Karangwa's family. He stated that he did not hear anybody say that Ephrem Karangwa was to be killed or that someone was attempting to kill Ephrem Karangwa. Witness DAX testified that he had heard of the destruction of Ephrem Karangwa's house and the killing of his brothers. The witness had heard that Ephrem Karangwa's brothers were making their way to Kabgayi when they were killed in Kivumu in the Nyakabunda Commune (phonetic spelling). The witness stated that the Interahamwe were responsible for the deaths of the Karangwa brothers. The witness stated that he had since met Ephrem Karangwa several times in Kigali and although they did not discuss the details of his brothers death, the witness offered his condolences to Ephrem Karangwa.

252. Witness DAX testified that on 19 April 1994, Ephrem Karangwa's house was destroyed by neighbours. He stated that in a poor country like Rwanda it is difficult for a rich person to stay with poor neighbours. It was the Abaghi family, more specifically a person called Gahibi who destroyed the Karangwa house. A person named Gasimba Daniels, who was an enemy of Ephrem Karanga also participated in destroying the Karangwa house. Gasimba Daniels had purchased and distributed the petrol to the neighbours of Ephrem Karangwa, for the purpose of destroying Ephrem Karangwa's house. This petrol was used to set Ephrem Karangwa's house on fire. A certain person known as Usuri (phonetic spelling) also participated in destroying Ephrem Karangwa's house. The witness stated that he knew all the people responsible for the destruction of Ephrem Karangwa's house and the Accused was not involved.

253. Witness DAX admitted under cross-examination that he did not see Ephrem Karangwa's house being destroyed but he had spoken to the people responsible for such destruction immediately after the house was set on fire. He observed that they were carrying doors that they had removed from Ephrem Karangwa's house and they were boasting about their actions.

The Testimony of the Accused

254. The Accused testified that on 19 April 1994 at about 4 o' clock in the afternoon, he went to Musambira. He stated that the bourgmestre of Musambira promised to give him some fabric that he had intended to use to make a uniform for the new police officer he had employed. The Accused also stated that on 20 April 1994 he went to Kabgayi. He said that his reason for going to Kabgayi was to see one Kayibanda Alfred to ask him for shelter because he thought about fleeing. The Accused said that he saw Ephrem Karangwa's sister at Kabgayi. She greeted the Accused and he did the same. The Accused said that when he saw Karangwa's sister he realised that Karangwa was in Kabgayi. The Accused said that Karangwa abandoned him during the events of 1994. He stated that he had written to Karangwa on two occasions during the events of April 1994 and Karangwa had failed to respond. The Accused also stated that during the events of 1994 he saw Karangwa at Kamonyi. On this occasion he had spoken to Karangwa and asked Karangwa why he had abandoned him. That was all the Accused said in his testimony that was relevant to the allegations in paragraph 18 of the Indictment.

Factual Findings

255. The Chamber finds that on 19 April 1994, the Accused was searching for Ephrem Karangwa. At approximately 1am, on that day, Karangwa received a report that at a meeting led by the Accused, plans were made to kill him and other Tutsi. Karangwa's evidence that the Accused was in pursuit of him and his family, is corroborated by many witnesses. Witnesses V, E and Z were present at the meeting in the morning of 19 April 1994 at Gishyeshye, addressed by the Accused, when Karangwa's name was

mentioned as being on a list of people to be killed; and the Accused named the IPJ as working with the RPF and told the people to look for him. Witness V reported this meeting to Karangwa, later in Kabgayi. Witness V saw the Accused in Kabgayi twice and on one of these times, on 20 April 1994, the Accused asked him to find Karangwa and bring Karangwa to him. Witness K, in the morning of 19 April 1994, saw the Accused get into his vehicle at the Bureau Communal and instruct others to also get in so that Ephrem Karangwa would not escape them. Witness KK also heard the Accused refer to Tutsi and Ephrem Karangwa and say, "we now have to hunt them and kill all of them". Defence witness DCC confirmed under cross-examination that the Accused had wasted no time in pursuing Ephrem Karangwa

256. Karangwa and his family left their house and went into hiding. His sisters, mother and wife went to his wife's sister's house in Musambira and he and his brothers hid on a hill opposite his house. Karangwa saw the Accused arrive at his house on the morning of 19 April 1994 in a blue Toyota Hiace mini bus, accompanied by men in two other Toyota vehicles, one red and the other white. The Accused was wearing a military jacket. A gun was fired which frightened the dogs away. The houses of Karangwa and his mother were burnt and looted. The Accused and the group of people then left. The fact that the Accused was wearing a military jacket during this time is corroborated by other witnesses. Witness S saw him in that military jacket later that day; Witness V saw him at Kabgayi on 20 April 1994 in the military uniform of the Rwandan army; defence Witness DAAX saw the Accused in a military jacket and warned him against it's use. Defence witness DFX confirmed that the Accused wore a soldier's shirt. The Accused testified that he wore a military jacket in May, given to him by a colonel of the Rwandan army.

257. Karangwa hid on a hill approximately 80 metres from the house of witness S in Musambira, to await his brothers. The Accused, together with the bourgmestre of Musambira, a police officer named Emanuel Musumba and others arrived in two motor vehicles that were blue and red in colour. Karangwa heard shouts and whistles, and thereafter saw his brothers in the courtyard with these people. He heard the Accused say that his brothers must be shot and he heard gun-shots. His three brothers whom he names in his written statement to the prosecutor as; Simon Mutijima, Thadée Uwanyiligira, and Jean Chrysostome were shot dead.

258. Karangwa fled to Kabgayi where the Accused continued to look for him. Witness V told Karangwa that the Accused was looking for him in Kabgayi and he himself saw the Accused on two occasions and evaded arrest. Karangwa remained in Kabgayi from 21 April to 21 June 1994. In cross-examination the witness denied various statements attributed to him in his written statement to the prosecutor and adhered to his testimony before the Chamber. He re-affirmed that he had not seen the shooting of his brothers but heard the Accused give the order that they be shot, and the fact that he was there made him responsible for their deaths.

259. The Defence Counsel submitted that because of the uncertainties and inconsistencies in the evidence before the Chamber on how the Karangwa brothers were killed and more specifically what weapons were used, material averments in respect of this allegation were not proved.

260. The Defence Counsel cross-examined Karangwa on the discrepancy between his evidence that his brothers were shot and his prior statement to the Office of the Prosecutor that two of his brothers died from injuries sustained from machete blows. Karangwa denied stating this to the Office of the Prosecutor and reaffirmed his testimony that all three of his brothers were shot. This explanation was not subjected to further cross-examination by Defence Counsel.

261. As noted else where, the Chamber places greater reliance on direct testimony rather than untested prior statements made under variable circumstances. The Chamber accepts Karangwa's explanation for the inconsistent prior statement and notes that his evidence that his brothers died of injuries inflicted by

gun shots is consistent throughout his testimony and is corroborated by the testimony of witness S.

262. The Chamber finds that Karangwa gave a truthful account of events actually witnessed by him and that he did so without exaggeration or hostility. The Chamber is satisfied that the witness could reasonably have seen and heard the matters to which he testified. Witness S confirmed Karangwa's evidence in all material respects. Karangwa's three brothers came to Witness S's house on the afternoon of 19 April 1994. They were not armed and wore civilian clothes. They heard vehicles and the brothers hid behind the house. A red Hilux "pick-up" belonging to the commune of Musambira was outside his house. A group of people came to his house; among them was the bourgmestre and assistant bourgmestre of Musambira, the Accused, whom he knew as the bourgmestre of Taba, the assistant bourgmestre of Taba, men in police uniforms carrying firearms, two of whom he knew as police from Musambira, and civilians.

263. The Accused held a grenade in his hand. The Chamber notes that this is in contradiction to Karangwa's observation that the Accused carried a gun. While it is clear from both their testimony that the Accused held a weapon in his hand, Witness S's identification thereof is more reliable, as he was in close proximity to the Accused in the courtyard of his house.

264. Witness S's house was searched by the assistant bourgmestre of Musambira and two policemen from Taba. During the search, the Accused ordered the police to surround the house to prevent Karangwa escaping. People from Musambira also acted on this instruction.

265. The brothers of Karangwa tried to flee, and the police officers blew their whistles and said stop those "Inyenzi" from running away. A mob of people took up the call, chased after the brothers and brought them back. The brothers were bleeding from open wounds and their clothing was torn. They were made to sit on the ground about 2 metres from the entrance to the courtyard. The bourgmestre of Musambira asked the Accused if he knew the men and what should be done with them. The Accused said they came from his commune and said we need to finish these people off-they need to be shot. All three brothers were then shot dead at close range in the back of their heads by two policemen from Musambira, in the Accused's presence.

266. After the killing, the Accused and his group drove off in the direction of Taba. Witness S saw a person tied up in the Accused's vehicle. Witness S and his family were detained at the bureau communal in Musambira, from where he later escaped. In cross-examination, the witness confirmed his direct testimony and he explained that he had omitted to give an account of the Accused's's involvement , in his statement to the prosecutor of Gitarama because he was asked specific questions related to the bourgmestre of Musambira. The chamber finds this to be a reasonable explanation and accepts the direct, eye-witness testimony of Witness S on these events and rejects the hearsay evidence of defence witness DXX.

267. The Accused confirmed his presence in Musambira on the afternoon of 19 April 1994 and in Kabgayi on 20 April 1994 ,but offered explanations for his appearance that are beyond belief, in the light of overwhelming testimony to the effect that he was at that time in hot pursuit of Karangwa. The defence did not specifically address allegations, and failed to challenge the evidence of witnesses S, Karangwa and others on material issues, such as his hunt for Karangwa, orders to look for Karangwa and other tutsi to be killed, his presence at the houses of Karangwa and witness S, his carrying of a grenade and his participation in the killing of the Karangwa's brothers by ordering their deaths and being present when they were killed.

268. The Chamber has not found any evidence that the Accused blew the whistle to alert local residents

to the attempted escape of the brothers but finds as proven beyond a reasonable doubt that the Accused was present at both houses, that he was searching for Karangwa, that the houses of Karangwa and his mother were destroyed in his presence by men under his control, that he went to search the house of Karangwa's brother-in-law in Musimbira and found Karangwa's brothers at this house, that he participated in the killings of the three brothers, named, Simon Mutijima, Thadee Uwanyiligira, and Jean Chrysostome Gakuba, by ordering their deaths and being present when they were killed by policemen, under the immediate authority of the Accused as bourgmestre of Taba commune and in response to his order made to the bourgmestre of Musambira.

5.2.4. Paragraph 19 and 20 of the Indictment

The Events Alleged

269. Paragraphs 19 and 20 of the Indictment read as follows:

> 19. On or about April 19, 1994, **Jean Paul Akayesu** took 8 detained men from the Taba bureau communal and ordered militia members to kill them. The militia killed them with clubs, machetes, small axes and sticks. The victims had fled from Runda commune and had been held by **Jean Paul Akayesu.**
>
> 20. On or about April 19, 1994, **Jean Paul Akayesu** ordered the local people and militia to kill intellectual and influential people. Five teachers from the secondary school of Taba were killed on his instructions. The victims were Theogene, Phoebe Uwineze and her fiancé (whose name is unknown), Tharcisse Twizeyumuremye and Samuel. The local people and militia killed them with machetes and agricultural tools in front of the Taba bureau communal.

270. For his alleged participation in the acts described in paragraphs 19 and 20, Akayesu is charged under seven counts, namely:

> Count 1, Genocide, punishable by Article 2(3)(a) of the Statute of the Tribunal;
>
> Count 2, Complicity in Genocide, punishable by Article 2(3)(e) of the Statute of the Tribunal;
>
> Count 3, Crimes against Humanity (extermination), punishable by Article 3(b) of the Statute of the Tribunal;
>
> Count 7, Crimes against Humanity (murder), punishable by Article 3(a) of the Statute of the Tribunal;
>
> Count 8, Violations of Article 3 common to the Geneva Conventions, as incorporated by Article 4(a)(murder) of the Statute of the Tribunal;
>
> Count 9, Crimes against Humanity (murder) punishable by Article 3(a) of the Statute of the Tribunal; and
>
> Count 10, Violations of Article 3 common to the Geneva Conventions, as incorporated by Article 4(a)(murder) of the Statute of the Tribunal.

271. The Chamber noted, during the presentation of evidence in this case, that the events alleged occurred during a distinct period on or about 19 April 1994 at the bureau communal. Consequently, both paragraphs will be treated together.

272. A number of specific acts can be identified in the events set out in paragraphs 19 and 20. It is alleged, as pertains to paragraph 19, firstly, that Akayesu took eight refugees from the bureau communal, secondly, that he ordered militia members to kill them, thirdly, that the refugees were consequently killed with clubs, machetes, small axes and sticks, and fourthly, that the victims had fled from Runda commune and had been held by Akayesu. As regards paragraph 20, firstly, Akayesu is accused of having ordered local people and militia to kill intellectual and influential people, and secondly, five teachers, named in the Indictment, from the secondary school of Taba were killed on his instructions by the local people and militia with machetes and agricultural tools in front of Taba bureau communal. With these specific allegations in mind, the Chamber shall proceed in determining whether the participation of the accused in the events enunciated in paragraphs 19 and 20 of the Indictment has been proved beyond reasonable doubt.

273. The first witness to appear for the Prosecutor to testify in relation to the events alleged in paragraphs 19 and 20 was Witness K, a Tutsi woman, married to a Hutu, who was an accountant/cashier at the bureau communal in Taba from 1990 until 1994. She had worked under the authority of Akayesu whilst he was bourgmestre of the commune at the time of the events alleged in the Indictment. Witness K testified as follows.

274. On 19 April 1994, between 9h00 and 10h00, she had gone to the bureau communal following a demand from Akayesu who requested her services as the accountant/cashier of the commune. On arriving that morning, she encountered the accused, whose mood appeared to have changed, outside the bureau communal. She said he spoke to her harshly, asking her why she was no longer coming to work. Witness K told him she was scared, and that she had come to the bureau communal on this occasion only because he had asked her. She said Akayesu then told her that she would know why she had come.

275. After this exchange, witness K, who was still standing next to the accused, testified that Akayesu called over a certain Etienne, and instructed him to bring the youths'. She saw Etienne drive off in the direction of Remera, and return with a number of youths' who were armed with traditional weapons, such as machetes and small axes69. Witness K said they all gathered close to Akayesu who told them "Messieurs, if you knew what the Tutsi who live with you are doing, I inform you that what I heard during the meeting is sufficient. Right now, I can no longer have pity for the Tutsi, especially the intellectuals. Even those who are with us, those we have kept here, I want to deliver them to you so that you can render a judgment unto them"70. The witness said Akayesu then proceeded to release the refugees from Runda held in the communal prison, and handed them - with the words here they are' - to the Interahamwe, whom she also called the killers'.

276. Witness K affirmed that there were eight refugees, all men, three of whom she personally knew to be Tutsi. She explained that they did not have their hands tied and that they all looked fine. She said the Interahamwe escorted the eight refugees to the fence of the bureau communal, where they were made to sit on the ground, in a line, their backs to the fence and their legs straight out in front of them. According to the witness, the refugees pleaded for mercy as the Interahamwe prepared to kill them. Witness K testified that Akayesu then said "Do it quickly", at which point they were killed rapidly by a large group of people who used whatever weapon they had on them.

277. After the eight refugees had been killed, witness K said she heard Akayesu instruct a communal policeman to open the communal prison and release the persons who had been imprisoned for Common law offences so that they could bury the dead refugees. She said the persons who had been released from

the prison by Akayesu put the bloody bodies of the victims onto a wheelbarrow and took them away to be buried.

278. Witness K testified she heard Akayesu tell those present to fetch the one who remained. She said this person was a professor by the name of Samuel. Witness K said that they fetched him and she saw him being killed with a machete blow to the neck.

279. According to the witness, Akayesu then gave instructions for the release of all those who had broken the law, and told them to go into the hills with their whistles so as to sensitize the youth. Witness K understood this to mean go to your sectors, increase public awareness of the population and kill with them. Witness K testified she heard the accused tell the killers' that she would be killed after she had been interrogated about the Inkotanyi secrets. She said Akayesu put her into her office, took her keys and locked her up. The witness said she saw Akayesu get into a car, instructing others to also get in so that Ephrem Karangwa wouldn't escape them

280. Witness K said she had other keys on her person, thus enabling her to access the meeting room in the bureau communal from where she was able to see the events occurring outside. She testified she saw many people being brought to the bureau communal and killed, some of the victims only making it as far as the front of the entrance of the bureau communal before being killed. According to the witness, amongst those killed were professors from Remera school. She said the bodies of the victims, even those still alive, were put into wheelbarrows and taken for burial.

281. When questioned about the use of whistles, Witness K said she saw persons go behind the bureau communal to get a professor who lived there. She said that these persons used whistles so as to terrorize this professor, and to attract the attention of others nearby.

282. Pursuant to a question from the Chamber as to the killing of teachers, witness K stated she was unsure how many were killed, but that she knew the names of some of them, Theogene, Tharcisse, a woman called Phoebe (the gérante of Remera secondary school), and her fiancé whose name she didn't know. She explained that the woman was killed because it was alleged a radio for communicating with the Inkotanyi had been found at her house. She further stated that the true reason for the killings of the teachers and the refugees was because they were Tutsi.

283. Under cross-examination, questioned about where the teachers she saw being killed had come from, witness K stated that some of the teachers had been brought from the direction of Remera and another from behind the bureau communal. Asked if Akayesu was then still present, she stated that she had explained that Akayesu wasn't present when the actual killings of the professors took place. She reasserted being next to Akayesu when he gave the order to kill the teachers.

284. Under cross-examination, witness K further testified she had heard the refugees had been locked up in the prison of the bureau communal by Akayesu at the request of the bourgmestre of Runda, but that she hadn't heard whether this bourgmestre had asked for these refugees to be killed. She said she had found out the refugees were from Runda by speaking to at least two other individuals from Runda whom she knew. The witness testified not knowing why exactly the refugees had been locked up in the communal prison, but was adamant they had been killed because of their Tutsi ethnicity. Witness K also confirmed that she was next to Akayesu at the bureau communal when he gave the instructions to fetch the youths/Interahamwe and that she heard Akayesu order the killing of the refugees from Runda.

285. Witness KK for the Prosecutor, a Hutu woman married to a Tutsi and residing in Taba commune in 1994, also testified in relation to the events alleged in paragraphs 19 and 20. She said that shortly after

April 6 1994, the houses of Tutsi including her own were pillaged, and that she sought refuge at the bureau communal with her Tutsi husband and nine children. She said many refugees came to the bureau communal, but that they were treated differently depending on their ethnicity. According to the witness, the atmosphere changed a few days later with the arrival of a number of Interahamwe from Remera. She said the Interahamwe addressed the refugees in the presence of Akayesu in front of the bureau communal. According to witness KK, the Interahamwe stated that they had uncovered a Tutsi plan to kill the Hutu, but as their God was never far, and because they had discovered the plan, they were going to put the Tutsi where the Tutsi had planned to put the Hutu.

286. According to the testimony of witness KK, Akayesu then went to his office. On his return, she asserted he was angry and brandished a document which he read to the refugees, by saying "We lived with Tutsi, there was a hatred between us. The IPJ, Karangwa Ephrem had planned to kill me so that he could replace me in my function as bourgmestre. We now have to hunt them and find all of them"71. The witness testified Akayesu continued by talking of a landmine planted by the Tutsi that had exploded at the primary school. This landmine, she heard the accused state, was the beginning of the planned killings of Hutu. She said the accused then stated that as schoolchildren of all ethnicities were in this school, when the explosion happened, it was aimed at all Rwandans.

287. Witness KK testified Akayesu said further "there are many accomplices in our commune. There is an accomplice who is to be found behind the bureau communal, who is called Tharcisse. He was a professor"72. She said Akayesu then told the policemen and Interahamwe to fetch him. The witness saw Tharcisse and his wife being made to sit in the mud. She said the wife was undressed and told to go and die elsewhere. She also heard Akayesu ask Tharcisse for information on the Inkotanyi.She said Tharcisse replied "do what you will because I know no secrets". She testified Tharcisse was killed by the Interahamwe on the road outside the bureau communal. She testified Akayesu was standing near to where the victim was sitting.

288. Witness KK said she also heard Akayesu order the Interahamwe to bring the teachers who taught in Remera, and say that the intellectuals were the source of all of the misery. She testified that she saw the Interahamwe return very angry with the teachers. She saw the teachers, the number of which she was unsure of being made to sit in the mud on the road outside the bureau communal, where Tharcisse had been killed. According to the witness, it was alleged that these teachers had communicated by radio with Inkotanyi. Witness KK said a young couple who were soon to be married was killed first. She said that all the teachers were killed on the road in front of the bureau communal with little hoes and clubs and that she had heard it being stated that to kill them with a bullet or grenade would be inflicting a less atrocious death. The witness added that no one could ask for help because Tutsi were not allowed to live in Taba commune. She said the bodies of the teachers were then taken to makeshift ditches, and covered in earth and grass. According to witness KK, some of the teachers were still breathing when buried.

289. Under cross-examination, witness KK asserted that no teachers had taken up refuge at the bureau communal, but that the massacres had started with the killing of the teachers. The Defence attempted to discredit the witness by raising doubts as to the various dates she spoke of during her testimony, however she explained that considering all that happened to her in April 1994, it was very difficult for her to remember with certainty the specific dates. She also confirmed never having seen Akayesu kill anyone himself, save that it was he who ordered the killings which took place before his eyes.

The case for the Defence

290. Witness DCC for the Defence, detained in Rwanda at the time of his appearance before the Chamber, was a driver at the Taba bureau communal from 1 July 1993 until the events in 1994. During his examination-in-chief, he stated that he had not heard of Akayesu being an anti-Tutsi in the month of

April, 1994. He also testified he came every day to the bureau communal during the massacres. During cross-examination, he added he had seen a substantial number of persons being killed at the bureau communal. According to the witness, the bodies of those killed were taken next to the primary school, however he said he never personally witnessed any burials of cadavers because he was not part of the people who took the bodies away. He maintained this statement even though he testified that he walked past the school every day on his way home. The Chamber notes thereupon, that in answer to questions put to him by the Chamber, pertaining to there being mass graves in the vicinity of the bureau communal, the witness said that he rarely went to the bureau communal during 1994 and that he had never seen any mass graves.

291. Witness DCC testified that after 6 April 1994, refugees from Runda and Shyorongi started arriving at the bureau communal of Taba, where they were welcomed by the authorities and lodged in various premises. He said the refugees were all free and none were locked up in the prison. Witness DCC testified he saw Interahamwe on two occasions come to the bureau communal and kill people. On the first of these occasions, he said the Interahamwe were from Taba but that he did not personally see Akayesu. On the second of these occasions, he saw the Interahamwe from Runda with military personnel search the office of Akayesu after having forced him out of the bureau communal. He said the Interahamwe terrorised the people at the bureau communal and asked for identity cards. According to witness DCC, the Interahamwe took the Tutsi away to be killed. He also said that Akayesu did not have a good understanding with the Interahamwe who accused him at times of being an Inkotanyi as he was welcoming refugees at the bureau communal.

292. Reference was also made by the Defence to the statement given by witness DCC to the Prosecutor[73], in which he stated "What I know, Akayesu was only present at the commune office one time when four people were killed at the entrance of the office. Akayesu did not do anything about it. Akayesu knew that the killings of Tutsi took place in the commune. The killers were Interahamwe". According to the witness, Akayesu did nothing to stop the Interahamwe because he was powerless to do so.

293. During cross-examination, the witness asserted that he was 34 years old, that in 1994, he did not flee Taba or go to Uganda, and that he did not have knowledge of and never saw Akayesu searching for Karangwa. Witness DCC said he was arrested in Rwanda on 30 April 1996. The Prosecutor produced a report, "Witness to Genocide", of an interview given by witness DCC to an NGO named Africa Rights[74]. Witness DCC confirmed speaking to a Human Rights Organization in 1996. The Prosecutor summarized extracts of the said document which stated that at the time of the interview, Witness DCC was 33 years old, that he had been recruited as the driver of the commune on 1 July 1993, that he had returned to Rwanda and was arrested on 30 April 1996. The Prosecutor read out another extract: "According to Akayesu's driver, [...] Akayesu lost no time in pursuing Ephrem. On 19 April, Akayesu, assistant bourgmestre Mutijima and a communal policeman, Mushumba, went to Kamonyi to look for the IPJ of the commune, Ephrem Karangwa, saying that he was a great accomplice of the RPF. Akayesu and his team came back in the afternoon'". Witness DCC confirmed that Akayesu had not wasted any time in pursuing Karangwa, but denied having spoken of Kamonyi, of Akayesu's return or that Akayesu had called Karangwa an accomplice of the RPF.

294. Witness DZZ for the Defence, a Hutu policeman in 1994 detained in Rwanda at the time of his appearance before the Chamber, testified manning barriers in the commune of Taba and guarding the bureau communal at the time of the events alleged. He said massacres had become widespread in the commune of Taba after 18 April 1994 and that he had heard of massacres at the bureau communal. He said he went to the bureau communal on a regular basis and manned a barrier nearby, but asserted that he did not personally witness any crimes at the bureau communal. He testified that he had not heard of Akayesu participating in the massacres, and that the accused had preached peace amongst the refugees.

The witness said that Akayesu saved certain Tutsi, namely witness K and Karangwa, during the massacres. In his mind, they had been saved because, had Akayesu supported the killings, Akayesu would also have targeted Karangwa and witness K.

295. Akayesu testified going to the bureau communal on 19 April 1994. On his arrival within the vicinity of the bureau communal, he said he saw the refugees running everywhere. In the courtyard of the bureau communal, according to Akayesu, the Interahamwe were killing the refugees who had fled from Runda and Shyorongi. He said he parked the car and saw the cashier, witness K. Akayesu said he was perplexed at seeing her and wondered from where she had come. He testified that he called out to her, ordering her to go into her office. He said he had to stop someone with a machete from attacking her and subsequently escorted her personally into the office of the bureau communal. According to Akayesu, he went back into the courtyard and saw refugees who had been killed, and noted that others had managed to escape. However, at a later stage during his examination-in-chief, when asked whether anyone had ever been killed in the courtyard of the bureau communal, Akayesu stated that when he was at the bureau communal or when there had been Interahamwe attacks during his absence, no one had been killed in the courtyard. After these events, Akayesu said he departed with the communal police in the direction of Mbizi, consequent upon receiving information that some of the killers had gone to Mbizi.

296. During cross-examination, the Prosecutor presented tape recordings of interviews of Akayesu carried out by the Office of the Prosecutor on 10 and 11 April 1996 in Zambia75. The Prosecutor questioned the credibility of Akayesu's testimony before the Chamber regarding answers he had given about the refugees at the bureau communal on 18, 19 and 20 April 1994. During his testimony, Akayesu stated he was unable to distinguish intellectuals from the rest of the refugees on the basis that there was no criteria to make it possible to tell an intellectual apart from other persons. However, in the said interviews, the accused said he was surprised not to have seen intellectuals of the commune amongst the refugees who, in his opinion, appeared to be farmers, old women, children, and old people. The Chamber questioned Akayesu as to the differences in the answers given in court, on the one hand, and before the Office of the Prosecutor, on the other. Akayesu said he had not seen anyone who could be categorized as an intellectual/teacher, but that he was able to find out by speaking with the refugees whether or not there were any intellectuals/teachers amongst them.

297. Furthermore the accused confirmed that in the context of the events in 1994, had he told the population to fight the enemy, this would have been understood as meaning fight the Tutsi. He also asserted not having control of the population after 18 April 1994. He said witness KK was at the bureau communal on 19 April 1994. Questioned as to the killings at the bureau communal on 19 April 1994, Akayesu said he did not see anyone killed with a machete because he was in the courtyard of the bureau communal attending to witness K. Akayesu added that he never saw any bodies either outside or inside the perimeter of the bureau communal and never went behind the primary school. Further, Akayesu testified never personally seeing cadavers save for the bodies of two dead children in his sector. In answer to questions on the fate of the schoolteachers whom he said he knew, Akayesu stated only hearing of their killings near the bureau communal three days after their deaths.

298. In support of its case, the Defence recalled that at least 19 witnesses in this case had never seen Akayesu either personally kill or order killings, and that only one witness, witness K, had been called to testify in relation to the events in paragraphs 19 and 20 of the Indictment. The Defence questioned the credibility of witness K on the grounds that Akayesu, during the said interviews of 1996, had cited this particular witness as a potential defence witness. If witness K had really lived through all the events she testified on, argued the Defence, why would Akayesu have named her as a defence witness.

Factual Findings

299. The testimonies of witnesses K and KK evidenced, on the one hand, events which both K and KK witnessed, and on the other hand, events that only one of the two had witnessed. The Chamber recalls that the requirement of corroboration of a witness' testimony unique to certain events, i.e. the principle of *unus testis nullus testis*, is not applicable under the Rules of the Tribunal76. The Chamber found both witness K and witness KK to be credible. Their testimonies were not marked by hostility and were confirmed under cross-examination. The Defence attempted to discredit witness KK on the basis of her inability to remember specific dates and times. However, the Chamber considers that these lapses of memory were not significant and an inability to recall dates and times with specificity - particularly in the light of the traumatic experience of this witness - is not by itself a basis for discrediting the witness77.

300. Further, the Defence contested the credibility of witness K on the premise that Akayesu had indicated to the Prosecutor in April 1996 that she was a potential defence witness. The Chamber finds this to be a mere affirmation by Akayesu of his intent to call a certain witness, and that it does not constitute a defence *per se* as to the allegations contained in paragraphs 19 and 20 of the Indictment. Further the Defence claimed the Prosecutor had called only one witness in respect of the events alleged in the said paragraphs. In light of the testimonies of two witnesses, namely K and KK, the Chamber finds the latter to be an erroneous submission by the Defence.

301. In view of the aforementioned, the Chamber finds the testimonies of witnesses K and KK both to be credible on their own, and that when dealt with together they offer sufficient correlation as to events, dates and locations for the Chamber to base its findings thereon.

302. During their respective testimonies before the Chamber, both witnesses DCC and DZZ were evasive in answering questions in relation to the events alleged in paragraphs 19 and 20 of the Indictment. However, the Chamber notes that the reluctance of these witnesses in answering certain questions was limited either to their individual participation in the acts, or to events they had personally seen. The Chamber recalls that both witnesses DCC and DZZ were at the time of their testimonies, detained in prisons in Rwanda, hence it is understandable that neither wished to present self-incriminating evidence. The Chamber has considered the probative value of their testimonies in light of the above, and finds that the evasiveness and reluctance which punctuated their oral testimony reduced their credibility.

303. Witnesses K and KK for the Prosecution, testified that they witnessed massacres at the bureau communal. Witness K specified seeing the massacres on 19 April 1994 at the bureau communal, and witness KK testified that the massacres started with the killing of teachers.

304. Both witnesses presented by the Defence, witness DCC and DZZ, also testified that killings took place at the bureau communal. Witness DCC went to the bureau communal everyday during the events. He saw people, mainly Tutsi, being massacred by the Interahamwe and taken to be buried behind the primary school. Furthermore, the Defence presented as evidence the statement given by witness DCC to the Prosecutor78. The section quoted by the Defence clearly indicates that Akayesu was at the bureau communal when four people were killed at the entrance of the office and that he knew the killing of Tutsi was taking place in the commune. Questioned as to why Akayesu did nothing to stop these acts perpetrated by the Interahamwe, witness DCC said Akayesu was powerless to do so. The Chamber notes that the testimony of witness DCC supports the prosecution's evidence that people were killed at the bureau communal, in the presence of the accused; and conflicts with Akayesu's testimony that no killings took place at the bureau communal and that the only dead bodies he saw were those of two children

305. Witness DZZ testified that he went regularly to the bureau communal but that he never personally

saw any massacres or crimes he had heard of being perpetrated. He added that Akayesu never participated in the massacres and even preached peace amongst the refugees. He also affirmed that massacres in Taba had become widespread after 18 April 1994. However, the Chamber notes that for witness DZZ to stipulate on the occasions he went to the bureau communal he did not see any of the massacres, and further that he had not heard of Akayesu's participation in massacres, does not refute the specific allegations in paragraphs 19 and 20. Indeed, it is alleged killings occurred at the bureau communal in the presence and under the instructions of Akayesu. DZZ had heard there were massacres at the bureau communal but never personally witnessed any. The Chamber notes thereon that the defence presented by the testimony of witness DZZ supports the fact that there were massacres at the bureau communal but that it does not specifically address the events in the said paragraphs, as the witness was not present when the killings he had heard of took place.

306. Akayesu admitted during his examination-in-chief that he saw massacres of refugees at the bureau communal on 19 April 1994. This is corroborated by the testimonies of witnesses DZZ, DCC, K and KK in relation to there being massacres at the bureau communal. The Chamber finds it has been proved beyond reasonable doubt that, firstly, there were refugees at the bureau communal and, secondly, that massacres did occur at the bureau communal on or about 19 April 1994.

307. Akayesu confirmed under cross-examination that he was able to identify intellectuals, teachers being an example he put to the Chamber, from the rest of the refugees. Witnesses K and KK both stated that Akayesu ordered the killing of certain intellectuals and other refugees. The Defence did not specifically address these allegations. Under cross-examination, questioned as to these allegations, Akayesu said he never saw anyone killed in the courtyard with a machete because he was attending to witness K, that he never saw any bodies inside or outside the courtyard of the bureau communal and that he heard of the deaths of the teachers three days after their killings. The Chamber finds that the veracity of these answers can be doubted. Indeed, Akayesu affirmed himself during his examination-in-chief that, on 19 April 1994, he saw refugees being attacked at the bureau communal, and that he saw some killed and others escape. Further, the Chamber finds implausible the assertion that he heard of the deaths of the Remera teachers three days later. Witnesses, including himself, have placed Akayesu at the bureau communal on 19 April 1994. Akayesu testified to seeing and hearing of searches of various intellectuals in Taba throughout the day of 19 April 1994, yet he somehow did not hear of killings that took place at the bureau communal the same day. The Chamber cannot accept Akayesu's assertion with regard to the killing of teachers. Further, the Chamber notes that Akayesu did not specifically contest the allegations that he ordered the militia and local population to kill intellectuals and influential people.

Paragraph 19

308. As pertains to the allegations in paragraph 19, evidence set out above has demonstrated that refugees from Runda had been held at the bureau communal by Akayesu. Evidence has established that Akayesu told the Interahamwe he had sent for that "[...] he could no longer have pity for the Tutsi. Even those who we have kept here, I want to deliver them to you so that you can render a judgment unto them". It has been demonstrated that he then ordered the release of the refugees and handed them over to the Interahamwe with the words here they are'. Evidence has demonstrated that these refugees were made to sit next to the fence of the bureau communal and that when they begged for mercy, Akayesu said to the Interahamwe do it quickly'. It has been established that immediately after Akayesu had said this, the refugees were killed in his presence, by persons nearby who used whatever weapons they had on them. It has been established that the refugees were killed because they were Tutsi.

309. The Chamber finds that it has been proved beyond reasonable doubt that Akayesu released eight detained men of Runda commune whom he was holding in the bureau communal and handed them over to the Interahamwe. It has also been proved beyond reasonable doubt that Akayesu ordered the local

militia to kill them. It has been proved beyond reasonable doubt that the eight refugees were killed by the Interahamwe in the presence of Akayesu. The Chamber also finds that it has been proved beyond reasonable doubt that traditional weapons, including machetes and small axes, were used in the killings, though it is has not been proved beyond reasonable doubt that sticks and clubs were used in the killings. It has been proved beyond reasonable doubt that the eight refugees were killed because they were Tutsi.

Paragraph 20

310. Evidence has demonstrated that after the killing of the refugees, Akayesu instructed people near him to fetch the one who remained', and that consequent to this instruction, a certain professor by the name of Samuel was brought to the bureau communal. It has been established that Samuel was then killed with a machete blow to the neck.

311. Evidence has demonstrated that on or about 19 April 1994, Akayesu addressed refugees and Interahamwe in front of the bureau communal, calling for all Tutsi within the commune to be hunted and found. It has been established that Akayesu stated that there were accomplices in the commune, one of whom lived behind the bureau communal. It has been established that Akayesu cited a professor by the name of Tharcisse as the accomplice and ordered the Interahamwe and communal policemen to fetch him. Evidence has established that persons using whistles fetched Tharcisse and his wife from behind the bureau communal. Tharcisse and his wife were made to sit in the mud on the road outside the bureau communal, whereupon his wife was undressed and told to leave. It has been established that Akayesu asked Tharcisse for information on the Inkotanyi, after which the Interahamwe killed Tharcisse in the presence of Akayesu.

312. Evidence has shown that Akayesu said to the Interahamwe that the intellectuals were the source of all the misery, and that he ordered the Interahamwe to bring the teachers from Remera. It has been demonstrated that a number of teachers from Remera school were brought to the road outside the bureau communal and killed with traditional weapons, including hoes and clubs. Evidence identified the victims to be Theogene and Phoebe Uwineze and her fiancé.

313. The Chamber finds that it has been proved beyond reasonable doubt that on or about 19 April 1994, Akayesu ordered the local people and Interahamwe to kill intellectual people'. It has been proved beyond reasonable doubt that, after the killing of the refugees, Akayesu instructed the local people and Interahamwe near him at the bureau communal to fetch the one who remains', a professor by the name of Samuel, and that consequent to this instruction, a certain professor by the name of Samuel was brought to the bureau communal. It has been proved beyond reasonable doubt that Samuel was then killed by the local people and Interahamwe with a machete blow to the neck. The Chamber finds that it has been proved beyond reasonable doubt that teachers from the commune of Taba were killed pursuant to the instructions of Akayesu. The Chamber finds it has been proved beyond reasonable doubt that amongst the teachers who were killed were Tharcisse, Theogene, Phoebe Uwineze and her fiancé. It has been proved beyond reasonable doubt that Tharcisse was killed in the presence of Akayesu. The Chamber finds it has been proved beyond reasonable doubt that the victims were all killed by local people and Interahamwe using machetes and agricultural tools on the road in front of the bureau communal. The Chamber finds that it has not been proved beyond reasonable doubt that Akayesu ordered the killing of influential people, nor that the victims were teachers from the secondary school of Taba.

314. The Chamber finds that it has been proved beyond reasonable doubt that the teachers were killed because they were Tutsi.

5.3 Meeting

5.3.1. Paragraphs 14 and 15 of the Indictment

315. Paragraph 14 of the Indictment reads as follows: "The morning of April 19, 1994, following the murder of Sylvère Karera, Jean Paul Akayesu led a meeting in Gishyeshye sector at which he sanctioned the death of Sylvère Karera and urged the population to eliminate accomplices of the RPF, which was understood by those present to mean Tutsi. Over 100 people were present at the meeting. The killing of Tutsi in Taba began shortly after the meeting".

316. It is alleged that by the acts with which he is charged in this paragraph, the Accused is guilty of offences covered under four counts:

> Count 1 of the Indictment charges him with the crime of genocide, punishable under Article 2 (3)(a) of the Statute;
>
> Count 2 charges him with the crime of complicity in genocide, punishable under Article 2 (3)(e) of the Statute;
>
> Count 3 charges him with the crime of extermination which constitutes a crime against humanity, punishable under Article 3 (b) of the Statute; and
>
> Count 4 charges him with the crime of direct and public incitement to commit genocide, punishable under Article 2 (3)(c) of the Statute.

317. The Chamber deems that, in order to derive clear and articulate factual findings regarding the acts alleged in paragraph 14 of the Indictment, it is necessary to consider, separately, the facts relating to:

> firstly, the holding on the morning of 19 April 1994 of a meeting in Gishyeshye sector, alleged to have been attended by over 100 people and led by the Accused alone following the death of Mr. Karera;
>
> secondly, the fact during that meeting, the Accused is alleged to have sanctioned the death of Sylvère Karera;
>
> thirdly, the fact during that meeting, the Accused is alleged to have urged the population to eliminate the accomplices of the RPF, which was understood by those present to mean Tutsi; and
>
> Fourthly, the killing of Tutsi in Taba is alleged to have begun shortly after the said meeting.

318. With regard to the facts in paragraph 14 of the Indictment detailed as follows:

> "The morning of April 19, 1994, following the murder of Sylvère Karera, Jean Paul Akayesu led a meeting in Gishyeshye sector. (.....) Over 100 people were present at the meeting."

319. The Chamber finds a substantial disparity between the French and English versions of paragraph 14 of the Indictment. While in the French version it is said that " Jean Paul Akayesu alone led a meeting," the English version only indicates that "Jean Paul Akayesu led a meeting,' without specifying whether he

led the meeting alone. The Chamber is of the opinion that the French version should be accepted in this particular case, because the Indictment was read to the Accused in French at his initial appearance, because the Accused and his counsel spoke French during the hearings and, above all, because the general principles of law stipulate that, in criminal matters, the version favourable to the Accused should be selected. In the present case and in accordance with the French version of the Indictment, the Prosecution must not only establish that the Accused led the meeting, but also that he led it alone.

320. The murder of Sylvère Karera, a teacher killed on the night of 18 to 19 April 1994, and the subsequent events, alleged under paragraph 13 of the Indictment, have already been discussed *supra.*

321. Prosecution witness A testified that after he saw the remains of Sylvère Karera at the Remera school, he went to Gishyeshye on 19 April 1994, towards 6 or 7 o'clock in the morning, where he found a large gathering of 300 to 400 people at a crossroads. The witness stated that no one had convened the meeting but that it was rather a gathering of people attracted by the events. The crowd stood near to the body of a person identified as an Interahamwe from Gishyeshye, who was alleged to have killed Sylvère Karera. A small group of people, including the bourgmestre , the Accused, sector council members and four armed members of the Interahamwe, who could be identified by the MRND coat of arms on their caps, faced the crowd in such a way that enabled them to address it. The sector councillors called on the crowd to pay attention to the speech by the . Witness A pointed out that the Interahamwe stood near a blue minibus in which the Accused had arrived, and that they seemed to have been escorting the latter, which was a surprise to the crowd.

322. A Tutsi man, appearing as a Prosecution witness under the pseudonym Z, testified that on or about 19 April 1994, in the early hours of the day following the murder of a Tutsi teacher in Remera, the murderer of this teacher was killed by persons responsible for maintaining law and order. Witness Z and other people gathered around the body of the teacher's murderer. The crowd Accused the Interahamwe present of having caused the death of the teacher. The Accused, who was armed, separated the rest of the population from members of the Interahamwe and then addressed the crowd.

323. Prosecution witness V, a teacher in Taba for nearly 30 years, went to Gishyeshye sector where he attended a meeting, at the place where the body of a Hutu man lay. He confirmed that a meeting was then held on the road in Gishyeshye, in the presence of the Accused, who was carrying a gun, and who organized the said meeting. The witness estimated that it was attended by some 500 people. The people were standing in front of a house. The Accused himself stood in the middle of the road with the Interahamwe next to him, across the road from the people.

324. Ephrem Karangwa, a Tutsi man, called as witness for the Prosecution, who, at the time of the acts alleged in the Indictment, was the Inspecteur de police judiciaire (Senior law enforcement Officer, criminal investigation department) of the Taba commune, testified before the Chamber that on 19 April, the Accused held a meeting in Gishyeshye sector.

325. Men, who had gone to inquire after Sylvère Karera, told witness U that a person had been killed following the murder of Karera and that the Accused himself had gone to where the body was and held a meeting there.

326. The holding of the said meeting was confirmed by the Accused himself, who told the Chamber during his testimony as witness, that at about 4 a.m., on the night of 18 to 19 April 1994, a certain Augustin Sebazungu, treasurer of the MDR in Taba and a resident of Gishyeshye sector, came to see him at the Bureau communal, where he had been sleeping, to inform him that the situation in Gishyeshye sector was tense, following the murder of a young man who was a member of the

Interahamwe. The bourgmestre immediately alerted the police and went to the scene with two policemen, in a blue minibus. In Gishyeshye, he found a body stretched out on the ground, covered with traces of blood, as if it had been hit. The Accused affirmed before the Chamber that since people were coming to see what was happening, he took advantage of the fact that a crowd had gathered there to address the population. He noted that the Interahamwe of the region had flocked around the body of their young member. The Accused puts the crowd at the meeting at about 100 to 200 people, including Hutu and Tutsi, members of the Interahamwe, members of the MDR and probably other political parties. The Accused admitted before the Chamber that he asked the crowd to draw closer, and then addressed the crowd, while the two policemen accompanying him stood behind him.

327. In his closing arguments, the Defence counsel underscored that the Accused never convened the Gishyeshye meeting, but that a crowd had spontaneously gathered after a man had been killed. The Accused, as bourgmestre, reportedly found himself among the crowd thus assembled which included members of the Interahamwe.

328. With regard to the facts in paragraph 14 of the Indictment detailed as follows:

> " Jean Paul Akayesu (...) sanctioned the death of Sylvère Karera"

329. According to Prosecution witness V, the Accused stated that Sylvère Karera died because he was working with the Inkotanyi. The bourgmestre further stated that the person whose body lay at the meeting place had been wrongly killed, but that Sylvère Karera had been justly killed. Under cross-examination by the Defence, witness V reiterated that the Accused stated that Karera had been killed because he was working with the Inkotanyi.

330. Witness Z, a Tutsi man, testified that at the meeting which followed the murder of the Remera teacher, the Accused, who was armed, separated the rest of the population from the members of the Interahamwe and, speaking of the body on the ground, he reportedly deplored the murder of the person and stated that this person was dead and yet the enemy was still alive. According to witness Z, the Accused told the crowd that papers detailing Tutsi plans to exterminate the Hutu had been seized at the home of the teacher.

331. The Accused told the Chamber, during his testimony, that he had inquired of the crowd standing around the body of the young Interahamwe, why the young man had been killed. The people gathered there, answered that he had looted and that he had been justly punished. The bourgmestre then stayed on to speak to the people, trying to explain to them that killing as a habit must stop and making them aware of the consequences. He condemned the murder of the young man because he felt that such was not a way of maintaining law and order, and explained that it would have been enough to arrest the young man. The Accused told the Chamber that he had asked Augustin Sebazungu why he, as a prominent figure and an educated man, had failed to stop the population from killing the young man, to which Sebazungu reportedly replied that there was nothing he could do.

332. With regard to the facts in paragraph 14 of the Indictment detailed as follows:

> " Jean Paul Akayesu (...) urged the population to eliminate the accomplices of the RPF, which was understood by those present to mean Tutsi."

333. Prosecution witness A testified that, during the said meeting, the Accused held papers which he allegedly showed to the crowd saying that the papers had been seized at the home of an Inkotanyi accomplice. He also said the papers detailed what the Inkotanyi accomplices were to do. The Accused

showed the papers to the public. He stated that things had changed and that the Inkotanyi and their accomplices wanted to seize power. According to witness A, the bourgmestre stated that everyone should do everything possible to fight against those people because they were seeking to restore the former regime. He said that he was personally going to search for some of the people. A teacher then told the Accused that he knew of an accomplice to which the Accused replied: "Go fetch this person". Witness A also stated that the Interahamwe allegedly told the Accused he was to put the people of the commune at their disposal. The bourgmestre then told the crowd to fight against the Inkotanyi and their accomplices. The witness stated that the crowd remained rather calm even though it was stunned by the unusual statement made by the Accused. Witness A was personally surprised, just as, in his words, the rest of the people present, to see that the bourgmestre had changed and that he seemed, among other things, to have become friends with the Interahamwe.

334. Prosecution witness V told the Chamber that at the Gishyeshye meeting of 19 April 1994, the Accused asked the population to collaborate with the Interahamwe in the fight against the Tutsi, the sole enemy of the Hutus. According to witness V, the Accused brandished documents which he said contained a list of names of Hutu that the Tutsi wanted to kill. He read the papers and said that the Tutsi were holding meetings to exterminate the Hutu. Witness V felt that the bourgmestre wanted to make the population understand that the Tutsi were their enemies. The Accused said the Tutsi, the real and only enemies of the Hutu, must be killed. He called on the population to work with the Interahamwe to search for the sole enemy. He also said that there were well-known Tutsi people living in the commune, who were working with the RPF. Witness V stated that apart from the Accused, only a certain François took the floor, to state that a list of receipts for contributions, allegedly made by the Tutsi to the Inkotanyi, had been seized.

335. According to Prosecution witness C, during that meeting, showed the Accused the crowd documents which included a list of the names of Hutu whom the Inkotanyi and the Tutsi inhabitants of Taba wanted to kill and a list of the names of Tutsi who had paid their contributions to the RPF. The witness noted that, while the Interahamwe seemed to be happy, the crowd was stunned by the change in the behaviour of the bourgmestre. Witness C stated that the Accused said during the meeting that the Tutsi was the sole enemy of the Hutu. He confirmed that he did hear the Accused say the Tutsi must be killed.

336. Witness Z, a Tutsi man, testified that at the meeting which followed the murder of the Remera teacher, the Accused, who was armed, called on all those present to bury their political differences and unite to fight the enemy, the enemy being the Tutsi, the accomplices of the Inkotanyi. Witness Z stated that the Accused, speaking of the body of the young Interahamwe believed to have killed Sylvère Karera, deplored the murder of the person and said that he was dead whereas the enemy was still alive. Witness Z further testified that, at the meeting, the Accused had in his possession papers which included a list of names. The Accused read the papers and stated that the Tutsi were holding meetings to exterminate the Hutu. In addition to the Accused, a member of the Interahamwe, named François, also took the floor, holding papers his hands. He showed the papers and said they had been seized at the home of the teacher killed in Remera. The documents included a list of the names of Tutsi who had paid their contributions to the Inkotanyi. The crowd was surprised to see that the Accused then seemed to be cooperating with the Interahamwe. Witness Z felt that, during the said meeting, the Accused was addressing the Hutu and telling them to kill the Tutsi.

337. A certain Ephrem Karangwa, who was the Inspecteur de police judiciaire of Taba Commune at the time of the events, testified before the Chamber that at the Gishyeshye meeting, the Accused told the population to kill the Tutsi in Taba. The bourgmestre told the people that whether they supported the MDR, MRND or the PSD, they should unite and understand that there was only one enemy, namely the Tutsi. The Accused told the people not to fear the Interahamwe. According to the witness the people

who attended the said meeting affirmed to him that, during the meeting, the Accused showed a list of people to be killed, which included the name of Ephrem Karangwa. Allegations that the Accused, *inter alia*, named Ephrem Karangwa during the said meeting, are included in paragraph 13 of the Indictment and elaborated upon here *infra*.

338. Men reportedly told Prosecution witness U that, at the meeting held by the Accused near the body of Sylvère Karera's murderer, it was said that the only enemy was the Tutsi and that all Tutsi must be killed. According to witness U, the crowd then allegedly said that the "plane" had been shot by the Inkotanyi, and that the Inkotanyi were the Tutsi.

339. Several Prosecution witnesses confirmed the Prosecution allegation that, when the Accused called on the people to fight against the enemy, the people present took it to mean that the Tutsi must be killed. Witness C, a male Hutu farmer like witness N, a female Hutu farmer, told the Chamber that, at the time of the alleged events, the "Inkotanyi" and the "Inyenzi" meant the Tutsi. Witness N specified that the Accused himself, as a leader, took the Tutsi to mean the Inkotanyi and the Inyenzi. Witness V also pointed out that, at the time of the events, the words Inkotanyi and Tutsi, were interchangeable in the countryside. He specified that, while all Inkotanyi were not Tutsi, everyone understood at the time that all Tutsi were Inkotanyi. Witness V also confirmed that the words Tutsi and Inkotanyi were synonymous and stated that the Tutsi had been pursued with such shouts as " There they are, those Inkotanyi, those Tutsi." He explained that the Tutsi were assimilated to the Inkotanyi.

340. Dr. Mathias Ruzindana, Professor of Linguistics at the University of Rwanda, appearing as expert witness for the Prosecution, explained to the Chamber that, based on his own analyses of Rwandan publications and broadcasts by the RTLM and on his personal experience, he was of the opinion that, at the time of the events alleged in the Indictment, the term Inkotanyi had several extended meanings, from an RPF sympathizer to members of the Tutsi group, depending on the context.

341. According to witness DIX, a Hutu woman, appearing as a Defence witness, explained that in her opinion, the Interahamwe started to kill people because they thought that their neighbours had in their midst accomplices of enemies from outside the country.

342. A certain Joseph Matata, a Defence witness, testified before the Chamber that the contention that when the Accused called on the people to fight against the enemy, those present took it to mean that the Tutsi must be killed, had to rebutted. According to him, the latter's speech must be interpreted with two factors in mind, namely the context of RPF incursions into the Rwandan territory and the fact that people who knew the bourgmestre could not have construed his speech as a call to kill the Tutsi.

343. A Defence witness appearing under the pseudonym DZZ, denied that the Accused ever held a meeting in Taba commune at the time of the alleged acts.

344. During his testimony before the Chamber, the Accused stated that the Interahamwe began to shout when the crowd had gathered at Gishyeshye. He called on them to calm down, stating that it was necessary to work in an orderly fashion. The Interahamwe then reportedly informed the bourgmestre that soldiers, the Inkotanyi, were allegedly infiltrating the commune. The Accused maintained before the Chamber that he had replied that if they knew of a family harbouring an RPF militant, they could reveal such information to a councillor, an officer of the Cellule, a policeman or the bourgmestre , who would then take up the case and follow it up. The Accused denied that he himself told the crowd that people, the accomplices of the Inkotanyi, should be flushed out, but admitted that it was said in the crowd that certain families were harbouring RPF soldiers.

345. In response to Prosecution questions regarding the lists of names mentioned by several Prosecution witnesses, the Accused stated under cross-examination, that a certain François had given him papers he rapidly read through silently for his personal edification. Those papers included the names of people and their functions. The Accused testified that the Interahamwe ordered him twice to read out the list and he refused to do so. According to him, members of the Interahamwe then said that the list, which included the names of RPF soldiers and their supporters, had been seized in the office of an "Inspecteur de police judiciaire" in Runda, a member of the RPF, who had been killed while he was shooting at the soldiers and the communal police.

346. The Accused testified before the Chamber that he refused to read the list aloud to the crowd because he had had time to recognize certain names on the list such as those of Karangwa, Charlotte, Rukundakuvuga and Mutabazi. According to the Accused, he allegedly explained to the assembled population that the list contained names which included that of Ephrem Karangwa, and that such a list constituted a real danger since anyone could someday find their name on such a list. Thus, he reportedly cautioned the people against such documents.

347. The Accused then specifically admitted before the Chamber that mentioning a name on such a list was seriously damaging to the person thus named and jeopardized their life. He also confirmed that made by a public official, such as the bourgmestre , such a statement would have so much more impact on the people, who would understand that the person was thus being denounced and that they would certainly be killed.
The position of the Defence as stated, particularly, during the closing arguments, regarding the documents read by the Accused, is that overexcited members of the Interahamwe allegedly forced the bourgmestre to read a document in their possession, which included the names of a certain number of people considered to be accomplices of the RPF. The Accused allegedly tried to dissuade the demonstrators from denouncing anyone in such a manner, by explaining that there was no proof that the people whose names appeared on the list were indeed RPF supporters.

348. With regard to the facts in paragraph 14 of the Indictment detailed as follows:

" The killing of Tutsi in Taba began shortly after the meeting."

349. With regard to the allegation made in paragraph 14 of the Indictment, the Chamber feels that it is not sufficient to simply establish a possible coincidence between the Gishyeshye meeting and the beginning of the killing of Tutsi in Taba, but that there must be proof of a possible causal link between the statement made by the Accused during the said meeting and the beginning of the killings.

350. Witness Ephrem Karangwa, who was the "Inspecteur de police judiciaire" of Taba commune, at the time of the events testified that until 18 April 1994, the people of Taba were united and there were no killings in Taba at that time.

351. According to Prosecution witness C, the Taba population followed the instructions given by the bourgmestre at the Gishyeshye meeting and began thereafter to destroy houses and to kill. The witness recalled that the people once again complied with the instructions of the Accused as they always had.

352. Prosecution witness W, a Tutsi, clearly stated that the attacks began on 19 April 1994. The first attack he witnessed took place on 19 April 1994 at about 2:00 p.m. Just before that, his younger brother, who had gone to find out what had happened in Rukoma, told him that a list of "Collaborators" had allegedly been discovered in the home of Sylvère Karera, and that the name of witness W was allegedly on the list. The witness then immediately went into hiding and later sought refuge in Kayenzi commune.

353. Prosecution witness A, a Tutsi man, testified before the Chamber that five Tutsi were killed on the day of the meeting. From that date, witness A personally observed that the people were destroying houses, taking away corrugated iron sheets, doors and anything they could carry, and killing cows which they ate. Some of the people tried to run away when the killings began. Most of the victims were Tutsi. Witness A said that in his opinion when the Accused began to have good relations with the Interahamwe, the latter did whatever they wanted with the commune. He felt that the people were thus subjected to propaganda designed to make one part of the population hate the other. The people were believed to have changed because of repeated statements and promises made to them and that, as a result, they allegedly began to kill.

354. Witness N, a 69-year old female Hutu farmer, also explained that the destruction of houses, the killing of cows and even the killings, began following said meeting. She attributed the scale of the killings to the Accused's fiery mood during said meeting and his urging to wage war against the Inkotanyi and the Tutsi. She felt that had the Accused not held the meeting in question, the killings would never have started at that very moment, even if the Interahamwe were more powerful than the bourgmestre .

355. The Accused himself confirmed to the Chamber that killings started in Taba on 19 April 1994. He said that, on that day, after addressing the crowd at Gishyeshye, he went to the Bureau communal where he noted that the Interahamwe had killed a good number of people, who had sought refuge there, including elderly people, women and children.

356. During its closing arguments, the Defence pointed out that Prosecution witness V had testified before the Chamber that many Tutsi had sought refuge at the Bureau communal on the night of 19 April 1994. It therefore expressed doubt as to the reliability of Prosecution Witness V who had also stated, during his testimony, that on the morning of the same 19 April 1994, the Accused had ordered the Tutsi to be killed.

357. A certain Joseph Matata, called as a Defence witness, explained to the Chamber that, in his opinion and according to testimonies he had allegedly collected in Taba, the militia began to neutralize the Accused as from 19 April 1994. He therefore concluded that the beginning of the massacres was not linked to the Gishyeshye meeting, but that it was an unfortunate coincidence.

358. Factual findings:

359. On the basis of consistent evidence and the facts confirmed by the Accused himself, the Chamber is satisfied beyond a reasonable doubt that the Accused was present in Gishyeshye, during the early hours of 19 April 1994, that he joined the crowd gathered around the body of a young member of the Interahamwe militia, and that he took that opportunity to address the people. The Chamber finds that the Accused did not convene the meeting, but that he joined an already formed gathering. Furthermore, on the basis of consistent evidence, the Chamber is satisfied beyond a reasonable doubt that on that occasion, the Accused, by virtue of his functions as bourgmestre and the authority he held over the population, did lead the crowd and the ensuing proceedings.

360. With regard to the Prosecution allegation that the Accused sanctioned the death of Sylvère Karera, the Chamber finds that the Accused himself admitted to having condemned the death of a young Interahamwe who had allegedly killed Karera, but failing to mention that he also condemned the death of Karera. The Chamber nevertheless points out that failure to condemn is not tantamount to approval in this case. However, on the basis of testimonies by witnesses V and Z, the Chamber finds that the Accused could very well have attributed the death of Sylvère Karera to his alleged complicity with the

Inkotanyi and may have added that Karera had been justly killed. The Chamber however finds that no other evidence corroborated the testimony of witness V, whereas some ten witnesses had been questioned about facts relating to the murder of Sylvestre Karera and the ensuing meeting at which the Accused spoke. Consequently, the Chamber holds that in the absence of conclusive evidence, the Prosecution has failed to establish beyond a reasonable doubt that the Accused publicly sanctioned the death of Sylvère Karera at the Gishyeshye gathering.

361. With regard to the allegation that the Accused urged the population, during the said gathering, to eliminate the accomplices of the RPF, after considering the weight of all supporting and corroborative evidence, the Chamber is satisfied beyond a reasonable doubt that the Accused clearly called on the population to unite and eliminate the sole enemy: accomplices of the Inkotanyi. On the basis of consistent evidence heard throughout the trial and the information provided by Dr. Ruzindana, appearing as an expert witness on linguistic issues, the Chamber is satisfied beyond a reasonable doubt that the population construed the Accused's call as a call to kill the Tutsi. The Chamber is satisfied beyond a reasonable doubt that the Accused was himself fully aware of the impact of his statement on the crowd and of the fact that his call to wage war against Inkotanyi accomplices could be construed as one to kill the Tutsi in general.

362. Finally, relying on substantial evidence which was not essentially called into question by the Defence, and as it was confirmed by the Accused, the Chamber is satisfied beyond a reasonable doubt that there was a causal link between the statement of the Accused at the 19 April 1994 gathering and the ensuing widespread killings in Taba.

The events alleged

363. Paragraph 15 reads as follows:

> At the same meeting in Gishyeshye sector on April 19, 1994, Jean Paul Akayesu named at least three prominent Tutsis -- Ephrem Karangwa, Juvénal Rukundakuvuga and Emmanuel Sempabwa -- who had to be killed because of their alleged relationships with the RPF. Later that day, Juvénal Rukundakuvuga was killed in Kanyiya. Within the next few days, Emmanuel Sempabwa was clubbed to death in front of Taba *bureau communal.*
>
> It is the alleged that by his participation in relation to these acts the accused committed offences charged in six counts:
>
> > Count 1, Genocide, punishable by Article 2(3)(a) of the Statute of the Tribunal;
> >
> > Count 2, Complicity in Genocide, punishable by Article 2(3)(e) of the Statute of the Tribunal;
> >
> > Count 3, Crimes against Humanity (extermination), punishable by Article 3(b) of the Statute of the Tribunal;
> >
> > Count 4, Direct and Public Incitement to Commit Genocide, punishable by virtue of Article 2(3)(c) of the Statute of the Tribunal;
> >
> > Count 5, Crimes against Humanity (murder), punishable by Article 3(a) of the Statute of the Tribunal; and

Count 6, Violations of Article 3 common to the Geneva Conventions of 1949, as incorporated by Article 4(a)(murder) of the Statute of the Tribunal.

364. Paragraph 15 of the Indictment alleges that, at a meeting held on 19 April 1994 in Gishyeshye sector, the accused called for the killing of three prominent Tutsi due to their alleged relationships with the RPF. As a supposed consequence of being named, at least two of them, namely Juvénal Rukundakuvuga and Emmanuel Sempabwa, were subsequently killed. The acts which were allegedly further perpetrated as regards to Ephrem Karangwa are the subject of paragraphs 16, 17 and 18 of the Indictment.

365. It has already been established beyond reasonable doubt, as alleged in paragraph 14 of the Indictment, that Akayesu was present at an early morning gathering in Gishyeshye sector on April 19 1994. The Chamber found that Akayesu urged those present to unite to eliminate the only enemy, the accomplice of the Inkotanyi. The Chamber also found the terms Inkotanyi and accomplice during the said meeting to refer to Tutsi and that the accused was conscious that his utterances to the crowd would be understood as calls to kill the Tutsi in general.

366. It now needs to be established whether during this gathering, Akayesu specifically named Ephrem Karangwa, Juvénal Rukundakuvuga and Emmanuel Sempabwa who had to be killed because of their alleged relationships with the RPF. If it is proved beyond a reasonable that Akayesu named the said three, the Chamber will consider evidence presented in relation to their subsequent fates as alleged in the second and third sentences of paragraph 15 of the Indictment.

The Role, if any, of the Accused

367. A number of the witnesses, namely witnesses V, C, A, Z and Akayesu, who testified in relation to the events alleged in paragraph 14 of the Indictment, also testified in relation to the specific allegations contained in paragraph 15 of the Indictment. Hence, the Chamber will limit itself to recalling the testimonies of these witnesses only as pertains to the paragraph 15 of the Indictment, i.e. the naming of three individuals and their subsequent fates, factual findings having already been made above to there having been a gathering in Gishyeshye and the pertinent general allegations.

368. Witness Z, a Tutsi man, testified that on or about 19 April 1994, in the early hours of the morning, he was present at the Gishyeshye sector gathering, which was attended by Akayesu. He said Akayesu separated the crowd from the Interahamwe and called for all those present to forget their political differences until the enemy had been eliminated, the enemy being the Tutsi, the accomplices of the Inkotanyi.

369. Witness Z said Akayesu, who was holding documents, cited Ephrem Karangwa as someone wanting to kill him and replace him as bourgmestre. He said the accused did not name anyone else in particular. According to witness Z, Akayesu said that he didn't want to give the names of the other persons because they lived nearby and someone might warn and help them escape. The witness said an Interahamwe by the name of François spoke about papers. According to the witness, the Interahamwe said the papers had been seized from the dead professor's house (see factual findings on paragraphs 13 and 14 of the Indictment) and contained details of monies paid by the Tutsi to the Inkotanyi.

370. Witness Z testified Akayesu announced on leaving that he was going so that those persons who are to be found between Taba and Kayenzi did not escape him. He said the accused left in a vehicle with the Interahamwe. Once back at his house which was on a neighboring hill, the witness said he observed the persons who had been in the vehicle with Akayesu break down the door of Rukundakuvuga's house. He

later heard that Rukundakuvuga was arrested. Under cross-examination, witness Z confirmed that Akayesu had not named Rukundakuvuga but added that Akayesu read from documents at the gathering.

371. Witness V, a Tutsi teacher in Taba in Taba commune for nearly 28 years, testified he was present at the gathering at the Gishyeshye sector. He said that, during this gathering, Akayesu asked the population to collaborate with the Interahamwe in the fight against the only enemy of the Hutu, namely the Tutsi. The witness said Akayesu brandished documents on which there was a list of names of Hutu who were to be killed by the Inkotanyi and the Tutsi, and a list of RPF collaborators. The witness affirmed Akayesu said he knew of a number of people in the commune, namely three teachers, to be RPF collaborators who lived in Kanyenzi, and a fourth person, the "inspecteur de police judiciaire" who worked at the office of the commune. Witness V said the accused told the crowd that these people had to be sought to prevent them from escaping. The witness testified the accused named Ephrem Karangwa during the meeting, and by reference to where they lived also implicitly spoke of Juvénal Rukundakuvuga and Emmanuel Sempabwa, who were both Tutsi. According to the witness, the crowd understood that Akayesu was looking for these people as they were supposedly RPF accomplices.

372. Witness V testified that of the four individuals spoken of by the accused, he saw two of the bodies at the bureau communal, and the body of Rukundakuvuga on the Kanyiya road as he fled the commune of Taba. The fourth person named at the meeting was able to escape.

373. Under cross-examination, witness V asserted that Akayesu brandished three documents during the gathering. He said there was a list of people who were financing the RPF, a list of Hutu who had to be killed by the Tutsi, and a list of Tutsi RPF collaborators. The witness testified that Akayesu only named Karangwa. Questioned as to the identification of other individuals, witness V said they weren't expressly cited, but Akayesu pointed to where they lived and said that they were teachers. According to witness V, as people immediately went to search for them it had been possible for individuals at the gathering to guess about whom Akayesu was speaking.

374. Witness E, a Hutu man from Taba testified that he was present at the Gishyeshye gathering on the morning of 19 April 1994. He said Akayesu arrived in a car and addressed the crowd. According to the witness, Akayesu, who was armed with a rifle, pointed to the Interahamwe who were alongside him and told the crowd that the Interahamwe and the MRND, the party to which belonged the Interahamwe, meant them no harm. Witness E said Akayesu told the crowd that all of the political parties were at present one and the same, and that the only enemy was the accomplice of the Inkotanyi. The witness said a certain François gave Akayesu some documents which had allegedly been found at the residence of a RPF accomplice. He said Akayesu told the crowd that all of the Inkotanyi accomplices had to be sought. Questioned as to any names being cited by Akayesu, the witness said only that of Ephrem Karangwa was mentioned.

375. Witness A, a Hutu man who worked with Akayesu from April 1993 up until 7 April 1994, testified that he attended the Gishyeshye gathering in the early hours of 19 April 1994. He said that on arriving, around 06h00 and 07h00 in the morning, he saw a crowd gathered around a body. According to the witness, amongst the people present were the bourgmestre, conseillers, the local population who had heard the noise the night before and Interahamwe. The witness said the members of the cellules and the conseillers asked the crowd to listen to the bourgmestre. Witness A declared Akayesu showed a number of documents to the people, and told the crowd that things had changed, that the Inkotanyi and their accomplices wanted to take power. Questioned as to the citing of names, the witness stated that Akayesu mentioned only Ephrem Karangwa, the "inspecteur de police judiciaire", as someone who had a plan to replace him. The witness added that Akayesu told the crowd that everyone had to do whatever they could to fight these people so as not to return to the previous regime, and that he too would personally search for these people. Witness A testified that a teacher in the crowd informed Akayesu that he knew

of another accomplice, in response to which Akayesu ordered that this person be found.

376. Under cross-examination, witness A affirmed that during the gathering in Gishyeshye, Akayesu named only Ephrem Karangwa, and mentioned no other names.

377. Witness C, a Hutu farmer, testified that he attended the Gishyeshye gathering. He said Akayesu addressed the crowd. According to the witness, the accused took documents from his jacket and stated that he was going to read the contents of the documents found at the Professor's house who had been killed in Remera. He said that Akayesu called for the crowd to listen attentively and to put into practice the contents of the documents. Witness C declared that thereafter Akayesu read out the documents.

378. Akayesu testified that on the morning of 19 April 1994 in Gishyeshye sector, a number of people, including Interahamwe, had assembled around the cadaver of an Interahamwe. Akayesu explained that during his discussions on commune security with the crowd at this gathering, a certain François, who had arrived with the Interahamwe, gave him a number of documents on which there figured names and occupations of supposed RPF accomplices and told him to read them. Though François told him to read out the names on the lists, the accused asserted that he did not do so, save for citing, reluctantly so, that of Ephrem Karangwa. In so doing he said he explained to those present at the gathering "there is on this list Ephrem Karangwa, tomorrow you may find yourselves on the list; will it then be said that you too are housing elements of the RPF, a soldier of the RPF?".

379. Under cross-examination, Akayesu declared that he did not read out any names but that he did cite that of Ephrem Karangwa. He added that he had summarized the contents of the documents in his possession by saying there was a list of names on which figured Ephrem Karangwa, tomorrow others could appear on the list, would it then be said that they too are hiding RPF soldiers. Akayesu said the Rukundakuvuga was also on the list, but denied having read it out. Akayesu stated it would be dangerous to publicly designate an individual as an accomplice of the RPF

380. The Defence argued that Akayesu never convened the gathering at Gishyeshye. Instead, the accused was amongst a group of people who had gathered there after a man had been killed. The Defence submitted that Interahamwe were angry, and forced Akayesu to read a document, which contained the names of persons they believed to be accomplices of the RPF. The Defence averred that Akayesu tried to dissuade the Interahamwe from denouncing people in this manner as there was nothing to prove on the list that these people were accomplices of the RPF.

Findings of fact

381. The Chamber has already found beyond a reasonable doubt that Akayesu was present and did speak at the gathering in Gishyeshye sector on the morning of 19 April 1994. This has been developed in the factual findings pertaining to paragraph 14 of the Indictment.

382. Akayesu admitted to having been given a number of documents by the Interahamwe François, and that he did cite the name of Ephrem Karangwa during this gathering, as a forewarning to those present that they too could be deemed RPF accomplices if their names figured on the list. Akayesu also admitted it would be dangerous to cite the name of an individual as an RPF accomplice. However, he was adamant that at he did not read out the documents as such, but summarized them for the crowd. Akayesu confirmed names, save that of Ephrem Karangwa, also appeared on the list. Further, the Defence submitted in its closing arguments that Akayesu had been forced to read out the documents given to him by the Interahamwe.

383. Akayesu's testimony, as regards the naming of Ephrem Karangwa, is supported by the evidence presented by witnesses Z, V, E and A in this matter. All four affirmed that only the name of Ephrem Karangwa had been cited during the Gishyeshye gathering. Witnesses V and Z added that in their opinions it was possible to infer, from Akayesu's gestures and subsequent conduct, reference to Sempabwa and Rukundakuvuga.

384. The Chamber finds that it has been proved beyond reasonable doubt that Akayesu did cite Ephrem Karangwa during the Gishyeshye meeting. It has also been established beyond a reasonable doubt he did so knowing of the consequences of naming someone as an RPF accomplice in the temporal context of the events alleged in the Indictment.

385. However, the Chamber is of the opinion that the evidence presented in this matter does not support the specific allegations that Akayesu named Juvénal Rukundakuvuga and Emmanuel Sempabwa. The evidence presented shows only an implicit, yet remote, allusion by Akayesu during the Gishyeshye gathering to these two individuals, and does not demonstrate that Akayesu expressly named them. Hence, the Chamber finds that it has not been proved beyond reasonable doubt that Akayesu named Juvénal Rukundakuvuga or Emmanuel Sempabwa during the Gishyeshye gathering on 19 April 1994, and that their fates were consequent upon the utterances of Akayesu at the Gishyeshye gathering.

5.4 Beatings (Torture/Cruel Treatment) (Paragraphs 16, 17, 21, 22 & 23 of the Indictment)

Charges Set Forth in the Indictment

> 16. Jean Paul Akayesu, on or about April 19, 1994, conducted house-to-house searches in Taba. During these searches, residents, including Victim V, were interrogated and beaten with rifles and sticks in the presence of Jean Paul Akayesu. Jean Paul Akayesu personally threatened to kill the husband and child of Victim U if she did not provide him with information about the activities of the Tutsi he was seeking.
>
> 17. On or about April 19,1994, Jean Paul Akayesu ordered the interrogation and beating of Victim X in an effort to learn the whereabouts of Ephrem Karangwa. During the beating, Victim X's fingers were broken as he tried to shield himself from blows with a metal stick.
>
> 21. On or about April 20, 1994, Jean Paul Akayesu and some communal police went to the house of Victim Y, a 68 year old woman. Jean Paul Akayesu interrogated her about the whereabouts of the wife of a university teacher. During the questioning, under Jean Paul Akayesu's supervision, the communal police hit Victim Y with a gun and sticks. They bound her arms and legs and repeatedly kicked her in the chest. Jean Paul Akayesu threatened to kill her if she failed to provide the information he sought.
>
> 22. Later that night, on or about April 20, 1994, Jean Paul Akayesu picked up Victim W in Taba and interrogated her also about the whereabouts of the wife of the university teacher. When she stated she did not know, he forced her to lay on the road in front of his car and threatened to drive over her.
>
> 23. Thereafter, on or about April 20, 1994, Jean Paul Akayesu picked up Victim Z in Taba and interrogated him. During the interrogation, men under Jean Paul Akayesu's authority forced Victims Z and Y to beat each other and used a piece of Victim Y's dress to strangle Victim Z.

Events Alleged

386. The Chamber notes that paragraph 16 of the Indictment includes allegations with respect to Victim V and Victim U. As the evidence which was given by and about Victim V (Witness A) relates to events which are described in paragraphs 21, 22 and 23 of the Indictment, the Chamber will consider this component of paragraph 16 together with the allegations set forth in paragraphs 21, 22 and 23.

387. Witness K (Victim U), a Tutsi woman married to a Hutu man, was an accountant who worked for the Accused in the office of the bureau communal in Taba, during the events of April 1994. Witness K testified that on the morning of 19 April 1994 she went to the bureau communal at the request of the Accused and that she found him there outside the office with many people, changed in mood and in temper. She said he asked her why she had not been coming to work and sh e told him that she was afraid and had come only at his request. After then witnessing the killing of Tutsi at the bureau communal, which she said was ordered by the Accused, Witness K said the killers asked the Accused why she had not been killed as well. She said he told them that they were going to kill her after questioning her about the secrets of the Inkotanyi. According to Witness K, the Accused then took her keys, locked her in her office and left, saying he was going to search for Ephrem Karangwa, the Inspector of Judicial Police.

388. The Accused returned, said Witness K, with other men whom she referred to as "killers", and they questioned her. She said they asked her to explain how she was cooperating with the Inkotanyi, which she denied. She said the Accused insisted and said that if she did not tell them how she worked with the Inkotanyi, they would kill her. After further discussion, she said the Accused again threatened her, saying she should tell them what she knew or they would kill her, and then left. At this time she estimated it was about three o'clock in the afternoon. Witness K testified that the Accused returned at around midnight with a police officer and asked her whether she had decided to tell them what she knew. When she said she knew nothing, she said he told her, "I wash my hands of your blood." She said he then told her to leave the office and go home and when she expressed concern about the late hour, he asked the driver and the police to accompany her home.

389. Under cross-examination, Witness K stated that her husband was a friend of the Accused. When asked why she was not killed, she said that Tutsi women married to Hutu men were not killed. In his testimony, the Accused confirmed that he saw Witness K at the bureau communal on 19 April 1994 and said that he had wondered why she was there. He said that he saw a man behind her with a machete and that he came between them and escorted her to the office, and told her to keep the door closed.

390. Witness Q (Victim X), a Tutsi man who lived in Musambira, testified that on the same day, 19 April 1994, while he was there visiting, the Accused came to the home of his parents, looking for Ephrem Karangwa, the Inspector of Judicial Police for the commune of Taba. Witness Q told the Chamber that the four people who came - one of whom was a policeman armed with a gun, another armed with grenades and another with a small hatchet - made him, his brother, his sister and his brother-in-law sit down in the courtyard at the entrance of the house. He said they asked where Ephrem Karangwa was, and after a discussion in French, entered the house to search, leaving the policeman with them in the courtyard, his gun charged and ready to shoot. Witness Q said he recognized the policeman, who told his brother-in-law that it was Akayesu, the bourgmestre of Taba, who had come to his house. He said that Akayesu was wearing a long military jacket. Witness Q had not previously met the Accused but was able to identify him in court. He said the Accused and two other people came out of the house with boxes, papers and photographs, which they scattered in the courtyard, saying the photographs of family members in Uganda had been sent by Inkotanyis. Witness Q said he and his relatives were then

beaten and kicked by the two men who were with the Accused, and he was hit with a small axe on his right hand. He said his brother-in-law was hit and wounded in the head. The witness displayed in court his right hand with a bent index finger, which he said had been broken from the beating when he raised his hand to ward off the blows. Witness Q testified that the Accused was present during this beating and watched it. He said the Accused was the one apparently responsible.

391. The other house-to-house searches referred to in the relevant paragraphs of the Indictment appear to have taken place on the next day and relate to the search by the Accused for Alexia, the wife of Pierre Ntereye, a university teacher. Witness N (Victim Y), a Hutu farmer, testified that she knew where Alexia was hiding. She said the Accused, whom she had known for two years, came to her house with three Interahamwe - Mugenzi, Francois and Singuranayo - at nine o'clock in the evening, the day after the meeting in the commune (i.e. 20 April), looking for Alexia. She said the Accused stayed in his vehicle, near the entrance of her home. The others broke down the door and pointed their guns at her, ordering her to show them the Inkotanyi hiding in her house. She said she told them to search the house, and one of them went to search while the other one stayed at the door. Witness N testified that Mugenzi, who was a communal police officer, took her by the arm to the door and hit her on her head with the barrel of his rifle. She said Francois, who had gone into the house, found a young girl whom he told to open her mouth. According to Witness N, Singuranayo then forced open her mouth and struck her with the barrel of the gun.

392. Witness N said that when she told them that she did not know where Alexia was, she was lifted by her arms and legs by the three men and taken outside to the Accused. She said the Accused told her to lie down, which she did. She said Mugenzi then stepped on her neck and pushed the butt of his rifle into her neck. She said he stomped on her with a lot of force, and that the Accused then hit her with a club on her back. When she shouted, she said the Accused told her to be quiet, calling her the mother-in-law of the Inkotanyi and a "poisonous woman." Witness N testified that they then took her in the vehicle to a partially opened mine at a place called Buguli. She said the Accused ordered her to lie down in front of the vehicle, got into the driver's seat and told her that he was going to run her over. Mugenzi told her to tell them where the people she was hiding were or they would kill her. She said she told them that she did not know and that they should kill her if they wanted. Witness N said Mugenzi then bound her arms and legs with a piece of cloth, pushed her to the ground and stomped on her with his foot. She said the others also joined in and stomped on her.

393. Witness N said she was then put in the vehicle and taken to the house of Ntereye's sisters. When they arrived, she said Francois called for Ntereye's niece Tabita (Victim W) and they questioned her. According to Witness N, the Accused remained in the vehicle and called Tabita from there. He asked her where Alexia was, and she said she did not know. Witness N testified that Tabita was then taken in the vehicle back to the mine. There, she said, they made her get out and told her to get in front of the vehicle. The Accused threatened to run her over and again asked her for the whereabouts of the people in question. She said Tabita was afraid and said that they had hidden in a sorghum field but that she did not know where they were. According to her testimony, Witness N was then told by the Accused that she was a "poisonous woman" and that she had hidden these people. She said they then began to strike her with their gun[s].

394. Witness N said that she and Tabita were then taken in the vehicle to a roadblock, where they picked up Victim Z, and they were then taken to Gishyeshye Sector. Witness N testified that she was at this time "almost dead" from the beating she had suffered. When they arrived, Witness N said she was thrown on the road, next to Victim Z, and they began to beat him with a club. She said the Accused then instructed Victim Z to beat her. She said Victim Z stood up and began to beat her, and that he beat her several times on her leg with a club. During this time, she testified that the Accused was standing next to them near the vehicle. Witness N said her hands were then tied in the back with a piece of cloth, the

other end of which was used to strangle Victim Z. She said they tightened the cloth, and his eyes almost came out of their sockets. Victim Z then said that he thought he knew who had hidden Alexia. She said [they] then started hitting him again, very hard, and the Accused asked [him] to hit her hard, to make her talk. Witness N said she threatened to bite [him] if [he] continued to hit her.

395. Witness N testified that she was then taken in the vehicle with Victim Z to a roadblock and there they picked up a person identified as Victim V(Witness A). She said they were taken to Victim V's house, where they were taken out of the vehicle and thrown on the ground. According to the testimony, they started beating Victim Z again with the club and they also beat Victim V and told him to bring out the person he was hiding. Victim V said he was not hiding anybody. On direct examination, Witness N said the Accused told Victim V to raise his arms so that they could shoot him. On cross-examination, Witness N testified that Mugenzi told Victim V to raise his arms so that they could shoot him. She said they did not shoot him, and that the Accused told Victim V that they would continue searching for Alexia and that if they did not find her he would have to die.

396. Witness N testified that as a result of the beatings she received, her arm is limp. She said that she can no longer walk as she did before and that she needs help to get dressed. She testified that she can no longer work on the farm. The Trial Chamber notes that Witness N walked with difficulty, aided by a walking stick.

397. Witness C (Victim Z), a Hutu farmer, testified that he knew Alexia, that she was a Tutsi teacher and the wife of Ntereye. He said that she hid in his house during April 1994 and that she had come to his house because she realized that he had not participated in the killings. Witness C testified that some Interahamwe came to his house while he was out harvesting coffee. He said one of his children came to look for him after the child had been beaten and asked where Alexia was. Witness C returned to his house and found the Interahamwe at the entrance, carrying machetes and clubs. He said some also had grenades. According to the testimony, the Interahamwe surrounded Witness C and accused him of hiding Alexia. Witness C said that Alexia was not in his house, and one of them started beating him on his back with the blunt side of a machete. He said he then told them that Alexia sometimes hid in his house and sometimes in another person's house. They continued to beat him, and Witness C testified that when he realized that he was about to be killed he said that Alexia was in another [room]. He said the Interahamwe took him to Victim Y's house, and when they arrived they continued beating him. He said they asked Victim Y where Alexia was, and she said that Alexia had gone to her husband's relatives. Witness C said that the Interahamwe then left the house, taking him with them, and after a distance released him, saying that they had from him what they needed.

398. Witness C (Victim Z) testified that one week after this incident, while participating in a night patrol, he saw the Accused, whom he had known for a long time, with three Interahamwes, Victim Y (Witness N) and Tabita, the niece of Ntereye, in a white twin cab. He said the Accused was driving and stopped at the roadblock, got out of his car and told the Interahamwe that they should bring Witness C to him. He said the Accused told him to get into the vehicle, which he did, and they drove to the forest. In the middle of the forest, Witness C said they stopped and asked him to get out and lie down in front of the vehicle. He said the Accused then stepped on his face, causing his lips to bleed, and kept his foot on Witness C's face while two of the Interahamwe - Francois and Mugenzi - began to beat him with the butt of their guns. During this time, he said he was asked repeatedly where Alexia was hiding.

399. Witness C said that during the beating, Victim Y(Witness N), who was in the vehicle, urged him to tell them where Alexia was, and when he realized that they were going to kill him, he told them that she was at his home. Concerned that they would find her there, Witness C said he then told them she was somewhere else and Victim Y told them that Victim V could advise them of her whereabouts. Witness C testified that he was then made to sit next to Victim Y and they were bound together, side by side, with a

rope by the Interahamwe Mugenzi. He said the rope was put around his neck. Under cross-examination, Witness C clarified that the rope was in fact a piece of cloth that he had been wearing. When he began to vomit, Witness C said they were untied and the Accused then told them to get back into the vehicle. Witness C also testified on examination that he was asked by Francois to hit Victim Y and given a cudgel, with which he struck her once on the leg. He said he was told to tell Victim Y to tell them where Alexia was hiding. After this, Witness C testified that the Accused told them to get back into the vehicle and they were taken to the roadblock.

400. At the roadblock, Witness C testified that they picked up Victim V and the Accused drove them to Victim V's house. When they arrived, he said the Accused asked his Interahamwes to search the house. He said two of them went in and came back, saying that Alexia was not in the house. According to Witness C, the Accused then told Victim V twice to step aside and raise his arms in the air so that they could shoot at him. One of the Interahamwe told him a third time to raise his arms so that they could shoot him. Witness C said they did not shoot at Victim V, but they again beat him, Witness C, on the back with the blunt side of a machete. He said they were then asked to get back in the vehicle and went near the home of Victim Y, who was dropped off. They continued, he said, dropping one Interahamwe off at a roadblock and stopping at another roadblock, where the members of Ntereye's family had been arrested. Witness C testified that the Accused asked them to get in the vehicle - a woman, three children and three men. He said they then went to a commercial center near Remera Rukoma, and the people were taken to a prison there. Witness C and Victim V were left to wait in the vehicle while the Accused, Francois and Mugenzi went to drink beer at a place about fifteen feet from the vehicle. From the vehicle, Witness C testified that he heard the Accused say to the Interahamwe "I do not think that what we are doing is proper. We are going to have to pay for this blood that is being shed." After the Accused and the Interahamwe drank beer and returned to the vehicle, Witness C said they were taken near the school of Remera Rukoma, dropped off there and told to be at the office the next morning at 7:00.

401. Witness C showed the Trial Chamber the scars he said he had from this beating, on the left side of his back. He said that he did not have scars on his lips but that he did have wounds on his head and a scar on his nose. He testified that he has continuing health problems such as a bleeding nose and pains in his head, and that his body is no longer what it was before.

402. Witness A (Victim V), a Hutu man, testified that he knew Alexia and that he was the person who had found the hiding place for her. He said he saw the Accused, whom he had known for ten years and worked with, one night while he was on patrol, sometime between 7:00 and 9:00. He said the Accused was alone in a white pickup truck, and while they were talking, he saw people, including the Interahamwe Francois and a commune police officer, coming from the house of an elderly woman, who lived near him. He said they put this woman in the vehicle and took her to the forest, and shouts were heard as they beat her. Later, he said the Accused came back and took away another of his neighbours who was doing the night patrol, and he also heard this person crying out as he was being beaten. Witness A said they came back and picked him up and went to his house. He said the Accused was driving the vehicle. He said they came into his house and searched for people they said were hiding there, in particular Alexia. Witness A said they had guns, and that after they searched the house they took him and the others to the gate of the house, and the commune police officer and Francois began to beat them with the butt of a rifle and a stick, asking them where Alexia was. At this time, he said the Accused was standing next to them and watching. He said when they discovered that Alexia was not in the house, they stopped the beating and put them in the vehicle. He said they released the elderly woman and sent her back to her house, and they continued to detain him and Victim Z.

403. Witness A testified that near his house, they found nine people from families who had been stopped by night patrols. He said these people were presented to the Accused who put them in the vehicle and took them to a prison near Remera Hospital. He said the Accused and Francois went to have drinks and

he was left in the vehicle with Victim Z and a young girl, guarded by the commune police officer. Afterwards, he said they went back to the bureau communal and on the way the Accused told them to go home but come back to the bureau communal early the next morning. At this time, he said it was approximately 2:00 in the morning. On cross-examination, Witness A said that he did not sustain serious injuries from the beatings apart from a broken rib which was treated.

404. The Accused testified that after Ntereye was killed on 10 May 1994, people were saying that they still did not know where his wife was. The Accused said he knew that she was being sought, and he said he was determined to save her. He said that Ntereye had told him that she was going from house to house. He said he found an Interahamwe called Francois and told him that he had someone to save. He said he asked Francois to help him for a price and gave him twenty thousand. He said he then went to Ntereye's sister's house and found his niece who told him that Alexia was living in the house of an elderly woman. He said he knew her to be a tough old lady and asked the niece to come with him to reassure her. He said they left - himself, a police officer and Francois. He said they called for the lady and she came, and he spoke to her. He said she told him that Alexia had been there but left and gone to Kayenzi. He said when he asked her whether she was telling the truth, she told him "I cannot lie because you are going to do good for Alexia and then I have also heard that you tried to save Ntereye." He said he left with the niece and drove to Buguli and that he spoke to her and her sisters, warning them not to let the children go outside because they would be killed. In his testimony, the Accused then moved on to other events. The Accused later testified that when he went to look for Alexia, there were two or three people at the roadblock near the home of the old lady, but that neither Victim V nor Victim Z was there, and he did not see them on this occasion. He testified that Victim Y, Victim Z and Victim V were known to him. He also said there were no mines in Buguli.

Factual Findings

405. The Chamber finds that on 19 April 1994, Victim U (Witness K) was threatened by the Accused at the bureau communal. She went to the bureau communal because she had been summoned there by the Accused. She was questioned by the Accused in the presence of men whom she had just seen killing Tutsi at the bureau communal. In response to a question from the killers, Victim U heard the Accused tell them that she would be killed after she was questioned about the secrets of the Inkotanyi. The Accused then questioned Victim U and threatened that she would be killed if she did not divulge information about her cooperation with the Inkotanyi. The Accused then locked Victim U in her office and left. When he returned in the afternoon, he resumed questioning Victim U and again threatened that she would be killed if she did not provide information about the Inkotanyi. He left again and returned at midnight with a police officer. The Accused asked her whether she would tell them what she knew and when she said she knew nothing, he said, "I wash my hands of your blood." He then asked the driver and the police to accompany her home.

406. The Chamber found Victim U to be a very credible witness whose testimony was not marked by anger or hostility and whose testimony was confirmed under cross-examination. The Chamber notes that the Accused in his testimony confirmed the presence of Victim U at the bureau communal on 19 April 1994. The Chamber does not accept his explanation of her presence there or his actions. If he intended to protect her, as he suggested, why did he take her key from her, why did he question her about the Inkotanyi, and why did he leave her there until midnight? The Accused did not address any of these questions or specifically deny that he did any of these things. He did not even deny specifically that he told the others in her presence that she would be killed after questioning or that he threatened her when he questioned her. The Chamber notes that there is no evidence to suggest that the Accused threatened the husband or child of Victim U.

407. With regard to the allegations set forth in paragraph 17 of the Indictment, the Chamber is unable to

find, beyond a reasonable doubt, that the Accused ordered the interrogation and beating of Victim X (Witness U) on 19 April 1994. The evidence presented in support of the allegation relies entirely on a single witness, the credibility of whom the Defence has successfully challenged. In cross-examination, the Defence questioned Witness Q regarding the details of the incident at his father's home, as they had been described by him in his pre-trial written statement. When asked about his prior statement that the Accused had been accompanied by two policemen rather than one, Witness Q explained that one of the policeman was from Taba and the other from Musambira. He said the second policeman had remained on the main road, and he had not actually seen this policeman which is why he did not mention him in his testimony. When asked about his prior statement that the Accused was armed rather than unarmed, Witness Q said that he had said that the Accused was wearing a military jacket and that he had heard that another policeman had a gun. When asked about his prior statement that he had been beaten by a policeman with a metal bar, Witness Q said that he was beaten by a man in civilian clothes, whom he assumed was a policeman because he was carrying a grenade. He said he was beaten with a metal instrument which had a pointed end. When asked about his prior statement that the Accused arrived in a red Toyota and that he saw a man lying in the rear seat of the vehicle with his hands tied, Witness Q said that he did not see the man in the back seat but that he heard about him. He said he did not see the vehicle as it was 500 meters away, but that he had heard that it was red.

408. While the Chamber has been cautious in allowing the contents of pre-trial written statements to impeach the testimony of witnesses before it, in this case the inconsistencies between the testimony and the written statement of Victim X are many and too significant to justify a finding of credibility without corroboration of other testimony. The Chamber notes that even if it were to accept the testimony of Victim X in full, it would not be able to find, beyond a reasonable doubt, that the Accused ordered the interrogation and beating of Victim X. The witness testified that the Accused was present and watched the beatings, but there is no evidence that he gave any orders. There is only evidence that words were spoken in French. No evidence has been presented as to what was said and by whom.

409. With regard to the search for Alexia, wife of Ntereye, the Chamber finds that at on the evening of 20 April 1994, the Accused went with two Interahamwe named Francois and Singuranayo and one communal police officer named Mugenzi to the house of Victim Y (Witness N), a [68] year old woman at the time. Mugenzi took her by the arm to the door and hit her on the head with the barrel of his rifle. Victim Y was then forcibly taken to the Accused, who ordered her to lie down. In the presence of the Accused, Victim Y was beaten by the communal police officer Mugenzi who stepped on her neck, pushed the butt of his rifle into her neck, and stomped on her. Victim Y was also beaten by the Accused, who hit her with a club on her back. She was interrogated by Mugenzi and the Accused about the whereabouts of Alexia, the wife of Ntereye, a university professor. She was then taken to Buguli, where the Accused made her lie down in front of the vehicle and threatened to run her over. At the mine, in the presence of the Accused, she was also threatened and interrogated by Mugenzi, who bound her arms and legs and stomped on her with his foot. The others stomped on her as well.

410. Later that night, the Accused picked up Tabita (Victim W) and interrogated her also about the whereabouts of Alexia, the wife of Ntereye. She was then taken in the vehicle back to the mine. She was asked to get in front of the vehicle, and the Accused threatened to run her over and again interrogated her about the whereabouts of Alexia.

411. Thereafter, on the same evening, the Accused picked up Victim Z (Witness C) and took him to a forest in Gishyeshye Sector, where the Accused stepped on his face, causing his lips to bleed, and kept his foot on Victim Z's face while the Interahamwe Francois and the commune police officer Mugenzi beat him with the butt of their guns. Victim Z was tied to Victim Y with a piece of cloth by Mugenzi, which was used to choke him. Victim Z was also forced by Francois to beat Victim Y with a cudgel he was given. During this time, Victim Z was interrogated, but it is unclear who actually did the

interrogation.

412. Following the interrogation of Victim Y and Victim Z, the Accused picked up Victim V at a roadblock and took him, with Victim Y and Victim Z, to his house, which was searched by Interahamwe at the direction of the Accused. The Accused then told Victim V to raise his arms in the air and threatened to shoot him. In the presence of the Accused, Victim V was then beaten under interrogation by the Interahamwe Francois and the commune police officer Mugenzi with the butt of a rifle and a stick. Victim Z was beaten on the back with the blunt side of a machete. Victim Y, Victim Z and Victim V were then taken away in the vehicle and, after Victim Y was released near her home, Victim Z and Victim V were kept in the vehicle while the Accused and the others drank beer. Victim Z and Victim V were released at approximately 2:00 in the morning.

413. As a result of the beatings, Victim Y has trouble walking. Victim Z has scars on his back and continuing health problems. Victim V sustained a broken rib from the beatings.

414. The Chamber notes that the testimony of Witness N, Witness C and Witness A closely correlate in all material respects and even with regard to minor details. There were very few inconsistencies, of an extremely minor nature. Witness N said, for example, that Victim Z (Witness C) was beaten with a club. Victim Z testified that he was beaten with the butt of a gun. It is clear that there was a club, as it was used by Victim Z to hit Victim Y (Witness N) when he was forced to do so. It is understandable that Victim Y may have therefore mistaken the instrument used on Victim Z. Victim Z initially testified that he was tied to Victim Y with a rope, whereas Victim Y testified that it was a piece of cloth. On cross-examination, however, Victim Z clarified that in fact it was a piece of cloth that was used.

415. The Chamber finds these facts have been established beyond a reasonable doubt. In making its factual findings, the Chamber has carefully considered the cross-examination by the Defence of Prosecution witnesses and the evidence presented by the Defence in the form of testimony by the Accused. With regard to cross-examination, the Chamber notes that the Prosecution witnesses substantially confirmed their direct testimony. In his testimony, the Accused confirmed that he picked up the niece of Ntereye, with the Interahamwe Francois and his police officer, and went with her to the house of Victim Y. He confirmed that he drove with Ntereye's niece to Buguli, stating only that there were no mines in Buguli. The Accused also confirmed that he was looking for Alexia, the wife of Ntereye, but he maintained that he was determined to save her. He said that he paid Francois to help him in this effort. The Accused testified that he did not see Victim Z or Victim V at the roadblock near the home of Victim Y, although they all testified that they saw him and each other. According to the testimony of the Accused, the search for Alexia took place after the death of Ntereye on 10 May 1994. All the prosecution witnesses, however, date this search to 20 April 1994. The Defence in its cross-examination did not question the evidence given by the Prosecution witnesses about the date. The Accused also testified that when he spoke to Victim Y, she said "I cannot lie because you are going to do good for Alexia and then I have also heard that you tried to save Ntereye." Having heard Victim Y's (Witness N's) testimony, the Chamber finds it highly unlikely that she would have made such a statement and notes that the statement was not put to her by the Defence on cross-examination, in which the Accused himself participated. Moreover, the Accused's account of his efforts to find and save Alexia simply tapered off in his testimony, without any explanation as to whether he continued the search or gave it up and if so, why. The Chamber also notes the testimony of Witness PP, which it has accepted as credible, that when Alexia and her nieces were brought to the bureau communal, the Accused said to the Interahamwe, "Take them to Kinihira. Don't you know where killings take place, where the others have been killed?" The actions of the Accused were incompatible with a desire to save Alexia, and the Chamber does not accept the testimony of the Accused on these events as credible.

5.5 Sexual Violence (Paragraphs 12A & 12B of the Indictment)

Charges Set Forth in the Indictment

> 12A. Between April 7 and the end of June, 1994, hundreds of civilians (hereinafter "displaced civilians") sought refuge at the bureau communal. The majority of these displaced civilians were Tutsi. While seeking refuge at the bureau communal, female displaced civilians were regularly taken by armed local militia and/or communal police and subjected to sexual violence, and/or beaten on or near the bureau communal premises. Displaced civilians were also murdered frequently on or near the bureau communal premises. Many women were forced to endure multiple acts of sexual violence which were at times committed by more than one assailant. These acts of sexual violence were generally accompanied by explicit threats of death or bodily harm. The female displaced civilians lived in constant fear and their physical and psychological health deteriorated as a result of the sexual violence and beatings and killings.
> 12B. Jean Paul Akayesu knew that the acts of sexual violence, beatings and murders were being committed and was at times present during their commission. Jean Paul Akayesu facilitated the commission of the sexual violence, beatings and murders by allowing the sexual violence and beatings and murders to occur on or near the bureau communal premises. By virtue of his presence during the commission of the sexual violence, beatings and murders and by failing to prevent the sexual violence, beatings and murders, Jean Paul Akayesu encouraged these activities.

Events Alleged

416. Allegations of sexual violence first came to the attention of the Chamber through the testimony of Witness J, a Tutsi woman, who stated that her six year-old daughter had been raped by three Interahamwe when they came to kill her father. On examination by the Chamber, Witness J also testified that she had heard that young girls were raped at the bureau communal. Subsequently, Witness H, a Tutsi woman, testified that she herself was raped in a sorghum field and that, just outside the compound of the bureau communal, she personally saw other Tutsi women being raped and knew of at least three such cases of rape by Interahamwe. Witness H testified initially that the Accused, as well as commune police officers, were present while this was happening and did nothing to prevent the rapes. However, on examination by the Chamber as to whether Akayesu was aware that the rapes were going on, she responded that she didn't know, but that it happened at the bureau communal and he knew that the women were there. Witness H stated that some of the rapes occurred in the bush area nearby but that some of them occurred "on site". On examination by the Chamber, she said that the Accused was present during one of the rapes, but she could not confirm that he saw what was happening. While Witness H expressed the view that the Interahamwe acted with impunity and should have been prevented by the commune police and the Accused from committing abuses, she testified that no orders were given to the Interahamwe to rape. She also testified that she herself was beaten but not raped at the bureau communal.

417. On 17 June 1997, the Indictment was amended to include allegations of sexual violence and additional charges against the Accused under Article 3(g),Article 3(i) and Article 4(2)(e) of the ICTR Statute. In introducing this amendment, the Prosecution stated that the testimony of Witness H motivated them to renew their investigation of sexual violence in connection with events which took place in Taba at the bureau communal. The Prosecution stated that evidence previously available was not sufficient to link the Accused to acts of sexual violence and acknowledged that factors to explain this lack of evidence might include the shame that accompanies acts of sexual violence as well as insensitivity in the investigation of sexual violence. The Chamber notes that the Defence in its closing statement questioned whether the Indictment was amended in response to public pressure concerning the prosecution of sexual violence. The Chamber understands that the amendment of the Indictment resulted

from the spontaneous testimony of sexual violence by Witness J and Witness H during the course of this trial and the subsequent investigation of the Prosecution, rather than from public pressure. Nevertheless, the Chamber takes note of the interest shown in this issue by non-governmental organizations, which it considers as indicative of public concern over the historical exclusion of rape and other forms of sexual violence from the investigation and prosecution of war crimes. The investigation and presentation of evidence relating to sexual violence is in the interest of justice.

418. Following the amendment of the Indictment, Witness JJ, a Tutsi woman, testified about the events which took place in Taba after the plane crash. She that she was driven away from her home, which was destroyed by her Hutu neighbours who attacked her and her family after a man came to the hill near where she lived and said that the bourgmestre had sent him so that no Tutsi would remain on the hill that night. Witness JJ saw her Tutsi neighbours killed and she fled, seeking refuge in a nearby forest with her baby on her back and her younger sister, who had been wounded in the attack by a blow with an axe and two machete cuts. As she was being chased everywhere she went, Witness JJ said she went to the bureau communal. There she found more than sixty refugees down the road and on the field nearby. She testified that most of the refugees were women and children.

419. Witness JJ testified that the refugees at the bureau communal had been beaten by the Interahamwe and were lying on the ground when she arrived. Witness JJ encountered four Interahamwe outside the bureau communal, armed with knives, clubs, small axes and small hoes. That afternoon, she said, approximately forty more Interahamwe came and beat the refugees, including Witness JJ. At this time she said she saw the Accused, standing in the courtyard of the communal office, with two communal police officers who were armed with guns, one of whom was called Mushumba. Witness JJ said she was beaten on the head, the ribs and the right leg, which left her disabled. That evening, she said, the Accused came with a policeman to look for refugees and ordered the Interahamwe to beat them up, calling them "wicked, wicked people" and saying they "no longer had a right to shelter." The refugees were then beaten and chased away. Witness JJ said she was beaten by the policeman Mushumna, who hit her with the butt of his gun just behind her ear.

420. Witness JJ testified that she spent the night in the rain in a field. The next day she said she returned to the bureau communal and went to the Accused, in a group of ten people representing the refugees, who asked that they be killed as the others had been because they were so tired of it all. She said the Accused told them that there were no more bullets and that he had gone to look for more in Gitarama but they had not yet been made available. He asked his police officers to chase them away and said that even if there were bullets they would not waste them on the refugees. As the refugees saw that death would be waiting for them anywhere else, Witness JJ testified they stayed at the bureau communal.

421. Witness JJ testified that often the Interahamwe came to beat the refugees during the day, and that the policemen came to beat them at night. She also testified that the Interahamwe took young girls and women from their site of refuge near the bureau communal into a forest in the area and raped them. Witness JJ testified that this happened to her - that she was stripped of her clothing and raped in front of other people. At the request of the Prosecutor and with great embarrassment, she explicitly specified that the rapist, a young man armed with an axe and a long knife, penetrated her vagina with his penis. She stated that on this occasion she was raped twice. Subsequently, she told the Chamber, on a day when it was raining, she was taken by force from near the bureau communal into the cultural center within the compound of the bureau communal, in a group of approximately fifteen girls and women. In the cultural center, according to Witness JJ, they were raped. She was raped twice by one man. Then another man came to where she was lying and he also raped her. A third man then raped her, she said, at which point she described herself as feeling near dead. Witness JJ testified that she was at a later time dragged back to the cultural center in a group of approximately ten girls and women and they were raped. She was raped again, two times. Witness JJ testified that she could not count the total number of times she was

raped. She said, "each time you encountered attackers they would rape you," - in the forest, in the sorghum fields. Witness JJ related to the Chamber the experience of finding her sister before she died, having been raped and cut with a machete.

422. Witness JJ testified that when they arrived at the bureau communal the women were hoping the authorities would defend them but she was surprised to the contrary. In her testimony she recalled lying in the cultural center, having been raped repeatedly by Interahamwe, and hearing the cries of young girls around her, girls as young as twelve or thirteen years old. On the way to the cultural center the first time she was raped there, Witness JJ said that she and the others were taken past the Accused and that he was looking at them. The second time she was taken to the cultural center to be raped, Witness JJ recalled seeing the Accused standing at the entrance of the cultural center and hearing him say loudly to the Interahamwe, "Never ask me again what a Tutsi woman tastes like," and "Tomorrow they will be killed" (Ntihazagire umbaza uko umututsikazi yari ameze, ngo kandi mumenye ko ejo ngo nibabica nta kintu muzambaza. Ngo ejo bazabica). According to Witness JJ, most of the girls and women were subsequently killed, either brought to the river and killed there, after having returned to their houses, or killed at the bureau communal. Witness JJ testified that she never saw the Accused rape anyone, but she like Witness H, believed that he had the means to prevent the rapes from taking place and never even tried to do so. In describing the Accused and the statement he made regarding the taste of Tutsi women, she said he was "talking as if someone were encouraging a player" (Yavugaga nk'ubwiriza umukinnyi) and suggested that he was the one "supervising" the acts of rape. Witness JJ said she did not witness any killings at the bureau communal, although she saw dead bodies there.

423. When Witness JJ fled from the bureau communal, she left her one year-old child with a Hutu man and woman, who said they had milk for the child and subsequently killed him. Witness JJ spoke of the heavy sorrow the war had caused her. She testified to the humiliation she felt as a mother, by the public nudity and being raped in the presence of children by young men. She said that just thinking about it made the war come alive inside of her. Witness JJ told the Chamber that she had remarried but that her life had never been the same because of the beatings and rapes she suffered. She said the pain in her ribs prevents her from farming because she can no longer use a hoe, and she used to live on the food that she could grow.

424. Witness OO, a young Tutsi woman, testified that she and her family sought refuge at the bureau communal in April 1994 and encountered many other Tutsi refugees there, on the road outside the compound. While she was there, she said, some Interahamwe arrived and started killing people with machetes. She and two other girls tried to flee but were stopped by the Interahamwe who went back and told the Accused that they were taking the girls away to "sleep with" them. Witness OO told the Chamber that standing five meters away from the Accused, she heard him say in reply, "take them". She said she was then separated from the other girls and taken to a field by one Interahamwe called Antoine. When she refused to sit down, he pushed her to the ground and put his "sex" into hers, clarifying on examination that he penetrated her vagina with his penis. When she started to cry, she said he warned her that if she cried or shouted, others might come and kill her.

425. According to Witness OO, Antoine left her in the field and returned that night to take her to the house of a woman called Zimba, where she spent three nights. On the fourth night, she said Antoine returned and took her to another Interahamwe called Emanuel. She said that Antoine did the same thing he had done before to her, and that Emanuel followed him in turn. Witness OO told the Chamber she spent three days and nights at the house of Emanuel where every day she was sexually violated by both Antoine and Emanuel. Afterwards, she said she was chased away by them.

426. Witness OO returned to the bureau communal when she heard that an order had been given to stop the killing of women and children, but after hearing the Accused, Kubwimana and Ruvugama all call for

the killing of Tutsi, she left and went back into hiding. Subsequently, she and her seven year-old sister were apprehended by Interahamwe and taken to a roadblock. Her sister and two other people were imprisoned overnight and killed in the morning. At the time of these events, Witness OO was fifteen years old. When asked how it was that the Accused had the authority to protect her from rape, Witness OO replied that if he had told the Interahamwe not to take her from the bureau communal, they would have listened to him because he was the bourgmestre. Witness OO was unable to identify the Accused in the courtroom. She told the Chamber that someone had pointed him out to her at the bureau communal as the bourgmestre but that she had not looked at him closely and that it had been a long time ago.

427. Witness KK, a Hutu woman married to a Tutsi man, also sought refuge at the bureau communal in Taba after her home was destroyed. She testified that the Tutsi refugees there were beaten often by the police and the Accused, whom she described as "supervising." She recalled the Accused publicly name a teacher called Tharcisse as an accomplice and send the police to find him. They brought Tharcisse and his wife and made them sit in the mud. With the Accused standing nearby they then killed Tharcisse. They took off his wife's clothing and told her to go and die somewhere else. Witness KK testified that on the same day, on the orders of the Accused, the Interahamwe brought teachers from Remera, who were also forced to sit in the mud. She said they started by clubbing a young teacher who had been brought with his fiancee, and that during this time the Accused was walking around and supervising the police, who were beating refugees. The teachers were critically wounded with small hoes and taken in a wheelbarrow to a mass grave, many still breathing, left to die a slow death.

428. Witness KK testified that her husband was beaten at the bureau communal and injured on the head. After escaping, he was captured by Interahamwe, and Witness KK received a message from him requesting to speak to her before he died. She found him behind the bureau communal with Interahamwes armed with clubs and spears, who then took him away between the two buildings of the bureau communal. She learned later that he was killed. Witness KK later went to the Accused and asked him for an attestation to help her keep her children alive. She said he replied that it was not he who had made them be born Tutsi and that "when rats are killed you don't spare rats that are still in the form of fetus." Witness KK testified that she had been pregnant and miscarried after being beaten by police and Interahamwe. Of her nine children, only two survived the events of this period.

429. Witness KK also recalled seeing women and girls selected and taken away to the cultural center at the bureau communal by Interahamwes who said they were going to "sleep with" these women and girls Witness KK testified regarding an incident in which the Accused told the Interahamwe to undress a young girl named Chantal, whom he knew to be a gymnast, so that she could do gymnastics naked. The Accused told Chantal, who said she was Hutu, that she must be a Tutsi because he knew her father to be a Tutsi. As Chantal was forced to march around naked in front of many people, Witness KK testified that the Accused was laughing and happy with this. Afterwards, she said he told the Interahamwes to take her away and said "you should first of all make sure that you sleep with this girl." (Ngo kandi nababwiye ko muzajya mubanza mukirwanaho mukarongora abo bakobwa.) Witness KK also testified regarding the rape of Tutsi women married to Hutu men. She described, after leaving the bureau communal, encountering on the road a man and woman who had been killed. She said the woman, whom she knew to be a Tutsi married to a Hutu, was "not exactly dead" and still in agony. She describec the Interahamwes forcing a piece of wood into the woman's sexual organs while she was still breathing, before she died. In most cases, Witness KK said that Tutsi women married to Hutu men "were left alone because it was said that these women deliver Hutu children." She said that there were Hutu men who married Tutsi women to save them, but that these women were sought, taken away forcibly and killed. She said that she never saw the Accused rape a woman.

430. Witness NN, a Tutsi woman and the younger sister of JJ, described being raped along with another sister by two men in the courtyard of their home, just after it was destroyed by their Hutu neighbours

and her brother and father had been killed. Witness NN said one of the men told her that the girls had been spared so that they could be raped. She said her mother begged the men, who were armed with bludgeons and machetes, to kill her daughters rather than rape them in front of her, and the man replied that the "principle was to make them suffer" and the girls were then raped. Witness NN confirmed on examination that the man who raped her penetrated her vagina with his penis, saying he did it in an "atrocious" manner, mocking and taunting them. She said her sister was raped by the other man at the same time, near her, so that they could each see what was happening to the other. Afterwards, she said she begged for death.

431. According to the testimony of Witness NN, after these men left, two other men who were neighbours came and one of them raped her, while the other took her sister a little further away and raped her sister. She recalled that the neighbour said that marriage had been refused to them, but now they were going to sleep with the girls without penalty (peine). She said the men left afterwards, warning the girls that they would kill them if they did not stay where they were. That evening, she said two other younger men, around the age of 15 or 16, came and asked them to "teach them because they didn't know how it was done". After these two men raped the girls, Witness NN said their mother asked her daughters to leave rather than continue to be tortured in front of her. The girls left and went into hiding with a relative.

432. After hiding for a week and one half, Witness NN said she heard that Akayesu had stopped the killings, and she went with her sister towards the bureau communal. On the way, having taken a different route from her sister, Witness NN said she met two men who said they would accompany her to the bureau communal and that they had been given orders by the bourgmestre. She said the two men then took her a short distance away and raped her, each of them in turn, leaving her there afterwards lying naked. Subsequently, she said four men herding cattle came upon her, and two of them raped her. These incidents took place in the countryside, not very far from the bureau communal, according to Witness NN. After the rapes, Witness NN said she could not move - she was unable to get up and unable to dress herself. She said her sister found her and brought her some ghee to put in her lower parts to relieve the muscles. When she was able to get up, Witness NN said she continued on her way to the bureau communal with her sister.

433. Witness NN estimated that she arrived at the bureau communal some time in the beginning of May, and she said she found about three hundred refugees there, mostly women and children. The morning after she arrived, she said she saw the Accused with a towel around his neck, moving to the place where two Interahamwes were driving a woman to rape her, between the bureau communal and the cultural center. She said she saw the Accused standing watching the men drag the woman and later on he entered the office. She said she saw the Interahamwe circle this woman and saw them on top of her but did not see them penetrate her. She also said there were many refugees watching while this was happening. During the rape, she said there were two commune policemen who were in front of the office of the bourgmestre, one called Mushumba and one called Nsengiyumva who was in plain clothes. She said they did nothing to prevent the rape from happening and that the Accused did nothing as well - only watched and entered his office. She said after the rape she saw that the naked woman was hungry and cold, and the woman was pregnant. She said she was told by an Interahamwe that the woman died at the bureau communal. Witness NN said she did not see anyone raped inside the cultural center but that the Interahamwe did come at night and take some girls away.

434. Two days after arriving at the bureau communal, Witness NN recounted seeing an Interahamwe called Rafiki, whom she had known previously and who had previously told her that he wanted to live with her. When he saw her at the bureau communal, she said he told her that he was going to rape her and not marry her. She said Rafiki took her to his home not far from the bureau communal and locked her up there for two days, during which time he raped her repeatedly day and night, a total of

approximately six times. She said often when he came to rape her, he had been smoking herbs or drinking alcohol. When she returned to the bureau communal, Witness NN said she found her sister, who told her that she also had been raped again, at the bureau communal. Witness NN testified that her sister was hungry and cold, and could not move. Her sister died and when they went to bury her, they found her body had been eaten by dogs.

435. Witness NN said she saw the Accused often at the bureau communal and that she heard him tell police to remove the refugees, citing one occasion where a policeman named Mushuba beat and chased them away after receiving such an order from the Accused. She also recalled seeing the Accused when Ntereye was taken from the prison and killed. She did not witness this killing but heard a gunshot and later saw the corpse of Nteyere, his head crushed as if by a hammer. Subsequently, Witness NN said on two consecutive days she was taken with a group of several hundred people, mostly women and children, to a hole near the bureau communal where the Interahamwe were intending to kill them with a grenade. The first day they were apparently unable to find a grenade. On the second day, they were beaten and brought back to the hole. At that time Witness NN said Rafiki, the Interahamwe who had locked her in his house, took her out of the group and said that she was his wife. According to her testimony, the Interahamwe then started stabbing the group of people, beating them with machetes and throwing them into the hole while she was standing by. Witness NN said she closed her eyes but could hear people crying and shouting. She estimated that the killing of the group took twenty minutes, and recalled feeling as if she were dead, apart from the fact that she was still breathing.

436. Witness NN said she was then taken by the younger brother of Rafiki back to his home where she stayed for one week. While she was there, she said she was locked up by Rafiki, who gave the key to other young men who came and "slept with" her, which she explained meant that they took their "sex" and put it into hers. She did not recall how many times this happened, stating that they came every day but that sometimes they did not rape her. After a week, Witness NN told the Chamber that she ran away and hid in the bush. Witness NN expressed the opinion in her testimony that the Accused had the power to oppose the killings and rapes and that by not giving refuge to anybody at the bureau communal, he authorized the rapes which took place. She testified that as a result of the rapes she has had recurring vaginal discharge and pain which require treatment in hospital.

437. Witness PP, a Tutsi woman married to a Hutu man, lived very near the bureau communal. Witness PP testified that she saw three women - Alexia, the wife of Ntereye, and her two nieces Nishimwe and Louise - raped and killed at Kinihira, a basin near the bureau communal. Witness PP said that the women were brought by the Interahamwe, at the direction of the Accused, in a vehicle of the bureau communal driven by Mutabaruka, the driver of the commune of Taba. She said she first saw the women in the vehicle at the bureau communal, where she heard the Accused say to the Interahamwe, "Take them to Kinihira. Don't you know where killings take place, where the others have been killed?" According to Witness PP, who then went to Kinihira herself, the three women were forced by the Interahamwe to undress and told to walk, run and perform exercises "so that they could display the thighs of Tutsi women." All this took place, she said, in front of approximately two hundred people. After this, she said the women were raped. She described in particular detail the rape of Alexia by Interahamwe who threw her to the ground and climbed on top of her saying "Now, let's see what the vagina of a Tutsi woman feels like." According to Witness PP, Alexia gave the Interahamwe named Pierre her Bible before he raped her and told him, "Take this Bible because it's our memory, because you do not know what you're doing." Then one person held her neck, others took her by the shoulders and others held her thighs apart as numerous Interahamwe continued to rape her - Bongo after Pierre, and Habarurena after Bongo. According to the testimony, Alexia was pregnant. When she became weak she was turned over and lying on her stomach, she went into premature delivery during the rapes. Witness PP testified that the Interahamwe then went on to rape Nishimwe, a young girl, and recalled lots of blood coming from her private parts after several men raped her. Louise was then raped by several

Interahamwe while others held her down, and after the rapes, according to the testimony, all three women were placed on their stomachs and hit with sticks and killed.

438. Witness PP said that no one tried to rape her because they did not know which ethnic group she belonged to. She also said she was protected from rape by an Interahamwe named Bongo because she had given him a sandwich and tea, and he told the other Interahamwe not to harm her. Witness PP testified that some women and children were able to escape from the bureau communal in April 1994 but that they had to "sacrifice themselves" in order to survive. By sacrifice she said she meant that they submitted to rape and she said that she helped to care for one of these women who subsequently came to her house for a week. On cross-examination, Witness PP described her encounter with a woman called Vestine, whom she had rescued from the pit at Kinihira where people were being thrown and where Vestine had just given birth. Witness PP said she brought Vestine to stay in the house of Emmanuel, a man she knew, and when she went back two days later, he told her that Vestine had been taken by an Interahamwe called Habarurena to a sorghum field in a place known as Kanyinya. According to Witness PP, Habarurena kept Vestine in the sorghum field for a week and raped her repeatedly. When she next saw Vestine there was a liquid flowing from her private parts and Vestine told her, "I think it would be better to go Kinihira to be killed." The next day Witness PP said she saw Vestine being raped, together with other women, and there was nothing she could do. On the following day, from the church where she went to pray, Witness PP said she saw Vestine being killed with a machete, by an Interahamwe called Bongo, and thrown into the pit, having been brought back there by the Interahamwe Habarurena.

439. Defence Witness DBB, a former student of the Accused currently in detention in Rwanda, testified that he went to the bureau communal on the 17 April 1994. Thereafter he went into hiding during the massacres and did not go to the bureau communal at all. Witness DBB testified that he never heard of or saw violence perpetrated against women during the events which took place in 1994, and that no women in his sector were raped. Subsequently he did say that he heard people saying that women were being raped in the commune of Taba, outside of his sector, but he said he did not witness this. Witness DBB said he did not hear the name of the Accused mentioned in connection with sexual violence and that it was being attributed to the people who were participating in the massacres and looting. Witness DBB expressed the view that these incidents were being done out of sight of the Accused. On cross-examination he said he did not know anything about the Accused allowing women to be taken away and raped at the bureau communal.

440. Defence Witness DCC, the driver of Taba commune, testified that he never heard about violence perpetrated against women in Taba commune, that the Accused perpetrated violence against women in the commune or that the Accused gave orders for women to be raped. He said that during the period he was at the bureau communal, in April and throughout May, there were refugees there and he was there every day. He said nothing happened to the women refugees, and that he did not witness any of them being beaten or taken away to be raped. He said he did not know Alexia, Ntereye's wife, and denied going to look for her, finding her, and driving her in the communal vehicle to the bureau communal and then to Kinihira. He said the bureau communal vehicle had broken down before the massacres started

441. Defence Witness DZZ , a former Taba communal policeman currently in detention in Rwanda, testified that he went to the bureau communal every day and that incidents of sexual violence did not take place there. Witness DZZ also testified that he saw no crimes of any type being committed at the bureau communal. Witness DZZ was quite insistent that he heard of no cases of rape in the entire commune of Taba during this period. Defence Witness DCX in a similar statement said that when he was in Taba he heard no mention of sexual violence. He stated categorically that there was no rape. Defence Witness DAX when asked whether he had heard that the Interahamwe had committed crimes of sexual violence against women stated that nobody talked about such things where he was. He said he could not affirm that elsewhere maybe such things were heard or took place.

442. Defence Witness Matata, called as an expert witness, noted only one case he had heard of in Taba, an attempted rape of two girls aged fourteen and fifteen. He expressed his opinion that the bourgmestre would not have been aware of this case as it was in a region, Buguri sector, which the bourgmestre had never gone to. Witness Matata noted that there is a cultural factor which prevented people from talking about rape, but also suggested that the phenomenon of rape was introduced afterwards for purposes of blackmail. He said he had come across incidents of rape in other parts of the country but suggested that cases of rape were not frequent and not related to an ethnic group. Witness Matata expressed the opinion that rapists were more interested in satisfying their physical needs, that there were spontaneous acts of desire even in the context of killing. He noted that Tutsi women, in general, are quite beautiful and that raping them is not necessarily intended to destroy an ethnic group, but rather to have a beautiful woman.

443. Defence Witness DIX testified that her father lent his vehicle to the Accused and helped him ensure security in the commune during this period. Witness DIX testified that she was at home in Taba and heard all the news but that she did not hear anything about rape or sexual violence during the killings which took place. However, she said that she received all her information from her parents and neighbours and did not once go to the bureau communal after the killings started. She said that she herself saw the Accused just one time, in April. According to her testimony, she did not speak to him at that time, and has never spoken to him at any other time. Nevertheless, Witness DIX expressed the opinion that the Accused had committed no crime, and she was surprised that he was in prison. Defence Witness DJX, a minor and the brother of Witness DIX, also testified that he did not hear anything about rape and he did not see any cases of rape. The Chamber notes that the written statements of these two witnesses, prepared and submitted by the Defence, are identical. Witness DJX was twelve years old at the time of the events, and like Witness DIX, he testified that he did not go to the bureau communal during this period. He said he saw the Accused two times.

444. Witness DFX testified that she was never a witness to acts of rape or sexual violence in Taba and that she never even heard anyone talk about them. The Chamber notes that this witness, who is a protected witness, has a close personal relationship to the Defendant. She testified, on examination by the Chamber, that the Accused did not tell her what was happening at the bureau communal, that she did not ask him, and that her source of information was from other people. On cross-examination by the Prosecution, she testified that she herself never went to the bureau communal during this period for security reasons. On examination by the Chamber, the Witness acknowledged that in her written statement submitted by the Defence she had mentioned reports that the Interahamwe were abducting beautiful Tutsi girls and taking them home as mistresses. She conceded that such conduct could be considered sexual violence as it was not consensual.

445. Defence Witness DEEX, a Tutsi woman, testified that before killing women the Interahamwes raped them. Asked whether the Accused encouraged or authorized them in this sexual violence, she said she did not know. On cross-examination, she said that she did not personally witness sexual violence, although she heard that the girls at the house of the family where she had taken refuge were raped by the Interahamwe. Witness DEEX testified that she was given a laissez-passer by the Accused, which helped her to move around safely.

446. The Accused himself testified that he was completely surprised by the allegations of rape in Taba during the events which took place. He asserted that anyone saying that even a single woman was raped at the bureau communal was lying. While he acknowledged that some witnesses had testified that they were raped at the bureau communal, he swore, in the name of God, that the charge was made up. He said he never saw, and never heard from his policemen, that any woman was raped at the bureau communal. He said that he heard about rape accusations over Radio Rwanda and that women's associations had organized demonstrations and a march from Kigali to Taba. He suggested that perhaps this was intended to make the Chamber understand that in Taba women were raped at the bureau communal, but he

insisted that women were never raped within the premises of the bureau communal or on land belonging to the bureau communal or the commune.

447. In his testimony, the Accused recalled the allegation that he had forced a young girl, Chantal, to march naked. He said he did not know her and that it never took place. He said he would not do something like that. He referred to the account of a woman raped with a wooden stick as "savagery", questioning how a woman could witness such a thing, and he referred to the statement he had been accused of making at the entrance to the cultural center as "too much". He also testified that the cultural center building is such that it would be difficult to see what was going on inside from the door and that it would be difficult for a woman lying down inside to know who is at the door. The Accused testified that there were women taking refuge all over and outside the bureau communal and that there were women in the cultural center. He denied that the Interahamwe brought women to the cultural center. He said that some of the women who took refuge at the bureau communal were killed and others escaped.

448. On examination by the Chamber, the Accused stated that he did hear about rapes in Kigali but only after he was out of the country. When asked by the Chamber for a reaction to the testimony of sexual violence, the Accused noted that rape was not mentioned in the pre-trial statements of Witness J and Witness H, although Witness H said on examination by the Chamber that she had mentioned her rape to investigators. The Accused suggested that his Indictment was amended because of pressure from the women's movement and women in Rwanda, whom he described as "worked up to agree that they have been raped." On examination by the Chamber, the Accused acknowledged that it was possible that rape might have taken place in the commune of Taba, but he insisted that no rape took place at the bureau communal. He said he first learned of the rape allegations in Taba at the Chamber and maintained that the charges were an "invented accusation.

Factual Findings

449. Having carefully reviewed the testimony of the Prosecution witnesses regarding sexual violence, the Chamber finds that there is sufficient credible evidence to establish beyond a reasonable doubt that during the events of 1994, Tutsi girls and women were subjected to sexual violence, beaten and killed on or near the bureau communal premises, as well as elsewhere in the commune of Taba. Witness H, Witness JJ, Witness OO, and Witness NN all testified that they themselves were raped, and all, with the exception of Witness OO, testified that they witnessed other girls and women being raped. Witness J, Witness KK and Witness PP also testified that they witnessed other girls and women being raped in the commune of Taba. Hundreds of Tutsi, mostly women and children, sought refuge at the bureau communal during this period and many rapes took place on or near the premises of the bureau communal - Witness JJ was taken by Interahamwe from the refuge site near the bureau communal to a nearby forest area and raped there. She testified that this happened often to other young girls and women at the refuge site. Witness JJ was also raped repeatedly on two separate occasions in the cultural center on the premises of the bureau communal, once in a group of fifteen girls and women and once in a group of ten girls and women. Witness KK saw women and girls being selected and taken by the Interahamwe to the cultural center to be raped. Witness H saw women being raped outside the compound of the bureau communal, and Witness NN saw two Interahamwes take a woman and rape her between the bureau communal and the cultural center. Witness OO was taken from the bureau communal and raped in a nearby field. Witness PP saw three women being raped at Kinihira, the killing site near the bureau communal, and Witness NN found her younger sister, dying, after she had been raped at the bureau communal. Many other instances of rape in Taba outside the bureau communal - in fields, on the road, and in or just outside houses - were described by Witness J, Witness H, Witness OO, Witness KK, Witness NN and Witness PP. Witness KK and Witness PP also described other acts of sexual violence which took place on or near the premises of the bureau communal - the forced undressing and public humiliation of girls and women. The Chamber notes that much of the sexual violence took place in front

of large numbers of people, and that all of it was directed against Tutsi women.

450. With a few exceptions, most of the rapes and all of the other acts of sexual violence described by the Prosecution witnesses were committed by Interahamwe. It has not been established that the perpetrator of the rape of Witness H in a sorghum field and six of the men who raped Witness NN were Interahamwe. In the case of Witness NN, two of her rapists were neighbours, two were teenage boys and two were herdsmen, and there is no evidence that any of these people were Interahamwe. Nevertheless, with regard to all evidence of rape and sexual violence which took place on or near the premises of the bureau communal, the perpetrators were all identified as Interahamwe. Interahamwe are also identified as the perpetrators of many rapes which took place outside the bureau communal, including the rapes of Witness H, Witness OO, Witness NN, Witness J's daughter, a woman near death seen by Witness KK and a woman called Vestine, seen by Witness PP. There is no suggestion in any of the evidence that the Accused or any communal policemen perpetrated rape, and both Witness JJ and Witness KK affirmed that they never saw the Accused rape anyone.

451. In considering the role of the Accused in the sexual violence which took place and the extent of his direct knowledge of incidents of sexual violence, the Chamber has taken into account only evidence which is direct and unequivocal. Witness H testified that the Accused was present during the rape of Tutsi women outside the compound of the bureau communal, but as she could not confirm that he was aware that the rapes were taking place, the Chamber discounts this testimony in its assessment of the evidence. Witness PP recalled the Accused directing the Interahamwe to take Alexia and her two nieces to Kinihira, saying "Don't you know where killings take place, where the others have been killed?" The three women were raped before they were killed, but the statement of the Accused does not refer to sexual violence and there is no evidence that the Accused was present at Kinihira. For this reason, the Chamber also discounts this testimony in its assessment of the evidence.

452. On the basis of the evidence set forth herein, the Chamber finds beyond a reasonable doubt that the Accused had reason to know and in fact knew that sexual violence was taking place on or near the premises of the bureau communal, and that women were being taken away from the bureau communal and sexually violated. There is no evidence that the Accused took any measures to prevent acts of sexual violence or to punish the perpetrators of sexual violence. In fact there is evidence that the Accused ordered, instigated and otherwise aided and abetted sexual violence. The Accused watched two Interahamwe drag a woman to be raped between the bureau communal and the cultural center. The two commune policemen in front of his office witnessed the rape but did nothing to prevent it. On the two occasions Witness JJ was brought to the cultural center of the bureau communal to be raped, she and the group of girls and women with her were taken past the Accused, on the way. On the first occasion he was looking at them, and on the second occasion he was standing at the entrance to the cultural center. On this second occasion, he said, "Never ask me again what a Tutsi woman tastes like." Witness JJ described the Accused in making these statements as "talking as if someone were encouraging a player." More generally she stated that the Accused was the one "supervising" the acts of rape. When Witness OO and two other girls were apprehended by Interahamwe in flight from the bureau communal, the Interahamwe went to the Accused and told him that they were taking the girls away to sleep with them. The Accused said "take them." The Accused told the Interahamwe to undress Chantal and march her around. He was laughing and happy to be watching and afterwards told the Interahamwe to take her away and said "you should first of all make sure that you sleep with this girl." The Chamber considers this statement as evidence that the Accused ordered and instigated sexual violence, although insufficient evidence was presented to establish beyond a reasonable doubt that Chantal was in fact raped.

453. In making its factual findings, the Chamber has carefully considered the cross-examination by the Defence of Prosecution witnesses and the evidence presented by the Defence. With regard to cross-examination, the Chamber notes that the Defence did not question the testimony of Witness J or Witness

H on rape at all, although the Chamber itself questioned both witnesses on this testimony. Witness JJ, OO, KK, NN and PP were questioned by the Defence with regard to their testimony of sexual violence, but the testimony itself was never challenged. Details such as where the rapes took place, how many rapists there were, how old they were, whether the Accused participated in the rapes, who was raped and which rapists used condoms were all elicited by the Defence, but at no point did the Defence suggest to the witnesses that the rapes had not taken place. The main line of questioning by the Defence with regard to the rapes and other sexual violence, other than to confirm the details of the testimony, related to whether the Accused had the authority to stop them. In cross-examination of the evidence presented by the Prosecution, specific incidents of sexual violence were never challenged by the Defence.

454. The Defence has raised discrepancies between the pre-trial written statements made by witnesses to the Office of the Prosecutor and their testimony before this Chamber, to challenge the credibility of these witnesses. The Chamber has considered the discrepancies which have been alleged with regard to the witnesses who testified on sexual violence and finds them to be unfounded or immaterial. For example, the Defence challenged Witness PP, quoting from her pre-trial statement that she stayed home during the genocide and recalling her testimony that she went out often as a contradiction. The Chamber pointed out to the Defence that elsewhere in her pre-trial statement, Witness PP had also said "I went out of my house often." The Chamber established that during this period, Witness PP stayed, generally speaking, in the Taba commune, but that she went out of her house often. Selectively quoting from the pre-trial statements, the Defence often suggested inconsistencies which, upon examination or with further explanation, were found not to be inconsistencies.

455. With regard to the inconsistencies which were established by the Defence, the Chamber finds them to be immaterial. For example, Witness OO said in her pre-trial statement that she went to the bureau communal four days after the plane crash which killed President Habyarimana. In her testimony, she said she went to the bureau communal one week after the plane crash. Witness PP said in her pre-trial statement that when she rescued Vestine, Vestine was thereafter taken from her by Habarurena. In her testimony, Witness PP said she left Vestine at the house of Emmanuel, from which Vestine was taken by Habarurena. Whether Tutsi women were stripped on the way to or at Kinihira is the core of another discrepancy between the pre-trial statement and testimony of Witness PP. The Chamber considers that these inconsistencies are not of material consequence and that they are not substantial enough to impeach the credibility of the witnesses. The Chamber is of the view that the inconsistencies between pre-trial statements and witness testimony can be explained by the difficulties of recollecting precise details several years after the occurrence of the events, the trauma experienced by the witnesses to these events, the difficulties of translation, and the fact that several witnesses were illiterate and stated that they had not read their written statements.

456. The Defence in its closing argument used the example of Witness J to demonstrate the dishonesty of Prosecution witnesses. He recalled that Witness J testified that she was six months pregnant, and that when her brother was killed she climbed up a tree and stayed there for an entire week in her condition, without any food. In fact, the Defence is misrepresenting Witness J's testimony. She did not say that she stayed in a tree for a whole week without food. Witness J testified that when she got hungry she came down and went to a neighbour's house for food and that subsequently her neighbour brought food to her and then she would spend the night in the tree. Under cross-examination, Witness J testified that she came down from the tree every night. What the Defence characterized as the "fantasy" of this witness, which may be "of interest to psychologists and not justice", the witness characterized as desperation, answering his challenge with the suggestion, "If somebody was chasing you, you would be able to climb a tree."

457. Of the twelve witnesses presented by the Defence, other than the Accused only two - DZZ and DCC - testified that they went regularly to the bureau communal after the killings began in Taba. These

two witnesses contradicted each other on what they saw and heard. Witness DZZ, a former communal policeman currently in detention in Rwanda, testified that he heard of no cases of rape in the entire commune during this period. He testified that he was at the bureau communal every day and that no sexual violence took place there. He also testified that no crimes of any sort took place at the bureau communal - a categorical statement which, in the light of all the other witnesses who have testified that killings took place at the bureau communal, is highly implausible. The Accused himself testified that killings took place at the bureau communal. Witness DCC, who is currently in detention in Rwanda, also testified that killings took place at the bureau communal. Witness DCC was the driver of the commune during this time, and he testified that he never heard that violence was perpetrated against women in Taba. He denied bringing Alexia, the wife of Ntereye, in the communal vehicle to the bureau communal and then to Kinihira, and he testified that this vehicle had broken down before the massacres started Yet Defence Witness DAX testified that the communal vehicle was in use between April and June. Witness PP also testified that she saw the driver in this vehicle within this time frame. For these reasons the Chamber does not accept the testimony of Witness DZZ and DCC with regard to sexual violence.

458. Most of the Defence witnesses did not go to the bureau communal during the period from 7 April 1994 to the end of June 1994. Witness DCX , who testified that he did not hear any mention of sexual violence, only went to the bureau communal two times during this period, for personal reasons, and passed by the bureau several times. Witness DEEX, a Tutsi woman, who testified that she went once to the bureau communal, did hear that women were being raped by the Interahamwe before they were killed. The other Defence witnesses who testified that they had not heard any mention of sexual violence stated that they did not go to the bureau communal at any time after the killings started. Witness DBB, Witness DAX, Witness DAAX, Witness DIX, Witness DJX, Witness DFX and Witness Matata never went to the bureau communal during this period. Witness DAAX and Witness Matata, who was called as an expert, were not in the commune of Taba during this period, and Witness DBB was in hiding after 17 April 1994. The Chamber considers that these witnesses were not in a position to know what occurred at the bureau communal. By their own accounts none of them, with the exception of Witness DAAX, had any conversation with the Accused regarding what was happening there. Witness DAAX, a prefet, testified that he lost contact with the Accused after 18 April 1994, before the killings began. The testimony of these witnesses therefore does not discredit the evidence presented by the Prosecution witnesses.

459. With regard to the testimony of the Accused, the Chamber finds very little concrete evidence or argument on sexual violence other than his bare denial that it occurred. The only specific incident referred to by the Accused on direct examination was the forced undressing and parading of Chantal, which he denied. On examination by the Chamber, the Accused subsequently referred to other incidents and a statement he was said to have made outside the cultural center, suggesting that it would be difficult for a person standing at the entrance to see what was happening inside, and that it would be difficult for a person inside lying down to see who was at the entrance. The Accused did not assert that this was impossible, and these comments were made in an offhand manner rather than as a serious defence. The Accused simply stated that there was very little to say about the allegations of sexual violence, that unlike the killings this was impossible and not even for discussion.

460. Faced with first-hand personal accounts from women who experienced and witnessed sexual violence in Taba and at the bureau communal, and who swore under oath that the Accused was present and saw what was happening, the Chamber does not accept the statement made by the Accused. The Accused insists that the charges are fabricated, but the Defence has offered the Chamber no evidence to support this assertion. There is overwhelming evidence to the contrary, and the Chamber does not accept the testimony of the Accused. The findings of the Chamber are based on the evidence which has been presented in this trial. As the Accused flatly denies the occurrence of sexual violence at the bureau communal, he does not allow for the possibility that the sexual violence may have occurred but that he

was unaware of it.

6. THE LAW

6.1 Cumulative Charges

461. In the amended Indictment, the accused is charged cumulatively with more than one crime in relation to the same sets of facts, in all but count 4. For example the events described in paragraphs 12 to 23 of the Indictment are the subject of three counts of the Indictment - genocide (count 1), complicity in genocide (count 2) and crimes against humanity/extermination (count 3). Likewise, counts 5 and 6 of the Indictment charge murder as a crime against humanity and murder as a violation of common article 3 of the Geneva Conventions, respectively, in relation to the same set of facts; the same is true of counts 7 and 8, and of counts 9 and 10, of the Indictment. Equally, counts 11 (crime against humanity/torture) and 12 (violation of common article 3/cruel treatment) relate to the same events. So do counts 13 (crime against humanity/rape), 14 (crimes against humanity/other inhumane acts) and 15 (violation of common article 3 and additional protocol II/rape).

462. The question which arises at this stage is whether, if the Chamber is convinced beyond a reasonable doubt that a given factual allegation set out in the Indictment has been established, it may find the accused guilty of all of the crimes charged in relation to those facts or only one. The reason for posing this question is that it might be argued that the accumulation of criminal charges offends against the principle of double jeopardy or a substantive *non bis in idem* principle in criminal law. Thus an accused who is found guilty of both genocide and crimes against humanity in relation to the same set of facts may argue that he has been twice judged for the same offence, which is generally considered impermissible in criminal law.

463. The Chamber notes that this question has been posed, and answered, by the Trial Chamber of the ICTY in the first case before that Tribunal, *The Prosecutor v. Dusko Tadic*. Trial Chamber II, confronted with this issue, stated:

> "In any event, since this is a matter that will only be relevant insofar as it might affect penalty, it can best be dealt with if and when matters of penalty fall for consideration. What can, however, be said with certainty is that penalty cannot be made to depend upon whether offences arising from the same conduct are alleged cumulatively or in the alternative. What is to be punished by penalty is proven criminal conduct and that will not depend upon technicalities of pleading". (Prosecutor v. Tadic , Decision on Defence Motion on Form of the Indictment at p.10 (No. IT-94-1-T, T.Ch.II, 14 Nov, 1995)

464. In that case, when the matter reached the sentencing stage, the Trial Chamber dealt with the matter of cumulative criminal charges by imposing *concurrent* sentences for each cumulative charge. Thus, for example, in relation to one particular beating, the accused received 7 years' imprisonment for the beating as a crime against humanity, and a 6 year concurrent sentence for the same beating as a violation of the laws or customs of war.

465. The Chamber takes due note of the practice of the ICTY. This practice was also followed in the *Barbie* case, where the French *Cour de Cassation* held that a single event could be qualified both as a crime against humanity and as a war crime.[79]

466. It is clear that the practice of concurrent sentencing ensures that the accused is not twice punished for the same acts. Notwithstanding this absence of prejudice to the accused, it is still necessary to justify

the prosecutorial practice of accumulating criminal charges.

467. The Chamber notes that in Civil Law systems, including that of Rwanda, there exists a principle known as *concours ideal d'infractions* which permits multiple convictions for the same act under certain circumstances. Rwandan law allows multiple convictions in the following circumstances:

> Code pénal du Rwanda: Chapitre VI - Du concours d'infractions:
>
> > Article 92.- Il y a concours d'infractions lorsque plusieurs infractions ont été commises par le mˆme auteur sans qu'une condamnation soit intervenue entre ces infractions.
> >
> > Article 93.- Il y concours idéal:
> > 1) lorsque le fait unique au point de vue matériel est susceptible de plusieurs qualifications;
> > 2) lorsque l'action comprend des faits qui, constituant des infractions distinctes, sont unis entre eux comme procédant d'une intention délictueuse unique ou comme étant les uns des circonstances aggravantes des autres.
> >
> > Seront seules prononcées dans le premier cas les peines déterminées par la qualification la plus sévère, dans le second cas les peines prévues pour la répression de l'infraction la plus grave, mais dont le maximum pourra ˆtre alors élevé de moitié.

468. On the basis of national and international law and jurisprudence, the Chamber concludes that it is acceptable to convict the accused of two offences in relation to the same set of facts in the following circumstances: (1) where the offences have different elements; or (2) where the provisions creating the offences protect different interests; or (3) where it is necessary to record a conviction for both offences in order fully to describe what the accused did. However, the Chamber finds that it is not justifiable to convict an accused of two offences in relation to the same set of facts where (a) one offence is a lesser included offence of the other, for example, murder and grievous bodily harm, robbery and theft, or rape and indecent assault; or (b) where one offence charges accomplice liability and the other offence charges liability as a principal, e.g. genocide and complicity in genocide.

469. Having regard to its Statute, the Chamber believes that the offences under the Statute - genocide, crimes against humanity, and violations of article 3 common to the Geneva Conventions and of Additional Protocol II - have different elements and, moreover, are intended to protect different interests. The crime of genocide exists to protect certain groups from extermination or attempted extermination. The concept of crimes against humanity exists to protect civilian populations from persecution. The idea of violations of article 3 common to the Geneva Conventions and of Additional Protocol II is to protect non-combatants from war crimes in civil war. These crimes have different purposes and are, therefore, never co-extensive. Thus it is legitimate to charge these crimes in relation to the same set of facts. It may, additionally, depending on the case, be necessary to record a conviction for more than one of these offences in order to reflect what crimes an accused committed. If, for example, a general ordered that all prisoners of war belonging to a particular ethnic group should be killed, with the intent thereby to eliminate the group, this would be both genocide and a violation of common article 3, although not necessarily a crime against humanity. Convictions for genocide and violations of common article 3 would accurately reflect the accused general's course of conduct.

470. Conversely, the Chamber does not consider that any of genocide, crimes against humanity, and

violations of article 3 common to the Geneva Conventions and of Additional Protocol II are lesser included forms of each other. The ICTR Statute does not establish a hierarchy of norms, but rather all three offences are presented on an equal footing. While genocide may be considered the gravest crime, there is no justification in the Statute for finding that crimes against humanity or violations of common article 3 and additional protocol II are in all cricumstances alternative charges to genocide and thus lesser included offences. As stated, and it is a related point, these offences have different constituent elements. Again, this consideration renders multiple convictions for these offences in relation to the same set of facts permissible.

6.2. Individual criminal responsibility (Article 6 of the Statute)

471. The Accused is charged under Article 6(1) of the Statute of the Tribunal with individual criminal responsibility for the crimes alleged in the Indictment. With regard to Counts 13, 14 and 15 on sexual violence, the Accused is charged additionally, or alternatively, under Article 6(3) of the Statute. In the opinion of the Tribunal, Articles 6(1) and 6(3) address distinct principles of criminal liability and should, therefore, be considered separately. Article 6(1) sets forth the basic principles of individual criminal liability, which are undoubtedly common to most national criminal jurisdictions. Article 6(3), by contrast, constitutes something of an exception to the principles articulated in Article 6(1), as it derives from military law, namely the principle of the liability of a commander for the acts of his subordinates or "command responsibility".

472. Article 6(1) provides that:

> "A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the present Statute, shall be individually responsible for the crime".

Thus, in addition to responsibility as principal perpetrator, the Accused can be held responsible for the criminal acts of others where he plans with them, instigates them, orders them or aids and abets them to commit those acts.

473. Thus, Article 6(1) covers various stages of the commission of a crime, ranging from its initial planning to its execution, through its organization. However, the principle of individual criminal responsibility as provided for in Article 6(1) implies that the planning or preparation of the crime actually leads to its commission. Indeed, the principle of individual criminal responsibility for an attempt to commit a crime obtained only in case of genocide80. Conversely, this would mean that with respect to any other form of criminal participation and, in particular, those referred to in Article 6(1), the perpetrator would incur criminal responsibility only if the offence were completed.

474. Article 6 (1) thus appears to be in accord with the Judgments of the Nuremberg Tribunal which held that persons other than those who committed the crime, especially those who ordered it, could incur individual criminal responsibility.

475. The International Law Commission, in Article 2 (3) of the Draft Code of Crimes Against the Peace and Security of Mankind, reaffirmed the principle of individual responsibility for the five forms of participation deemed criminal referred to in Article 6 (1) and consistently included the phrase "which in fact occurs", with the exception of aiding and abetting, which is akin to complicity and therefore implies a principal offence.

476. The elements of the offences or, more specifically, the forms of participation in the commission of

one of the crimes under Articles 2 to 4 of the Statute, as stipulated in Article 6 (1) of the said Statute, their elements are inherent in the forms of participation *per se* which render the perpetrators thereof individually responsible for such crimes. The moral element is reflected in the desire of the Accused that the crime be in fact committed.

477. In this respect, the International Criminal Tribunal for the former Yugoslavia found in the Tadic case that:

> "a person may only be criminally responsible for conduct where it is determined that he knowingly participated in the commission of an offence" and that "his participation directly and substantially affected the commission of that offence through supporting the actual commission before, during, or after the incident."81

478. This intent can be inferred from a certain number of facts, as concerns genocide, crimes against humanity and war crimes, for instance, from their massive and/or systematic nature or their atrocity, to be considered *infra* in the judgment, in the Tribunal's findings on the law applicable to each of the three crimes which constitute its *ratione materiae* jurisdiction.

479. Therefore, as can be seen, the forms of participation referred to in Article 6 (1), cannot render their perpetrator criminally liable where he did not act knowingly, and even where he should have had such knowledge. This greatly differs from Article 6 (3) analyzed here below, which does not necessarily require that the superior acted knowingly to render him criminally liable; it suffices that he had reason to know that his subordinates were about to commit or had committed a crime and failed to take the necessary or reasonable measures to prevent such acts or punish the perpetrators thereof. In a way, this is liability by omission or abstention.

480. The first form of liability set forth in Article 6 (1) is **planning** of a crime. Such planning is similar to the notion of *complicity* in Civil law, or *conspiracy* under Common law, as stipulated in Article 2 (3) of the Statute. But the difference is that planning, unlike complicity or plotting, can be an act committed by one person. Planning can thus be defined as implying that one or several persons contemplate designing the commission of a crime at both the preparatory and execution phases.

481. The second form of liability is **'incitation'** (in the french version of the Statute) to commit a crime, reflected in the English version of Article 6 (1) by the word *instigated*. In English, it seems the words incitement and instigation are synonymous82. Furthermore, the word "instigated" or "instigation" is used to refer to incitation in several other instruments83. However, in certain legal systems and, under Civil law, in particular, the two concepts are very different84. Furthermore, and even assuming that the two words were synonymous, the question would be to know whether instigation under Article 6 (1) must include the direct and public elements, required for incitement, particularly, incitement to commit genocide (Article 2 (3)(c) of the Statute) which, in this instance, translates *incitation* into English as "incitement" and no longer "instigation". Some people are of that opinion85. The Chamber also accepts this interpretation 86.

482. That said, the form of participation through instigation stipulated in Article 6 (1) of the Statute, involves prompting another to commit an offence; but this is different from incitement in that it is punishable only where it leads to the actual commission of an offence desired by the instigator87.

483. By **ordering** the commission of one of the crimes referred to in Articles 2 to 4 of the Statute, a person also incurs individual criminal responsibility. Ordering implies a superior- subordinate relationship between the person giving the order and the one executing it. In other words, the person in a

position of authority uses it to convince another to commit an offence. In certain legal systems, including that of Rwanda 88, ordering is a form of complicity through instructions given to the direct perpetrator of an offence. Regarding the position of authority, the Chamber considers that sometimes it can be just a question of fact.

484. Article 6 (1) declares criminally responsible a person who "(...) or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in Articles 2 to 4 (...)". **Aiding** and **abetting**, which may appear to be synonymous, are indeed different. Aiding means giving assistance to someone. Abetting, on the other hand, would involve facilitating the commission of an act by being sympathetic thereto. The issue here is to whether the individual criminal responsibility provided for in Article 6(1) is incurred only where there was aiding and abetting at the same time. The Chamber is of the opinion that either aiding or abetting alone is sufficient to render the perpetrator criminally liable. In both instances, it is not necessary for the person aiding or abetting another to commit the offence to be present during the commission of the crime.

485. The Chamber finds that, in many legal systems, aiding and abetting constitute acts of complicity. However, though akin to the constituent elements of complicity, they themselves constitute one of the crimes referred to in Articles 2 to 4 of the Statute, particularly, genocide. The Chamber is consequently of the opinion that when dealing with a person Accused of having aided and abetted in the planning, preparation and execution of genocide, it must be proven that such a person did have the specific intent to commit genocide, namely that, he or she acted with the intent to destroy in whole or in part, a national, ethnical, racial or religious group, as such; whereas, as stated *supra*, the same requirement is not needed for complicity in genocide89.

486. Article 6(3) of the Statute deals with the responsibility of the superior, or command responsibility. This principle, which derives from the principle of individual criminal responsibility as applied in the Nuremberg and Tokyo trials, was subsequently codified in Article 86 of the Additional Protocol I to the Geneva Conventions of 8 June 1977.

487. Article 6 (3) stipulates that:

"The fact that any of the acts referred to in Articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof".

488. There are varying views regarding the *Mens rea* required for command responsibility. According to one view it derives from a legal rule of strict liability, that is, the superior is criminally responsible for acts committed by his subordinate, without it being necessary to prove the criminal intent of the superior. Another view holds that negligence which is so serious as to be tantamount to consent or criminal intent, is a lesser requirement. Thus, the "Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949" stated, in reference to Article 86 of the Additional Protocol I, and the *mens rea* requirement for command responsibility that:

> "[...] the negligence must be so serious that it is tantamount to malicious intent, apart from any link between the conduct in question and the damage that took place. This element in criminal law is far from being clarified, but it is essential, since it is precisely on the question of intent that the system of penal sanctions in the Conventions is based"90.

489. The Chamber holds that it is necessary to recall that criminal intent is the moral element required

for any crime and that, where the objective is to ascertain the individual criminal responsibility of a person Accused of crimes falling within the jurisdiction of the Chamber, such as genocide, crimes against humanity and violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II thereto, it is certainly proper to ensure that there has been malicious intent, or, at least, ensure that negligence was so serious as to be tantamount to acquiescence or even malicious intent.

490. As to whether the form of individual criminal responsibility referred to Article 6 (3) of the Statute applies to persons in positions of both military and civilian authority, it should be noted that during the Tokyo trials, certain civilian authorities were convicted of war crimes under this principle. Hirota, former Foreign Minister of Japan, was convicted of atrocities - including mass rape - committed in the "rape of Nanking", under a count which charged that he had " recklessly disregarded their legal duty by virtue of their offices to take adequate steps to secure the observance and prevent breaches of the law and customs of war".The Tokyo Tribunal held that:

> "Hirota was derelict in his duty in not insisting before the Cabinet that immediate action be taken to put an end to the atrocities, failing any other action open to him to bring about the same result. He was content to rely on assurances which he knew were not being implemented while hundreds of murders, violations of women, and other atrocities were being committed daily. His inaction amounted to criminal negligence".

It should, however, be noted that Judge Röling strongly dissented from this finding, and held that Hirota should have been acquitted. Concerning the principle of command responsibility as applied to a civilian leader, Judge Röling stated that:

> "Generally speaking, a Tribunal should be very careful in holding civil government officials responsible for the behaviour of the army in the field. Moreover, the Tribunal is here to apply the general principles of law as they exist with relation to the responsibility for omissions'. Considerations of both law and policy, of both justice and expediency, indicate that this responsibility should only be recognized in a very restricted sense".

491. The Chamber therefore finds that in the case of civilians, the application of the principle of individual criminal responsibility, enshrined in Article 6 (3), to civilians remains contentious. Against this background, the Chamber holds that it is appropriate to assess on a case by case basis the power of authority actually devolved upon the Accused in order to determine whether or not he had the power to take all necessary and reasonable measures to prevent the commission of the alleged crimes or to punish the perpetrators thereof.

6.3. Genocide (Article 2 of the Statute)

6.3.1. Genocide

492. Article 2 of the Statute stipulates that the Tribunal shall have the power to prosecute persons responsible for genocide, complicity to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and complicity in genocide.

493. In accordance with the said provisions of the Statute, the Prosecutor has charged Akayesu with the crimes legally defined as genocide (count 1), complicity in genocide (count 2) and incitement to commit genocide (count 4).

Crime of Genocide, punishable under Article 2(3)(a) of the Statute

494. The definition of genocide, as given in Article 2 of the Tribunal's Statute, is taken verbatim from Articles 2 and 3 of the Convention on the Prevention and Punishment of the Crime of Genocide (the "Genocide Convention")91. It states:

> " Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> (a) Killing members of the group;
> (b) Causing serious bodily or mental harm to members of the group;
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
> (d) Imposing measures intended to prevent births within the group;
> (e) Forcibly transferring children of the group to another group."

495. The Genocide Convention is undeniably considered part of customary international law, as can be seen in the opinion of the International Court of Justice on the provisions of the Genocide Convention, and as was recalled by the United Nations' Secretary-General in his Report on the establishment of the International Criminal Tribunal for the former Yugoslavia92.

496. The Chamber notes that Rwanda acceded, by legislative decree, to the Convention on Genocide on 12 February 197593. Thus, punishment of the crime of genocide did exist in Rwanda in 1994, at the time of the acts alleged in the Indictment, and the perpetrator was liable to be brought before the competent courts of Rwanda to answer for this crime.

497. Contrary to popular belief, the crime of genocide does not imply the actual extermination of group in its entirety, but is understood as such once any one of the acts mentioned in Article 2(2)(a) through 2 (2)(e) is committed with the specific intent to destroy "in whole or in part" a national, ethnical, racial or religious group.

498. Genocide is distinct from other crimes inasmuch as it embodies a special intent or *dolus specialis*. Special intent of a crime is the specific intention, required as a constitutive element of the crime, which demands that the perpetrator clearly seeks to produce the act charged. Thus, the special intent in the crime of genocide lies in "the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such".

499. Thus, for a crime of genocide to have been committed, it is necessary that one of the acts listed under Article 2(2) of the Statute be committed, that the particular act be committed against a specifically targeted group, it being a national, ethnical, racial or religious group. Consequently, in order to clarify the constitutive elements of the crime of genocide, the Chamber will first state its findings on the acts provided for under Article 2(2)(a) through Article 2(2)(e) of the Statute, the groups protected by the Genocide Convention, and the special intent or *dolus specialis* necessary for genocide to take place.

Killing members of the group (paragraph (a)):

500. With regard to Article 2(2)(a) of the Statute, like in the Genocide Convention, the Chamber notes that the said paragraph states *"meurtre"* in the French version while the English version states "killing". The Trial Chamber is of the opinion that the term "killing" used in the English version is too general, since it could very well include both intentional and unintentional homicides, whereas the term *"meurtre"*, used in the French version, is more precise. It is accepted that there is murder when death has been caused with the intention to do so, as provided for, incidentally, in the Penal Code of Rwanda

which stipulates in its Article 311 that "Homicide committed with intent to cause death shall be treated as murder".

501. Given the presumption of innocence of the accused, and pursuant to the general principles of criminal law, the Chamber holds that the version more favourable to the accused should be upheld and finds that Article 2(2)(a) of the Statute must be interpreted in accordance with the definition of murder given in the Penal Code of Rwanda, according to which *"meurtre"* (killing) is homicide committed with the intent to cause death. The Chamber notes in this regard that the *travaux préparatoires* of the Genocide Convention 94, show that the proposal by certain delegations that premeditation be made a necessary condition for there to be genocide, was rejected, because some delegates deemed it unnecessary for premeditation to be made a requirement; in their opinion, by its constitutive physical elements, the very crime of genocide, necessarily entails premeditation.

Causing serious bodily or mental harm to members of the group (paragraph b)

502. Causing serious bodily or mental harm to members of the group does not necessarily mean that the harm is permanent and irremediable.

503. In the Adolf Eichmann case, who was convicted of crimes against the Jewish people, genocide under another legal definition, the District Court of Jerusalem stated in its judgment of 12 December 1961, that serious bodily or mental harm of members of the group can be caused

> " by the enslavement, starvation, deportation and persecution [...] and by their detention in ghettos, transit camps and concentration camps in conditions which were designed to cause their degradation, deprivation of their rights as human beings, and to suppress them and cause them inhumane suffering and torture"95.

504. For purposes of interpreting Article 2 (2)(b) of the Statute, the Chamber takes serious bodily or mental harm, without limiting itself thereto, to mean acts of torture, be they bodily or mental, inhumane or degrading treatment, persecution.

Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part (paragraph c):

505. The Chamber holds that the expression deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, should be construed as the methods of destruction by which the perpetrator does not immediately kill the members of the group, but which, ultimately, seek their physical destruction.

506. For purposes of interpreting Article 2(2)(c) of the Statute, the Chamber is of the opinion that the means of deliberate inflicting on the group conditions of life calculated to bring about its physical destruction, in whole or part, include, *inter alia*, subjecting a group of people to a subsistence diet, systematic expulsion from homes and the reduction of essential medical services below minimum requirement.

Imposing measures intended to prevent births within the group (paragraph d):

507. For purposes of interpreting Article 2(2)(d) of the Statute, the Chamber holds that the measures intended to prevent births within the group, should be construed as sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes and prohibition of marriages. In patriarchal

societies, where membership of a group is determined by the identity of the father, an example of a measure intended to prevent births within a group is the case where, during rape, a woman of the said group is deliberately impregnated by a man of another group, with the intent to have her give birth to a child who will consequently not belong to its mother's group.

508. Furthermore, the Chamber notes that measures intended to prevent births within the group may be physical, but can also be mental. For instance, rape can be a measure intended to prevent births when the person raped refuses subsequently to procreate, in the same way that members of a group can be led, through threats or trauma, not to procreate.

Forcibly transferring children of the group to another group (paragraph e)

509. With respect to forcibly transferring children of the group to another group, the Chamber is of the opinion that, as in the case of measures intended to prevent births, the objective is not only to sanction a direct act of forcible physical transfer, but also to sanction acts of threats or trauma which would lead to the forcible transfer of children from one group to another.

510. Since the special intent to commit genocide lies in the intent to "destroy, in whole or in part, a national, ethnical, racial or religious group, as such", it is necessary to consider a definition of the group as such. Article 2 of the Statute, just like the Genocide Convention, stipulates four types of victim groups, namely national, ethnical, racial or religious groups.

511. On reading through the *travaux préparatoires* of the Genocide Convention96, it appears that the crime of genocide was allegedly perceived as targeting only "stable" groups, constituted in a permanent fashion and membership of which is determined by birth, with the exclusion of the more "mobile" groups which one joins through individual voluntary commitment, such as political and economic groups. Therefore, a common criterion in the four types of groups protected by the Genocide Convention is that membership in such groups would seem to be normally not challengeable by its members, who belong to it automatically, by birth, in a continuous and often irremediable manner.

512. Based on the *Nottebohm* decision97 rendered by the International Court of Justice, the Chamber holds that a national group is defined as a collection of people who are perceived to share a legal bond based on common citizenship, coupled with reciprocity of rights and duties.

513. An ethnic group is generally defined as a group whose members share a common language or culture.

514. The conventional definition of racial group is based on the hereditary physical traits often identified with a geographical region, irrespective of linguistic, cultural, national or religious factors.

515. The religious group is one whose members share the same religion, denomination or mode of worship.

516. Moreover, the Chamber considered whether the groups protected by the Genocide Convention, echoed in Article 2 of the Statute, should be limited to only the four groups expressly mentioned and whether they should not also include any group which is stable and permanent like the said four groups. In other words, the question that arises is whether it would be impossible to punish the physical destruction of a group as such under the Genocide Convention, if the said group, although stable and membership is by birth, does not meet the definition of any one of the four groups expressly protected by the Genocide Convention. In the opinion of the Chamber, it is particularly important to respect the

intention of the drafters of the Genocide Convention, which according to the *travaux préparatoires*, was patently to ensure the protection of any stable and permanent group.

517. As stated above, the crime of genocide is characterized by its *dolus specialis*, or special intent, which lies in the fact that the acts charged, listed in Article 2 (2) of the Statute, must have been "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such".

518. Special intent is a well-known criminal law concept in the Roman-continental legal systems. It is required as a constituent element of certain offences and demands that the perpetrator have the clear intent to cause the offence charged. According to this meaning, special intent is the key element of an intentional offence, which offence is characterized by a psychological relationship between the physical result and the mental state of the perpetrator98.

519. As observed by the representative of Brazil during the *travaux préparatoires* of the Genocide Convention,

> "genocide [is] characterised by the factor of particular intent to destroy a group. In the absence of that factor, whatever the degree of atrocity of an act and however similar it might be to the acts described in the convention, that act could still not be called genocide."99

520. With regard to the crime of genocide, the offender is culpable only when he has committed one of the offences charged under Article 2(2) of the Statute with the clear intent to destroy, in whole or in part, a particular group. The offender is culpable because he knew or should have known that the act committed would destroy, in whole or in part, a group.

521. In concrete terms, for any of the acts charged under Article 2 (2) of the Statute to be a constitutive element of genocide, the act must have been committed against one or several individuals, because such individual or individuals were members of a specific group, and specifically because they belonged to this group. Thus, the victim is chosen not because of his individual identity, but rather on account of his membership of a national, ethnical, racial or religious group. The victim of the act is therefore a member of a group, chosen as such, which, hence, means that the victim of the crime of genocide is the group itself and not only the individual100.

522. The perpetration of the act charged therefore extends beyond its actual commission, for example, the murder of a particular individual, for the realisation of an ulterior motive, which is to destroy, in whole or part, the group of which the individual is just one element.

523. On the issue of determining the offender's specific intent, the Chamber considers that intent is a mental factor which is difficult, even impossible, to determine. This is the reason why, in the absence of a confession from the accused, his intent can be inferred from a certain number of presumptions of fact. The Chamber considers that it is possible to deduce the genocidal intent inherent in a particular act charged from the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others. Other factors, such as the scale of atrocities committed, their general nature, in a region or a country, or furthermore, the fact of deliberately and systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups, can enable the Chamber to infer the genocidal intent of a particular act.

524. Trial Chamber I of the International Criminal Tribunal for the former Yugoslavia also stated that the specific intent of the crime of genocide

> " may be inferred from a number of facts such as the general political doctrine which gave rise to the acts possibly covered by the definition in Article 4, or the repetition of destructive and discriminatory acts. The intent may also be inferred from the perpetration of acts which violate, or which the perpetrators themselves consider to violate the very foundation of the group- acts which are not in themselves covered by the list in Article 4(2) but which are committed as part of the same pattern of conduct"101.

Thus, in the matter brought before the International Criminal Tribunal for the former Yugoslavia, the Trial Chamber, in its findings, found that

> "this intent derives from the combined effect of speeches or projects laying the groundwork for and justifying the acts, from the massive scale of their destructive effect and from their specific nature, which aims at undermining what is considered to be the foundation of the group".102

6.3.2. Complicity in Genocide

The Crime of Complicity in Genocide, punishable under Article 2(3)e) of the Statute

525. Under Article 2(3)e) of the Statute, the Chamber shall have the power to prosecute persons who have committed complicity in genocide. The Prosecutor has charged Akayesu with such a crime under count 2 of the Indictment.

526. Principle VII of the "Nuremberg Principles" 103 reads

> "complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law."

Thus, participation by complicity in the most serious violations of international humanitarian law was considered a crime as early as Nuremberg.

527. The Chamber notes that complicity is viewed as a form of criminal participation by all criminal law systems, notably, under the Anglo-Saxon system (or Common Law) and the Roman-Continental system (or Civil Law). Since the accomplice to an offence may be defined as someone who associates himself in an offence committed by another 104, complicity necessarily implies the existence of a principal offence.105

528. According to one school of thought, complicity is borrowed criminality' (criminalité d'emprunt). In other words, the accomplice borrows the criminality of the principal perpetrator. By borrowed criminality, it should be understood that the physical act which constitutes the act of complicity does not have its own inherent criminality, but rather it borrows the criminality of the act committed by the principal perpetrator of the criminal enterprise. Thus, the conduct of the accomplice emerges as a crime when the crime has been consummated by the principal perpetrator. The accomplice has not committed an autonomous crime, but has merely facilitated the criminal enterprise committed by another.

529. Therefore, the issue before the Chamber is whether genocide must actually be committed in order

for any person to be found guilty of complicity in genocide. The Chamber notes that, as stated above, complicity can only exist when there is a punishable, principal act, in the commission of which the accomplice has associated himself. Complicity, therefore, implies a predicate offence committed by someone other than the accomplice.

530. Consequently, the Chamber is of the opinion that in order for an accused to be found guilty of complicity in genocide, it must, first of all, be proven beyond a reasonable doubt that the crime of genocide has, indeed, been committed.

531. The issue thence is whether a person can be tried for complicity even where the perpetrator of the principal offence himself has not being tried. Under Article 89 of the Rwandan Penal Code, accomplices

> "may be prosecuted even where the perpetrator may not face prosecution for personal reasons, such as double jeopardy, death, insanity or non-identification"[unofficial translation].

As far as the Chamber is aware, all criminal systems provide that an accomplice may also be tried, even where the principal perpetrator of the crime has not been identified, or where, for any other reasons, guilt could not be proven.

532. The Chamber notes that the logical inference from the foregoing is that an individual cannot thus be both the principal perpetrator of a particular act and the accomplice thereto. An act with which an accused is being charged cannot, therefore, be characterized both as an act of genocide and an act of complicity in genocide as pertains to this accused. Consequently, since the two are mutually exclusive, the same individual cannot be convicted of both crimes for the same act.

533. As regards the physical elements of complicity in genocide *(Actus Reus)*, three forms of accomplice participation are recognized in most criminal Civil Law systems: complicity by instigation, complicity by aiding and abetting, and complicity by procuring means106. It should be noted that the Rwandan Penal Code includes two other forms of participation, namely, incitement to commit a crime through speeches, shouting or threats uttered in public places or at public gatherings, or through the sale or dissemination, offer for sale or display of written material or printed matter in public places or at pubic gatherings, or through the public display of placards or posters, and complicity by harbouring or aiding a criminal. Indeed, according to Article 91 of the Rwandan Penal Code:

> "An accomplice shall mean:
> 1. A person or persons who by means of gifts, promises, threats, abuse of authority or power, culpable machinations or artifice, directly incite(s) to commit such action or order(s) that such action be committed.
> 2. A person or persons who procure(s) weapons, instruments or any other means which are used in committing such action with the knowledge that they would be so used.
> 3. A person or persons who knowingly aid(s) or abet(s) the perpetrator or perpetrators of such action in the acts carried out in preparing or planning such action or in effectively committing it.
> 4. A person or persons who, whether through speeches, shouting or threats uttered in public places or at public gatherings, or through the sale or dissemination, offer for sale or display of written material or printed matter in public places or at pubic gatherings or through the public display of placards or posters, directly incite(s) the perpetrator or perpetrators to commit such an action without prejudice to the penalties applicable to those who incite others to commit offences, even where such incitement fails to produce results.

5. A person or persons who harbour(s) or aid(s) perpetrators under the circumstances provided for under Article 257 of this Code."107 [unofficial translation]

534. The Chamber notes, first of all, that the said Article 91 of the Rwandan Penal Code draws a distinction between *"instigation"* (instigation), on the one hand, as provided for by paragraph 1 of said Article, and *"incitation"* (incitement), on the other, which is referred to in paragraph 4 of the same Article. The Chamber notes in this respect that, as pertains to the crime of genocide, the latter form of complicity, i.e. by incitement, is the offence which under the Statute is given the specific legal definition of "direct and public incitement to commit genocide," punishable under Article 2(3)c), as distinguished from "complicity in genocide." The findings of the Chamber with respect to the crime of direct and public incitement to commit genocide will be detailed below. That said, instigation, which according to Article 91 of the Rwandan Penal Code, assumes the form of incitement or instruction to commit a crime, only constitutes complicity if it is accompanied by, "gifts, promises, threats, abuse of authority or power, machinations or culpable artifice"108. In other words, under the Rwandan Penal Code, unless the instigation is accompanied by one of the aforesaid elements, the mere fact of prompting another to commit a crime is not punishable as complicity, even if such a person committed the crime as a result.

535. The ingredients of complicity under Common Law do not appear to be different from those under Civil Law. To a large extent, the forms of accomplice participation, namely "aid and abet, counsel and procure", mirror those conducts characterized under Civil Law as "l'aide et l'assistance, la fourniture des moyens".

536. Complicity by aiding or abetting implies a positive action which excludes, in principle, complicity by failure to act or omission. Procuring means is a very common form of complicity. It covers those persons who procured weapons, instruments or any other means to be used in the commission of an offence, with the full knowledge that they would be used for such purposes.

537. For the purposes of interpreting Article 2(3)e) of the Statute, which does not define the concept of complicity, the Chamber is of the opinion that it is necessary to define complicity as per the Rwandan Penal Code, and to consider the first three forms of criminal participation referred to in Article 91 of the Rwandan Penal Code as being the elements of complicity in genocide, thus:

- complicity by procuring means, such as weapons, instruments or any other means, used to commit genocide, with the accomplice knowing that such means would be used for such a purpose;
- complicity by knowingly aiding or abetting a perpetrator of a genocide in the planning or enabling acts thereof;
- complicity by instigation, for which a person is liable who, though not directly participating in the crime of genocide crime, gave instructions to commit genocide, through gifts, promises, threats, abuse of authority or power, machinations or culpable artifice, or who directly incited to commit genocide.

538. The intent or mental element of complicity implies in general that, at the moment he acted, the accomplice knew of the assistance he was providing in the commission of the principal offence. In other words, the accomplice must have acted knowingly.

539. Moreover, as in all criminal Civil law systems, under Common law, notably English law, generally, the accomplice need not even wish that the principal offence be committed. In the case of National Coal Board v. Gamble109, Justice Devlin stated

"an indifference to the result of the crime does not of itself negate abetting. If one man

> deliberately sells to another a gun to be used for murdering a third, he may be indifferent about whether the third lives or dies and interested only the cash profit to be made out of the sale, but he can still be an aider and abettor."

In 1975, the English House of Lords also upheld this definition of complicity, when it held that willingness to participate in the principal offence did not have to be established110. As a result, anyone who knowing of another's criminal purpose, voluntarily aids him or her in it, can be convicted of complicity even though he regretted the outcome of the offence.

540. As far as genocide is concerned, the intent of the accomplice is thus to knowingly aid or abet one or more persons to commit the crime of genocide. Therefore, the Chamber is of the opinion that an accomplice to genocide need not necessarily possess the *dolus specialis* of genocide, namely the specific intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such.

541. Thus, if for example, an accused knowingly aided or abetted another in the commission of a murder, while being unaware that the principal was committing such a murder, with the intent to destroy, in whole or in part, the group to which the murdered victim belonged, the accused could be prosecuted for complicity in murder, and certainly not for complicity in genocide. However, if the accused knowingly aided and abetted in the commission of such a murder while he knew or had reason to know that the principal was acting with genocidal intent, the accused would be an accomplice to genocide, even though he did not share the murderer's intent to destroy the group.

542. This finding by the Chamber comports with the decisions rendered by the District Court of Jerusalem on 12 December 1961 and the Supreme Court of Israel on 29 May 1962 in the case of Adolf Eichmann111. Since Eichmann raised the argument in his defence that he was a "small cog" in the Nazi machine, both the District Court and the Supreme Court dealt with accomplice liability and found that,

> "[...] even a small cog, even an insignificant operator, is under our criminal law liable to be regarded as an accomplice in the commission of an offence, in which case he will be dealt with as if he were the actual murderer or destroyer".112

543. The District Court accepted that Eichmann did not personally devise the "Final Solution" himself, but nevertheless, as the head of those engaged in carrying out the "Final Solution" - "acting in accordance with the directives of his superiors, but [with] wide discretionary powers in planning operations on his own initiative," he incurred individual criminal liability for crimes against the Jewish people, as much as his superiors. Likewise, with respect to his subordinates who actually carried out the executions, "[...] the legal and moral responsibility of he who delivers up the victim to his death is, in our opinion, no smaller, and may be greater, than the responsibility of he who kills the victim with his own hands"113. The District Court found that participation in the extermination plan with knowledge of the plan rendered the person liable "as an accomplice to the extermination of all [...] victims from 1941 to 1945, irrespective of the extent of his participation"114.

544. The findings of the Israeli courts in this case support the principle that the *mens rea*, or special intent, required for complicity in genocide is *knowledge* of the genocidal plan, coupled with the *actus reus* of participation in the execution of such plan. Crucially, then, it does not appear that the specific intent to commit the crime of genocide, as reflected in the phrase "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such," is required for complicity or accomplice liability.

545. In conclusion, the Chamber is of the opinion that an accused is liable as an accomplice to genocide

if he knowingly aided or abetted or instigated one or more persons in the commission of genocide, while knowing that such a person or persons were committing genocide, even though the accused himself did not have the specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.

546. At this juncture, the Chamber will address another issue, namely that which, with respect to complicity in genocide covered under Article 2(3)(e) of the Statute, may arise from the forms of participation listed in Article 6 of the Statute entitled, "Individual Criminal Responsibility," and more specifically, those covered under paragraph 1 of the same Article. Indeed, under Article 6(1), "A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the present Statute, shall be individually responsible for the crime." Such forms of participation, which are summarized in the expression "[...] or otherwise aided or abetted [...]," are similar to the material elements of complicity, though they in and of themselves, characterize the crimes referred to in Articles 2 to 4 of the Statute, which include namely genocide.

547. Consequently, where a person is accused of aiding and abetting, planning, preparing or executing genocide, it must be proven that such a person acted with specific genocidal intent, i.e. the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such, whereas, as stated above, there is no such requirement to establish accomplice liability in genocide.

548. Another difference between complicity in genocide and the principle of abetting in the planning, preparation or execution a genocide as per Article 6(1), is that, in theory, complicity requires a positive act, i.e. an act of commission, whereas aiding and abetting may consist in failing to act or refraining from action. Thus, in the Jefferson and Coney cases, it was held that "The accused [...] only accidentally present [...] must know that his presence is actually encouraging the principal(s)"115. Similarly, the French Court of Cassation found that,

> "A person who, by his mere presence in a group of aggressors provided moral support to the assailants, and fully supported the criminal intent of the group, is liable as an accomplice"116[unofficial translation].

The International Criminal Tribunal for the Former Yugoslavia also concluded in the Tadic judgment that :

> "if the presence can be shown or inferred, by circumstantial or other evidence, to be knowing and to have a direct and substantial effect on the commission of the illegal act, then it is sufficient on which to base a finding of participation and assign the criminal culpability that accompanies it."117

6.3.3. Direct and Public Incitement to commit Genocide

THE CRIME OF DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE, PUNISHABLE UNDER ARTICLE 2(3)(c) OF THE STATUTE

549. Under count 4, the Prosecutor charges Akayesu with direct and public incitement to commit genocide, a crime punishable under Article 2(3)(c) of the Statute.

550. Perhaps the most famous conviction for incitement to commit crimes of international dimension was that of Julius Streicher by the Nuremberg Tribunal for the virulently anti-Semitic articles which he

had published in his weekly newspaper *Der Stürmer*. The Nuremberg Tribunal found that: "Streicher's incitement to murder and extermination, at the time when Jews in the East were being killed under the most horrible conditions, clearly constitutes persecution on political and racial grounds in connection with War Crimes, as defined by the Charter, and constitutes a Crime against Humanity". 118

551. At the time the Convention on Genocide was adopted, the delegates agreed to expressly spell out direct and public incitement to commit genocide as a specific crime, in particular, because of its critical role in the planning of a genocide, with the delegate from the USSR stating in this regard that, "It was impossible that hundreds of thousands of people should commit so many crimes unless they had been incited to do so and unless the crimes had been premeditated and carefully organized. He asked how in those circumstances, the inciters and organizers of the crime could be allowed to escape punishment, when they were the ones really responsible for the atrocities committed".119

552. Under Common law systems, incitement tends to be viewed as a particular form of criminal participation, punishable as such. Similarly, under the legislation of some Civil law countries, including Argentina, Bolivia, Chili, Peru, Spain, Uruguay and Venezuela, provocation, which is similar to incitement, is a specific form of participation in an offence120; but in most Civil law systems, incitement is most often treated as a form of complicity.

553. The Rwandan Penal Code is one such legislation. Indeed, as stated above, in the discussion on complicity in genocide, it does provide that direct and public incitement or provocation is a form of complicity. In fact, Article 91 subparagraph 4 provides that an accomplice shall mean " A person or persons who, whether through speeches, shouting or threats uttered in public places or at public gatherings, or through the sale or dissemination, offer for sale or display of written material or printed matter in public places or at public gatherings or through the public display of placards or posters, directly incite(s) the perpetrator or perpetrators to commit such an action without prejudice to the penalties applicable to those who incite others to commit offences, even where such incitement fails to produce results". 121

554. Under the Statute, direct and public incitement is expressly defined as a specific crime, punishable as such, by virtue of Article 2(3)(c). With respect to such a crime, the Chamber deems it appropriate to first define the three terms: incitement, direct and public.

555. Incitement is defined in Common law systems as encouraging or persuading another to commit an offence122. One line of authority in Common law would also view threats or other forms of pressure as a form of incitement123. As stated above, Civil law systems punish direct and public incitement assuming the form of provocation, which is defined as an act intended to directly provoke another to commit a crime or a misdemeanour through speeches, shouting or threats, or any other means of audiovisual communication124. Such a provocation, as defined under Civil law, is made up of the same elements as direct and public incitement to commit genocide covered by Article 2 of the Statute, that is to say it is both direct and public.

556. The public element of incitement to commit genocide may be better appreciated in light of two factors: the place where the incitement occurred and whether or not assistance was selective or limited. A line of authority commonly followed in Civil law systems would regard words as being public where they were spoken aloud in a place that were public by definition125. According to the International Law Commission, public incitement is characterized by a call for criminal action to a number of individuals in a public place or to members of the general public at large by such means as the mass media, for example, radio or television 126. It should be noted in this respect that at the time Convention on Genocide was adopted, the delegates specifically agreed to rule out the possibility of including private incitement to commit genocide as a crime, thereby underscoring their commitment to set aside for

punishment only the truly public forms of incitement127.

557. The "direct" element of incitement implies that the incitement assume a direct form and specifically provoke another to engage in a criminal act, and that more than mere vague or indirect suggestion goes to constitute direct incitement128. Under Civil law systems, provocation, the equivalent of incitement, is regarded as being direct where it is aimed at causing a specific offence to be committed. The prosecution must prove a definite causation between the act characterized as incitement, or provocation in this case, and a specific offence129. However, the Chamber is of the opinion that the direct element of incitement should be viewed in the light of its cultural and linguistic content. Indeed, a particular speech may be perceived as "direct" in one country, and not so in another, depending on the audience130. The Chamber further recalls that incitement may be direct, and nonetheless implicit. Thus, at the time the Convention on Genocide was being drafted, the Polish delegate observed that it was sufficient to play skillfully on mob psychology by casting suspicion on certain groups, by insinuating that they were responsible for economic or other difficulties in order to create an atmosphere favourable to the perpetration of the crime. 131

558. The Chamber will therefore consider on a case-by-case basis whether, in light of the culture of Rwanda and the specific circumstances of the instant case, acts of incitement can be viewed as direct or not, by focusing mainly on the issue of whether the persons for whom the message was intended immediately grasped the implication thereof.

559. In light of the foregoing, it can be noted in the final analysis that whatever the legal system, direct and public incitement must be defined for the purposes of interpreting Article 2(3)(c), as directly provoking the perpetrator(s) to commit genocide, whether through speeches, shouting or threats uttered in public places or at public gatherings, or through the sale or dissemination, offer for sale or display of written material or printed matter in public places or at public gatherings, or through the public display of placards or posters, or through any other means of audiovisual communication.

560. The *mens rea* required for the crime of direct and public incitement to commit genocide lies in the intent to directly prompt or provoke another to commit genocide. It implies a desire on the part of the perpetrator to create by his actions a particular state of mind necessary to commit such a crime in the minds of the person(s) he is so engaging. That is to say that the person who is inciting to commit genocide must have himself the specific intent to commit genocide, namely, to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.

561. Therefore, the issue before the Chamber is whether the crime of direct and public incitement to commit genocide can be punished even where such incitement was unsuccessful. It appears from the *travaux préparatoires* of the Convention on Genocide that the drafters of the Convention considered stating explicitly that incitement to commit genocide could be punished, whether or not it was successful. In the end, a majority decided against such an approach. Nevertheless, the Chamber is of the opinion that it cannot thereby be inferred that the intent of the drafters was not to punish unsuccessful acts of incitement. In light of the overall *travaux*, the Chamber holds the view that the drafters of the Convention simply decided not to specifically mention that such a form of incitement could be punished.

562. There are under Common law so-called inchoate offences, which are punishable by virtue of the criminal act alone, irrespective of the result thereof, which may or may not have been achieved. The Civil law counterparts of inchoate offences are known as [*infractions formelles*] (acts constituting an offence *per se* irrespective of their results), as opposed to [*infractions matérielles*] (strict liability offences). Indeed, as is the case with inchoate offenses, in [*infractions formelles*], the method alone is punishable. Put another way, such offenses are "deemed to have been consummated regardless of the

result achieved [*unofficial translation*]"132 contrary to [*infractions matérielles*]. Indeed, Rwandan lawmakers appear to characterize the acts defined under Article 91(4) of the Rwandan Penal Code as so-called [*infractions formelles*], since provision is made for their punishment even where they proved unsuccessful. It should be noted, however, that such offences are the exception, the rule being that in theory, an offence can only be punished in relation to the result envisaged by the lawmakers. In the opinion of the Chamber, the fact that such acts are in themselves particularly dangerous because of the high risk they carry for society, even if they fail to produce results, warrants that they be punished as an exceptional measure. The Chamber holds that genocide clearly falls within the category of crimes so serious that direct and public incitement to commit such a crime must be punished as such, even where such incitement failed to produce the result expected by the perpetrator.

6.4. Crimes against Humanity (Article 3 of the Statute)

Crimes against Humanity - Historical development

563. Crimes against humanity were recognized in the Charter and Judgment of the Nuremberg Tribunal, as well as in Law No. 10 of the Control Council for Germany. Article 6(c) of the Charter of Nuremberg Tribunal defines crimes against humanity as

> "..murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connexion with any crime within the jurisdiction of the Chamber, whether or not in violation of the domestic law of the country where perpetrated."

564. Article II of Law No. 10 of the Control Council Law defined crimes against humanity as:

> "Atrocities and Offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population or persecution on political, racial or religious grounds, whether or not in violation of the domestic laws of the country where perpetrated."133

565. Crimes against humanity are aimed at any civilian population and are prohibited regardless of whether they are committed in an armed conflict, international or internal in character134. In fact, the concept of crimes against humanity had been recognised long before Nuremberg. On 28 May 1915, the Governments of France, Great Britain and Russia made a declaration regarding the massacres of the Armenian population in Turkey, denouncing them as "crimes against humanity and civilisation for which all the members of the Turkish government will be held responsible together with its agents implicated in the massacres".135 The 1919 Report of the Commission on the Responsibility of the Authors of the War and on Enforcement of Penalties formulated by representatives from several States and presented to the Paris Peace Conference also referred to "offences against ... the laws of humanity".136

566. These World War I notions derived, in part, from the Martens clause of the Hague Convention (IV) of 1907, which referred to "the usages established among civilised peoples, from the laws of humanity, and the dictates of the public conscience". In 1874, George Curtis called slavery a "crime against humanity". Other such phrases as "crimes against mankind" and "crimes against the human family" appear far earlier in human history (see 12 N.Y.L. Sch. J. Hum. Rts 545 (1995)).

567. The Chamber notes that, following the Nuremberg and Tokyo trials, the concept of crimes against

humanity underwent a gradual evolution in the *Eichmann, Barbie, Touvier and Papon* cases.

568. In the *Eichmann* case, the accused, Otto Adolf Eichmann, was charged with offences under Nazi and Nazi Collaborators (punishment) Law, 5710/1950, for his participation in the implementation of the plan know as the Final Solution of the Jewish problem'. Pursuant to Section I (b) of the said law:

> "Crime against humanity means any of the following acts: murder, extermination, enslavement, starvation or deportation and other inhumane acts committed against any civilian population , and persecution on national, racial, religious or political grounds."137

The district court in the Eichmann stated that crimes against humanity differs from genocide in that for the commission of genocide special intent is required. This special intent is not required for crimes against humanity138. Eichmann was convicted by the District court and sentenced to death. Eichmann appealed against his conviction and his appeal was dismissed by the supreme court.

569. In the *Barbie* case, the accused, Klaus Barbie, who was the head of the Gestapo in Lyons from November 1942 to August 1944, during the wartime occupation of France, was convicted in 1987 of crimes against humanity for his role in the deportation and extermination of civilians. Barbie appealed in cassation, but the appeal was dismissed. For the purposes of the present Judgment, what is of interest is the definition of crimes against humanity employed by the Court. The French Court of Cassation, in a Judgment rendered on 20 December 1985, stated:

> Crimes against humanity, within the meaning of Article 6(c) of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945, which were not subject to statutory limitation of the right of prosecution, even if they were crimes which could also be classified as war crimes within the meaning of Article 6(b) of the Charter, *were inhumane acts and persecution committed in a systematic manner in the name of a State practising a policy of ideological supremacy, not only against persons by reason of their membership of a racial or religious community, but also against the opponents of that policy, whatever the form of their opposition.* (Words italicized by the Court)139

570. This was affirmed in a Judgment of the Court of Cassation of 3 June 1988, in which the Court held that:

> The fact that the accused, who had been found guilty of one of the crimes enumerated in Article 6(c) of the Charter of the Nuremberg Tribunal, in perpetrating that crime took part in the execution of a common plan to bring about the deportation or extermination of the civilian population during the war, or persecutions on political, racial or religious grounds, constituted not a distinct offence or an aggravating circumstance but rather *an essential element of the crime against humanity, consisting of the fact that the acts charged were performed in a systematic manner in the name of a State practising by those means a policy of ideological supremacy.*140(Emphasis added)

571. The definition of crimes against humanity developed in *Barbie* was further developed in the *Touvier* case. In that case, the accused, Paul Touvier, had been a high-ranking officer in the Militia (*Milice*) of Lyons, which operated in "Vichy" France during the German occupation. He was convicted of crimes against humanity for his role in the shooting of seven Jews at Rillieux on 29 June 1994 as a reprisal for the assassination by members of the Resistance, on the previous day, of the Minister for Propaganda of the "Vichy" Government.

572. The Court of Appeal applied the definition of crimes against humanity used in *Barbie*, stating that:

> The specific intent necessary to establish a crime against humanity was the intention to take part in the execution of a common plan by committing, in a systematic manner, inhuman acts or persecutions in the name of a State practising a policy of ideological supremacy.141

573. Applying this definition, the Court of Appeal held that Touvier could not be guilty of crimes against humanity since he committed the acts in question in the name of the "Vichy" State, which was not a State practising a policy of ideological supremacy, although it collaborated with Nazi Germany, which clearly did practice such a policy.

574. The Court of Cassation allowed appeal from the decision of the Court of Appeal, on the grounds that the crimes committed by the accused had been committed at the instigation of a Gestapo officer, and to that extent were linked to Nazi Germany, a State practising a policy of ideological supremacy against persons by virtue of their membership of a racial or religious community. Therefore the crimes could be categorised as crimes against humanity. Touvier was eventually convicted of crimes against humanity by the *Cour d'Assises des Yvelines* on 20 April 1994.142

575. The definition of crimes against humanity used in *Barbie* was later affirmed by the ICTY in its *Vukovar* Rule 61 Decision of 3 April 1996 (IT-95-13-R61), to support its finding that crimes against humanity applied equally where the victims of the acts were members of a resistance movement as to where the victims were civilians:

> "29. ... Although according to the terms of Article 5 of the Statute of this Tribunal combatants in the traditional sense of the term cannot be victims of a crime against humanity, this does not apply to individuals who, at one particular point in time, carried out acts of resistance. As the Commission of Experts, established pursuant to Security Council resolution 780, noted, "it seems obvious that Article 5 applies first and foremost to civilians, meaning people who are not combatants. This, however, should not lead to any quick conclusions concerning people who at one particular point in time did bear arms. ... Information of the overall circumstances is relevant for the interpretation of the provision in a spirit consistent with its purpose." (Doc S/1994/674, para. 78).

576. This conclusion is supported by case law. In the Barbie case, the French Cour de Cassation said that:

> "inhumane acts and persecution which, in the name of a State practising a policy of ideological hegemony, were committed systematically or collectively not only against individuals because of their membership in a racial or religious group but also against the adversaries of that policy whatever the form of the opposition" could be considered a crime against humanity. (Cass. Crim. 20 December 1985).

577. Article 7 of the Statute of the International Criminal Court defines a crime against humanity as any of the enumerated acts committed as part of a widespread of systematic attack directed against any civilian population, with knowledge of the attack. These enumerated acts are murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognised as

impermissible under international law, in connection with any act referred to in this article or any other crime within the jurisdiction of the Court; enforced disappearance of persons; the crime of apartheid; other inhumane acts of a similar character intentionally causing great suffering , or serious injury to body or mental or physical health.143

Crimes against Humanity in Article 3 of the Statute of the Tribunal

578. The Chamber considers that Article 3 of the Statute confers on the Chamber the jurisdiction to prosecute persons for various inhumane acts which constitute crimes against humanity. This category of crimes may be broadly broken down into four essential elements, namely :

(i) the act must be inhumane in nature and character, causing great suffering, or serious injury to body or to mental or physical health;
(ii) the act must be committed as part of a wide spread or systematic attack;
(iii) the act must be committed against members of the civilian population;
(iv) the act must be committed on one or more discriminatory grounds, namely, national, political, ethnic, racial or religious grounds.

The act must be committed as part of a wide spread or systematic attack.

579. The Chamber considers that it is a prerequisite that the act must be committed as part of a wide spread or systematic attack and not just a random act of violence. The act can be part of a widespread or systematic attack and need not be a part of both.144

580. The concept of widespread' may be defined as massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims. The concept of systematic' may be defined as thoroughly organised and following a regular pattern on the basis of a common policy involving substantial public or private resources. There is no requirement that this policy must be adopted formally as the policy of a state. There must however be some kind of preconceived plan or policy. 145

581. The concept of attack' maybe defined as a unlawful act of the kind enumerated in Article 3(a) to (I) of the Statute, like murder, extermination, enslavement etc. An attack may also be non violent in nature, like imposing a system of apartheid, which is declared a crime against humanity in Article 1 of the Apartheid Convention of 1973, or exerting pressure on the population to act in a particular manner, may come under the purview of an attack, if orchestrated on a massive scale or in a systematic manner.

The act must be directed against the civilian population

582. The Chamber considers that an act must be directed against the civilian population if it is to constitute a crime against humanity. Members of the civilian population are people who are not taking any active part in the hostilities, including members of the armed forces who laid down their arms and those persons placed *hors de combat* by sickness, wounds, detention or any other cause.146 Where there are certain individuals within the civilian population who do not come within the definition of civilians , this does not deprive the population of its civilian character.147

The act must be committed on discriminatory grounds

583. The Statute stipulates that inhumane acts committed against the civilian population must be committed on national, political, ethnic, racial or religious grounds.' Discrimination on the basis of a

person's political ideology satisfies the requirement of political' grounds as envisaged in Article 3 of the Statute. For definitions on national, ethnic, racial or religious grounds see supra.

584. Inhumane acts committed against persons not falling within any one of the discriminatory categories could constitute crimes against humanity if the perpetrator's intention was to further his attacks on the group discriminated against on one of the grounds mentioned in Article 3 of the Statute. The perpetrator must have the requisite intent for the commission of crimes against humanity. 148

The enumerated acts

585. Article 3 of the Statute sets out various acts that constitute crimes against humanity, namely: murder; extermination; enslavement; deportation; imprisonment; torture; rape; persecution on political, racial and religious grounds; and; other inhumane acts. Although the category of acts that constitute crimes against humanity are set out in Article 3, this category is not exhaustive. Any act which is inhumane in nature and character may constitute a crime against humanity, provided the other elements are met. This is evident in (i) which caters for all other inhumane acts not stipulated in (a) to (h) of Article 3.

586. The Chamber notes that the accused is indicted for murder, extermination, torture, rape and other acts that constitute inhumane acts. The Chamber in interpreting Article 3 of the Statute, shall focus its discussion on these acts only.

Murder

587. The Chamber considers that murder is a crime against humanity, pursuant to Article 3 (a) of the Statute. The International Law Commission discussed the inhumane act of murder in the context of the definition of crimes against humanity and concluded that the crime of murder is clearly understood and defined in the national law of every state and therefore there is no need to further explain this prohibited act.

588. The Chamber notes that article 3(a) of the English version of the Statute refers to "Murder", whilst the French version of the Statute refers to "Assassinat". Customary International Law dictates that it is the act of "Murder" that constitutes a crime against humanity and not "Assassinat". There are therefore sufficient reasons to assume that the French version of the Statute suffers from an error in translation.

589. The Chamber defines murder as the unlawful, intentional killing of a human being. The requisite elements of murder are :

1. the victim is dead;
2. the death resulted from an unlawful act or omission of the accused or a subordinate;
3. at the time of the killing the accused or a subordinate had the intention to kill or inflict grievous bodily harm on the deceased having known that such bodily harm is likely to cause the victim's death, and is reckless whether death ensures or not.

590. Murder must be committed as part of a widespread or systematic attack against a civilian population. The victim must be a member of this civilian population. The victim must have been murdered because he was discriminated against on national, ethnic, racial, political or religious grounds.

Extermination

591. The Chamber considers that extermination is a crime against humanity, pursuant to Article 3 (c) of the Statute. Extermination is a crime which by its very nature is directed against a group of individuals. Extermination differs from murder in that it requires an element of mass destruction which is not required for murder.

592. The Chamber defines the essential elements of extermination as the following :

1. the accused or his subordinate participated in the killing of certain named or described persons;
2. the act or omission was unlawful and intentional.
3. the unlawful act or omission must be part of a widespread or systematic attack;
4. the attack must be against the civilian population;
5. the attack must be on discriminatory grounds, namely: national, political, ethnic, racial, or religious grounds.

Torture

593. The Chamber considers that torture is a crime against humanity pursuant to Article 3(f) of the Statute. Torture may be defined as :

..any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.'149

594. The Chamber defines the essential elements of torture as :

(i) The perpetrator must intentionally inflict severe physical or mental pain or suffering upon the victim for one or more of the following purposes:

(a) to obtain information or a confession from the victim or a third person;
(b) to punish the victim or a third person for an act committed or suspected of having been committed by either of them;
(c) for the purpose of intimidating or coercing the victim or the third person;
(d) for any reason based on discrimination of any kind.

(ii) The perpetrator was himself an official, or acted at the instigation of, or with the consent or acquiescence of, an official or person acting in an official capacity.

595. The Chamber finds that torture is a crime against humanity if the following further elements are satisfied :

(a) Torture must be perpetrated as part of a widespread or systematic attack;
(b) the attack must be against the civilian population;
(c) the attack must be launched on discriminatory grounds, namely: national, ethnic, racial, religious and political grounds.

Rape

596. Considering the extent to which rape constitute crimes against humanity, pursuant to Article 3(g) of the Statute, the Chamber must define rape, as there is no commonly accepted definition of this term in international law. While rape has been defined in certain national jurisdictions as non-consensual intercourse, variations on the act of rape may include acts which involve the insertion of objects and/or the use of bodily orifices not considered to be intrinsically sexual.

597. The Chamber considers that rape is a form of aggression and that the central elements of the crime of rape cannot be captured in a mechanical description of objects and body parts. The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment does not catalogue specific acts in its definition of torture, focusing rather on the conceptual frame work of state sanctioned violence. This approach is more useful in international law. Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or destruction of a person. Like torture, rape is a violation of personal dignity, and rape in fact constitutes torture when inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

598. The Chamber defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. Sexual violence which includes rape, is considered to be any act of a sexual nature which is committed on a person under circumstances which are coercive. This act must be committed :

(a) as part of a wide spread or systematic attack;
(b) on a civilian population;
(c) on certained catalogued discriminatory grounds, namely: national, ethnic, political, racial, or religious grounds.

6.5. Violations of Common Article 3 and Additional Protocol II (Article 4 of the Statute)

Article 4 of the Statute

599. Pursuant to Article 4 of the Statute, the Chamber shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 3 common to the four Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include, but shall not be limited to:

a) violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

b) collective punishments;

c) taking of hostages;

d) acts of terrorism;

e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

f) pillage;

g) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples;

h) threats to commit any of the foregoing acts.

600. Prior to developing the elements for the above cited offences contained within Article 4 of the Statute, the Chamber deems it necessary to comment upon the applicability of common Article 3 and Additional Protocol II as regards the situation which existed in Rwanda in 1994 at the time of the events contained in the Indictment.

Applicability of Common Article 3 and Additional Protocol II

601. The four 1949 Geneva Conventions and the 1977 Additional Protocol I thereto generally apply to international armed conflicts only, whereas Article 3 common to the Geneva Conventions extends a minimum threshold of humanitarian protection as well to all persons affected by a non-international conflict, a protection which was further developed and enhanced in the 1977 Additional Protocol II. In the field of international humanitarian law, a clear distinction as to the thresholds of application has been made between situations of international armed conflicts, in which the law of armed conflicts is applicable as a whole, situations of non-international (internal) armed conflicts, where Common Article 3 and Additional Protocol II are applicable, and non-international armed conflicts where only Common Article 3 is applicable. Situations of internal disturbances are not covered by international humanitarian law.

602. The distinction pertaining to situations of conflicts of a non-international character emanates from the differing intensity of the conflicts. Such distinction is inherent to the conditions of applicability specified for Common Article 3 or Additional Protocol II respectively. Common Article 3 applies to "armed conflicts not of an international character", whereas for a conflict to fall within the ambit of Additional Protocol II, it must "take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol". Additional Protocol II does not in itself establish a criterion for a non-international conflict, rather it merely develops and supplements the rules contained in Common Article 3 without modifying its conditions of application.[150]

603. It should be stressed that the ascertainment of the intensity of a non-international conflict does not depend on the subjective judgment of the parties to the conflict. It should be recalled that the four Geneva Conventions, as well as the two Protocols, were adopted primarily to protect the victims, as well as potential victims, of armed conflicts. If the application of international humanitarian law depended solely on the discretionary judgment of the parties to the conflict, in most cases there would be a tendency for the conflict to be minimized by the parties thereto. Thus, on the basis of objective criteria, both Common Article 3 and Additional Protocol II will apply once it has been established there exists an internal armed conflict which fulfills their respective pre-determined criteria[151].

604. The Security Council, when delimiting the subject-matter jurisdiction of the ICTR[152], incorporated violations of international humanitarian law which may be committed in the context of both an international and an internal armed conflict:

" Given the nature of the conflict as non-international in character, the Council has incorporated within the subject-matter jurisdiction of the Tribunal violations of international

humanitarian law which may either be committed in both international and internal armed conflicts, such as the crime of genocide and crimes against humanity, or may be committed only in internal armed conflicts, such as violations of article 3 common to the four Geneva Conventions, as more fully elaborated in article 4 of Additional Protocol II.
In that latter respect, the Security Council has elected to take a more expansive approach to the choice of the applicable law than the one underlying the Statute of the Yugoslav Tribunal, and included within the subject-matter jurisdiction of the Rwanda Tribunal international instruments regardless of whether they were considered part of customary international law or whether they have customarily entailed the individual criminal responsibility of the perpetrator of the crime. Article 4 of the Statute, accordingly, includes violations of Additional Protocol II, which, as a whole, has not yet been universally recognized as part of customary international law, for the first time criminalizes common article 3 of the four Geneva Conventions."153

605. Although the Security Council elected to take a more expansive approach to the choice of the subject-matter jurisdiction of the Tribunal than that of the ICTY, by incorporating international instruments regardless of whether they were considered part of customary international law or whether they customarily entailed the individual criminal responsibilty of the perpetrator of the crime, the Chamber believes, an essential question which should be addressed at this stage is whether Article 4 of the Statute includes norms which did not, at the time the crimes alleged in the Indictment were committed, form part of existing international customary law. Moreover, the Chamber recalls the establishment of the ICTY 154, during which the UN Secretary General asserted that in application of the principle of *nullum crimen sine lege* the International Tribunal should apply rules of International Humanitarian law which are beyond any doubt part of customary law.

606. Notwithstanding the above, a possible approach would be for the Chamber not to look at the nature of the building blocks of Article 4 of the Statute nor for it to categorize the conflict as such but, rather, to look only at the relevant parts of Common Article 3 and Additional Protocol II in the context of this trial. Indeed, the Security Council has itself never explicitly determined how an armed conflict should be characterised. Yet it would appear that, in the case of the ICTY, the Security Council, by making reference to the four Geneva Conventions, considered that the conflict in the former Yugoslavia was an international armed conflict, although it did not suggest the criteria by which it reached this finding. Similarly, when the Security Council added Additional Protocol II to the subject matter jurisdiction of the ICTR, this could suggest that the Security Council deemed the conflict in Rwanda as an Additional Protocol II conflict. Thus, it would not be necessary for the Chamber to determine the precise nature of the conflict, this having already been pre-determined by the Security Council. Article 4 of the Statute would be applicable irrespective of the Additional Protocol II question', so long as the conflict were covered, at the very least, by the customary norms of Common Article 3. Findings would thus be made on the basis of whether or not it were proved beyond a reasonable doubt that there has been a serious violation in the form of one or more of the acts enumerated in Article 4 of the Statute.

607. However, the Chamber recalls the way in which the Prosecutor has brought some of the counts against the accused, namely counts 6, 8, 10, 12 and 15. For the first four of these, there is mention only of Common Article 3 as the subject matter jurisdiction of the particular alleged offences, whereas count 15 makes an additional reference to Additional Protocol II. To so add Additional Protocol II should not, in the opinion of the Chamber, be dealt with as a mere expansive enunciation of a *ratione materiae* which has been pre-determined by the Security Council. Rather, the Chamber finds it necessary and reasonable to establish the applicability of both Common Article 3 and Additional Protocol II individually. Thus, if an offence, as per count 15, is charged under both Common Article 3 and Additional Protocol II, it will not suffice to apply Common Article 3 and take for granted that Article 4 of the Statute, hence Additional Protocol II, is therefore automatically applicable.

608. It is today clear that the norms of Common Article 3 have acquired the status of customary law in that most States, by their domestic penal codes, have criminalized acts which if committed during internal armed conflict, would constitute violations of Common Article 3. It was also held by the ICTY Trial Chamber in the Tadic judgment 155 that Article 3 of the ICTY Statute (Customs of War), being the body of customary international humanitarian law not covered by Articles 2, 4, and 5 of the ICTY Statute, included the regime of protection established under Common Article 3 applicable to armed conflicts not of an international character. This was in line with the view of the ICTY Appeals Chamber stipulating that Common Article 3 beyond doubt formed part of customary international law, and further that there exists a corpus of general principles and norms on internal armed conflict embracing Common Article 3 but having a much greater scope156.

609. However, as aforesaid, Additional Protocol II as a whole was not deemed by the Secretary-General to have been universally recognized as part of customary international law. The Appeals Chamber concurred with this view inasmuch as "[m]any provisions of this Protocol [II] can now be regarded as declaratory of existing rules or as having crystallised in emerging rules of customary law[ ]", but not all.157

610. Whilst the Chamber is very much of the same view as pertains to Additional Protocol II as a whole, it should be recalled that the relevant Article in the context of the ICTR is Article 4(2) (Fundamental Guarantees) of Additional Protocol II 158. All of the guarantees, as enumerated in Article 4 reaffirm and supplement Common Article 3159 and, as discussed above, Common Article 3 being customary in nature, the Chamber is of the opinion that these guarantees did also at the time of the events alleged in the Indictment form part of existing international customary law.

Individual Criminal Responsibility

611. For the purposes of an international criminal Tribunal which is trying individuals, it is not sufficient merely to affirm that Common Article 3 and parts of Article 4 of Additional Protocol II - which comprise the subject-matter jurisdiction of Article 4 of the Statute - form part of international customary law. Even if Article 6 of the Statute provides for individual criminal responsibility as pertains to Articles 2, 3 and 4 of the Statute, it must also be shown that an individual committing serious violations of these customary norms incurs, as a matter of custom, individual criminal responsibility thereby. Otherwise, it might be argued that these instruments only state norms applicable to States and Parties to a conflict, and that they do not create crimes for which individuals may be tried.

612. As regards individual criminal responsibility for serious violations of Common Article 3, the ICTY has already affirmed this principle in the Tadic case. In the ICTY Appeals Chamber, the problem was posed thus:

> " Even if customary international law includes certain basic principles applicable to both internal and international armed conflicts, Appellant argues that such provisions do not entail individual criminal responsibility when breaches are committed in internal armed conflicts; these provisions cannot, therefore, fall within the scope of the International Tribunal's jurisdiction.160"

613. Basing itself on rulings of the Nuremberg Tribunal, on "elements of international practice which show that States intend to criminalise serious breaches of customary rules and principles on internal conflicts", as well as on national legislation designed to implement the Geneva Conventions, the ICTY Appeals Chamber reached the conclusion:

" All of these factors confirm that customary international law imposes criminal liability for serious violations of common Article 3, as supplemented by other general principles and rules on protection of victims of internal armed conflict, and for breaching certain fundamental principles and rules regarding means and methods of combat in civil strife.161"

614. This was affirmed by the ICTY Trial Chamber when it rendered in the Tadic judgment162.

615. The Chamber considers this finding of the ICTY Appeals Chamber convincing and dispositive of the issue, both with respect to serious violations of Common Article 3 and of Additional Protocol II.

616. It should be noted, moreover, that Article 4 of the ICTR Statute states that, "The International Tribunal for Rwanda shall have the power to prosecute persons committing or ordering to be committed *serious violations* of Article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977" (emphasis added). The Chamber understands the phrase "serious violation" to mean "a breach of a rule protecting important values [which] must involve grave consequences for the victim", in line with the above-mentioned Appeals Chamber Decision in Tadic , paragraph 94. The list of serious violations which is provided in Article 4 of the Statute is taken from Common Article 3 - which contains fundamental prohibitions as a humanitarian minimum of protection for war victims - and Article 4 of Additional Protocol II, which equally outlines "Fundamental Guarantees". The list in Article 4 of the Statute thus comprises *serious* violations of the fundamental humanitarian guarantees which, as has been stated above, are recognized as part of international customary law. In the opinion of the Chamber, it is clear that the authors of such egregious violations must incur individual criminal responsibility for their deeds.

617. The Chamber, therefore, concludes the violation of these norms entails, as a matter of customary international law, individual responsibility for the perpetrator. In addition to this argument from custom, there is the fact that the Geneva Conventions of 1949 (and thus Common Article 3) were ratified by Rwanda on 5 May 1964 and Additional Protocol II on 19 November 1984, and were therefore in force on the territory of Rwanda at the time of the alleged offences. Moreover, all the offences enumerated under Article 4 of the Statute constituted crimes under Rwandan law in 1994. Rwandan nationals were therefore aware, or should have been aware, in 1994 that they were amenable to the jurisdiction of Rwandan courts in case of commission of those offences falling under Article 4 of the Statute.

The nature of the conflict

618. As aforesaid, it will not suffice to establish that as the criteria of Common Article 3 have been met, the whole of Article 4 of the Statute, hence Additional Protocol II, will be applicable. Where alleged offences are charged under both Common Article 3 and Additional Protocol II, which has a higher threshold, the Prosecutor will need to prove that the criteria of applicability of, on the one hand, Common Article 3 and, on the other, Additional Protocol II have been met. This is so because Additional Protocol II is a legal instrument the overall sole purpose of which is to afford protection to victims in conflicts not of an international character. Hence, the Chamber deems it reasonable and necessary that, prior to deciding if there have been serious violations of the provisions of Article 4 of the Statute, where a specific reference has been made to Additional Protocol II in counts against an accused, it must be shown that the conflict is such as to satisfy the requirements of Additional Protocol II.

Common Article 3

619. The norms set by Common Article 3 apply to a conflict as soon as it is an armed conflict not of an

international character'. An inherent question follows such a description, namely, what constitutes an armed conflict? The Appeals Chamber in the Tadic decision on Jurisdiction163 held "that an armed conflict exists whenever there is [...] protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until [...] in the case of internal conflicts, a peaceful settlement is reached". Similarly, the Chamber notes that the ICRC commentary on Common Article 3164 suggests useful criteria resulting from the various amendments discussed during the Diplomatic Conference of Geneva, 1949, *inter alia*:

> That the Party in revolt against the *de jure* Government possesses an organized military force, an authority responsible for its acts, acting within a determinate territory and having the means of respecting and ensuring the respect for the Convention.
>
> That the legal Government is obliged to have recourse to the regular military forces against insurgents organized as military in possession of a part of the national territory.
>
> (a) That the *de jure* Government has recognized the insurgents as belligerents; or
>
> (b) that it has claimed for itself the rights of a belligerent; or
>
> (c) that it has accorded the insurgents recognition as belligerents for the purposes only of the present Convention; or
>
> (d) that the dispute has been admitted to the agenda of the Security Council or the General Assembly of the United Nations as being a threat to international peace, a breach of peace, or an act of aggression.

620. The above reference' criteria were enunciated as a means of distinguishing genuine armed conflicts from mere acts of banditry or unorganized and short-lived insurrections165. The term, armed conflict' in itself suggests the existence of hostilities between armed forces organized to a greater or lesser extent166. This consequently rules out situations of internal disturbances and tensions. For a finding to be made on the existence of an internal armed conflict in the territory of Rwanda at the time of the events alleged, it will therefore be necessary to evaluate both the intensity and organization of the parties to the conflict.

621. Evidence presented in relation to paragraphs 5-11 of the Indictment167, namely the testimony of Major-General Dallaire, has shown there to have been a civil war between two groups, being on the one side, the governmental forces, the FAR, and on the other side, the RPF. Both groups were well-organized and considered to be armies in their own right. Further, as pertains to the intensity of conflict, all observers to the events, including UNAMIR and UN Special rapporteurs, were unanimous in characterizing the confrontation between the two forces as a war, an internal armed conflict. Based on the foregoing, the Chamber finds there existed at the time of the events alleged in the Indictment an armed conflict not of an international character as covered by Common Article 3 of the 1949 Geneva Conventions.

Additional Protocol II

622. As stated above, Additional Protocol II applies to conflicts which "take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable

them to carry out sustained and concerted military operations and to implement this Protocol".

623. Thus, the conditions to be met to fulfil the material requirements of applicability of Additional Protocol II at the time of the events alleged in the Indictment would entail showing that:

(i) an armed conflict took place in the territory of a High Contracting Party, namely Rwanda, between its armed forces and dissident armed forces or other organized armed groups;

(ii) the dissident armed forces or other organized armed groups were under responsible command;

(iii) the dissident armed forces or other organized armed groups were able to exercise such control over a part of their territory as to enable them to carry out sustained and concerted military operations; and

(iv) the dissident armed forces or other organized armed groups were able to implement Additional Protocol II.

624. As per Common Article 3, these criteria have to be applied objectively, irrespective of the subjective conclusions of the parties involved in the conflict. A number of precisions need to be made about the said criteria prior to the Chamber making a finding thereon.168

625. The concept of armed conflict has already been discussed in the previous section pertaining to Common Article 3. It suffices to recall that an armed conflict is distinguished from internal disturbances by the level of intensity of the conflict and the degree of organization of the parties to the conflict. Under Additional Protocol II, the parties to the conflict will usually either be the government confronting dissident armed forces, or the government fighting insurgent organized armed groups. The term, armed forces' of the High Contracting Party is to be defined broadly, so as to cover all armed forces as described within national legislations.

626. The armed forces opposing the government must be under responsible command, which entails a degree of organization within the armed group or dissident armed forces. This degree of organization should be such so as to enable the armed group or dissident forces to plan and carry out concerted military operations, and to impose discipline in the name of a *de facto* authority. Further, these armed forces must be able to dominate a sufficient part of the territory so as to maintain sustained and concerted military operations and to apply Additional Protocol II. In essence, the operations must be continuous and planned. The territory in their control is usually that which has eluded the control of the government forces.

627. In the present case, evidence has been presented to the Chamber which showed there was at the least a conflict not of a international character in Rwanda at the time of the events alleged in the Indictment169. The Chamber, also taking judicial notice of a number of UN official documents dealing with the conflict in Rwanda in 1994, finds, in addition to the requirements of Common Article 3 being met, that the material conditions listed above relevant to Additional Protocol II have been fulfilled. It has been shown that there was a conflict between, on the one hand, the RPF, under the command of General Kagame, and, on the other, the governmental forces, the FAR. The RPF increased its control over the Rwandan territory from that agreed in the Arusha Accords to over half of the country by mid-May 1994, and carried out continuous and sustained military operations until the cease fire on 18 July 1994 which brought the war to an end. The RPF troops were disciplined and possessed a structured leadership which

was answerable to authority. The RPF had also stated to the International Committee of the Red Cross that it was bound by the rules of International Humanitarian law170. The Chamber finds the said conflict to have been an internal armed conflict within the meaning of Additional Protocol II. Further, the Chamber finds that conflict took place at the time of the events alleged in the Indictment.

Ratione personae

628. Two distinct issues arise with respect to personal jurisdiction over serious violations of Common Article 3 and Additional Protocol II - the class of victims and the class of perpetrators.

The class of victims

629. Paragraph 10 of the Indictment reads, "The victims referred to in this Indictment were, at all relevant times, persons not taking an active part in the hostilities". This is a material averment for charges involving Article 4 inasmuch as Common Article 3 is for the protection of "persons taking no active part in the hostilities" (Common Article 3(1)), and Article 4 of Additional Protocol II is for the protection of, "all persons who do not take a direct part or who have ceased to take part in hostilities". These phrases are so similar that, for the Chamber's purposes, they may be treated as synonymous. Whether the victims referred to in the Indictment are *indeed* persons not taking an active part in the hostilities is a factual question, which has been considered in the Factual Findings on the General Allegations (paragraphs 5-11 of the Indictment).

The class of perpetrators

630. The four Geneva Conventions - as well as the two Additional Protocols - as stated above, were adopted primarily to protect the victims as well as potential victims of armed conflicts. This implies thus that the legal instruments are primarily addressed to persons who by virtue of their authority, are responsible for the outbreak of, or are otherwise engaged in the conduct of hostilities. The category of persons to be held accountable in this respect then, would in most cases be limited to commanders, combatants and other members of the armed forces.

631. Due to the overall protective and humanitarian purpose of these international legal instruments, however, the delimitation of this category of persons bound by the provisions in Common Article 3 and Additional Protocol II should not be too restricted. The duties and responsibilities of the Geneva Conventions and the Additional Protocols, hence, will normally apply only to individuals of all ranks belonging to the armed forces under the military command of either of the belligerent parties, or to individuals who were legitimately mandated and expected, as public officials or agents or persons otherwise holding public authority or *de facto* representing the Government, to support or fulfil the war efforts. The objective of this approach, thus, would be to apply the provisions of the Statute in a fashion which corresponds best with the underlying protective purpose of the Conventions and the Protocols.

632. However, the Indictment does not specifically aver that the accused falls in the class of persons who may be held responsible for serious violations of Common Article 3 and Additional Protocol II. It has not been alleged that the accused was officially a member of the Rwandan armed forces' (in its broadest sense). It could, hence, be objected that, as a civilian, Article 4 of the Statute, which concerns the law of armed conflict, does not apply to him.

633. It is, in fact, well-established, at least since the Tokyo trials, that civilians may be held responsible for violations of international humanitarian law. Hirota, the former Foreign Minister of Japan, was convicted at Tokyo for crimes committed during the rape of Nanking171. Other post-World War II trials

unequivocally support the imposition of individual criminal liability for war crimes on civilians where they have a link or connection with a Party to the conflict172.The principle of holding civilians liable for breaches of the laws of war is, moreover, favored by a consideration of the humanitarian object and purpose of the Geneva Conventions and the Additional Protocols, which is to protect war victims from atrocities.

634. Thus it is clear from the above that the laws of war must apply equally to civilians as to combatants in the conventional sense. Further, the Chamber notes, in light of the above dicta, that the accused was not, at the time of the events in question, a mere civilian but a bourgmestre. The Chamber therefore concludes that, if so established factually, the accused could fall in the class of individuals who may be held responsible for serious violations of international humanitarian law, in particular serious violations of Common Article 3 and Additional Protocol II.

Ratione loci

635. There is no clear provision on applicability *ratione loci* either in Common Article 3 or Additional Protocol II. However, in this respect Additional Protocol II seems slightly clearer, in so far as it provides that the Protocol shall be applied "to all persons affected by an armed conflict as defined in Article 1". The commentary thereon 173 specifies that this applicability is irrespective of the exact location of the affected person in the territory of the State engaged in the conflict. The question of applicability *ratione loci* in non-international armed conflicts, when only Common Article 3 is of relevance should be approached the same way, i.e. the article must be applied in the whole territory of the State engaged in the conflict. This approach was followed by the Appeals Chamber in its decision on jurisdiction in Tadic , wherein it was held that "the rules contained in [common] Article 3 also apply outside the narrow geographical context of the actual theatre of combat operations"174.

636. Thus the mere fact that Rwanda was engaged in an armed conflict meeting the threshold requirements of Common Article 3 and Additional Protocol II means that these instruments would apply over the whole territory hence encompassing massacres which occurred away from the war front'. From this follows that it is not possible to apply rules in one part of the country (i.e. Common Article 3) and other rules in other parts of the country (i.e. Common Article 3 and Additional Protocol II). The aforesaid, however, is subject to the caveat that the crimes must not be committed by the perpetrator for purely personal motives.

Conclusion

637. The applicability of Common Article 3 and Additional Protocol II has been dealt with above and findings made thereon in the context of the temporal setting of events alleged in the Indictment. It remains for the Chamber to make its findings with regard the accused's culpability under Article 4 of the Statute. This will be dealt with in section 7 of the judgment.

7. LEGAL FINDINGS

7.1. Counts 6, 8, 10 and 12- Violations of Common Article 3 (murder and cruel treatment) and Count 15 - Violations of Common Article 3 and Additional Protocol II (outrages upon personal dignity, in particular rape...)

638. Counts 6, 8, 10, and 12 of the Indictment charge Akayesu with Violations of Common Article 3 of the 1949 Geneva Conventions, and Count 15 charges Akayesu of Violations of Common Article 3 of the 1949 Geneva Conventions and the 1977 Additional Protocol II thereto. All these counts are covered by

Article 4 of the Statute.

639. It has already been proved beyond reasonable doubt that there was an armed conflict not of an international character between the Government of Rwanda and the RPF in 1994 at the time of the events alleged in the Indictment175. The Chamber found the conflict to meet the requirements of Common Article 3 as well as Additional Protocol II.

640. For Akayesu to be held criminally responsible under Article 4 of the Statute, it is incumbent on the Prosecutor to prove beyond a reasonable doubt that Akayesu acted for either the Government or the RPF in the execution of their respective conflict objectives. As stipulated earlier in this judgment, this implies that Akayesu would incur individual criminal responsibility for his acts if it were proved that by virtue of his authority, he is either responsible for the outbreak of, or is otherwise directly engaged in the conduct of hostilities. Hence, the Prosecutor will have to demonstrate to the Chamber and prove that Akayesu was either a member of the armed forces under the military command of either of the belligerent parties, or that he was legitimately mandated and expected, as a public official or agent or person otherwise holding public authority or *de facto* representing the Government, to support or fulfil the war efforts. Indeed, the Chamber recalls that Article 4 of the Statute also applies to civilians.

641. Evidence presented during trial established that, at the time of the events alleged in the Indictment, Akayesu wore a military jacket, carried a rifle, he assisted the military on their arrival in Taba by undertaking a number of tasks, including reconnaissance and mapping of the commune, and the setting up of radio communications, and he allowed the military to use his office premises. The Prosecutor relied in part on these facts to demonstrate that there was a nexus between the actions of Akayesu and the conflict. Further the Prosecutor argued that reference by Akayesu to individuals as RPF accomplices was indicative of Akayesu connecting his actions to the conflict between the Government and the RPF.

642. It has been established in this judgment that Akayesu embodied the communal authority and that he held an executive civilian position in the territorial administrative subdivision of Commune. However, the Prosecutor did not bring sufficient evidence to show how and in what capacity Akayesu was supporting the Government effort against the RPF. The evidence as pertains to the wearing of a military jacket and the carrying of a rifle, in the opinion of the Chamber, are not significant in demonstrating that Akayesu actively supported the war effort. Furthermore, the Chamber finds that the limited assistance given to the military by the accused in his role as the head of the commune does not suffice to establish that he actively supported the war effort. Moreover, the Chamber recalls it has been proved that references to RPF accomplices in the context of the events which occurred in Taba were to be understood as meaning Tutsi.176

643. Considering the above, and based on all the evidence presented in this case, the Chamber finds that it has not been proved beyond reasonable doubt that the acts perpetrated by Akayesu in the commune of Taba at the time of the events alleged in the Indictment were committed in conjunction with the armed conflict. The Chamber further finds that it has not been proved beyond reasonable doubt that Akayesu was a member of the armed forces, or that he was legitimately mandated and expected, as a public official or agent or person otherwise holding public authority or *de facto* representing the Government, to support or fulfil the war efforts.

644. The Tribunal therefore finds that Jean-Paul Akayesu did not incur individual criminal responsibility under counts 6, 8, 10, 12 & 15 of the Indictment.

7.2. Count 5 - Crimes against humanity (murder)

645. Count 5 of the indictment charges the Accused with a crime against humanity (murder), pursuant to Article 3(a) of the Statute, for the acts alleged in paragraphs 15 and 18 of the indictment.

646. The definition of crimes against humanity, including the various elements that comprise the enumerated offences under Article 3 of the Statute have already been discussed.

647. The Chamber finds beyond a reasonable doubt that the Accused was present and addressed a gathering in Gishyeshye sector on the morning of 19 April 1994. The Chamber however finds that it has not been proven beyond a reasonable doubt that the Accused during this address, mentioned the names of Juvénal Rukundakuvuga or Emmanuel Sempabwa as Tutsi to be killed and as a result thereof they were subsequently killed.

648. The Chamber finds beyond a reasonable doubt that during his search for Ephrem Karangwa, the Accused participated in the killing of Simon Mutijima, Thaddée Uwanyiligra and Jean Chrysostome, by ordering their deaths and being present when they were killed.

649. The Chamber finds beyond a reasonable doubt that Simon Mutijima, Thaddée Uwanyiligra and Jean Chrysostome were civilians, taking no active part in the hostilities that prevailed in Rwanda in 1994 and the only reason they were killed is because they were Tutsi.

650. The Chamber finds beyond a reasonable doubt that in ordering the killing of Simon Mutijima, Thaddée Uwanyiligra and Jean Chrysostome, the Accused had the requisite intent to kill them as part of a widespread or systematic attack against the civilian population of Rwanda on ethnic grounds.

651. The Chamber finds beyond a reasonable doubt that in ordering the killing of Simon Mutijima, Thaddée Uwanyiligra and Jean Chrysostome, the Accused is individually criminally responsible for the death of these victims, pursuant to Article 6(1) of the Statute.

652. The Chamber finds beyond a reasonable doubt that there was a widespread and systematic attack against the civilian population in Rwanda on 19 April 1994 and the conduct of the Accused formed part of this attack.

653. The Chamber finds beyond a reasonable doubt that the killing of Simon Mutijima, Thaddée Uwanyiligra and Jean Chrysostome constitutes murder committed, as part of a widespread or systematic attack on the civilian population on ethnic grounds and as such constitutes a crime against humanity. Accordingly, the Chamber finds beyond a reasonable doubt that the Accused is guilty as charged in count 5 of the indictment.

7.3. Count 7 - Crimes against Humanity (murder)

654. Count 7 of the indictment charges the Accused with a crime against humanity (murder), pursuant to Article 3(a) of the Statute, for the acts alleged in paragraph 19 of the indictment.

655. The definition of crimes against humanity, including the various elements that comprise the enumerated offences under Article 3 of the Statute have already been discussed.

656. The Chamber finds beyond a reasonable doubt that on 19 April 1994, the Accused took eight detained refugees who were civilians and who did not take any active part in the hostilities that prevailed in Rwanda in 1994 and handed them over to the local militia, known as the Interahamwe with orders that they be killed.

657. The Chamber finds beyond a reasonable doubt that the Interahamwe, acting on the orders from the Accused killed these eight refugees, at the bureau communal in the presence of the Accused.

658. The Chamber finds beyond a reasonable doubt that in ordering the killing of the eight refugees, the Accused had the requisite intent to kill them as part of a widespread or systematic attack against the civilian population of Rwanda on ethnic grounds and as such he is criminally responsible for the killing of these eight refugees.

659. The Chamber finds beyond a reasonable doubt that in ordering the killing of the eight refugees, the Accused is individually criminally responsible for the death of these victims, pursuant to Article 6(1) of the Statute.

660. The Chamber finds beyond a reasonable doubt that there was a widespread and systematic attack against the civilian population in Rwanda on 19 April 1994 and the conduct of the Accused formed part of this attack.

661. The Chamber finds beyond a reasonable doubt that the killing of these eight refugees constitutes murder committed, as part of a widespread or systematic attack on the civilian population on ethnic grounds and as such constitutes a crime against humanity. Accordingly, the Chamber finds beyond a reasonable doubt that the Accused is guilty as charged in count 7 of the indictment.

7.4. Count 9 - Crimes against Humanity (murder)

662. Count 9 of the indictment charges the Accused with a crime against humanity (murder), pursuant to Article 3(a) of the Statute, for the acts alleged in paragraph 20 of the indictment.

663. The definition of crimes against humanity, including the various elements that comprise the enumerated offences under Article 3 of the Statute have already been discussed.

664. The Chamber finds beyond a reasonable doubt that on 19 April 1994, the Accused ordered the local people and militia known as the Interahamwe to kill intellectual people.

665. The Chamber finds beyond a reasonable doubt that the Interahamwe and the local population, acting on the orders of the Accused killed five teachers namely; a professor known as Samuel; Tharcisse who was killed in the presence of the Accused; Theogene, Phoebe Uwineze and her fiancé.

666. The Chamber finds beyond a reasonable doubt that these five teachers were civilians and did not take any active part in the hostilities that prevailed in Rwanda in 1994.

667. The Chamber finds beyond a reasonable doubt that these five teachers were killed because they were Tutsi.

668. The Chamber finds beyond a reasonable doubt that in ordering the killing of these five teachers, the Accused had the requisite intent to kill them as part of a widespread or systematic attack against the civilian population of Rwanda on ethnic grounds.

669. The Chamber finds beyond a reasonable doubt that in ordering the killing of these five teachers, the Accused is individually criminally responsible for the death of these victims, pursuant to Article 6(1) of the Statute.

670. The Chamber finds beyond a reasonable doubt that there was a widespread and systematic attack against the civilian population in Rwanda on 19 April 1994 and the conduct of the Accused formed part of this attack.

671. The Chamber finds, beyond a reasonable doubt that the killing of these five people constitute murder committed, as part of a widespread or systematic attack on the civilian population on ethnic grounds and as such constitutes a crime against humanity. Accordingly, the Chamber finds beyond a reasonable doubt that the Accused is guilty as charged in count 9 of the indictment.

7.5. Count 4 - Direct and Public Incitement to commit Genocide

672. Count 4 deals with the allegations described in paragraphs 14 and 15 of the Indictment, relating, essentially, to the speeches that Akayesu reportedly made at a meeting held in Gishyeshye on 19 April 1994. The Prosecutor alleges that, through his speeches, Akayesu committed the crime of direct and public incitement to commit genocide, a crime punishable under Article 2(3)(c) of the Statute.

673. The Trial Chamber made the following factual findings on the events described in paragraphs 14 and 15 of the Indictment. The Chamber is satisfied beyond a reasonable doubt that:

(i) Akayesu, in the early hours of 19 April 1994, joined a crowd of over 100 people which had gathered around the body of a young member of the Interahamwe in Gishyeshye.
(ii) He seized that opportunity to address the people and, owing, particularly, to his functions as bourgmestre and his authority over the population, he led the gathering and the proceedings.
(iii) It has been established that Akayesu then clearly urged the population to unite in order to eliminate what he termed the sole enemy: the accomplices of the Inkotanyi.
(iv) On the basis of consistent testimonies heard throughout the proceedings and the evidence of Dr. Ruzindana, appearing as expert witness on linguistic matters, the Chamber is satisfied beyond a reasonable doubt that the population understood Akayesu's call as one to kill the Tutsi. Akayesu himself was fully aware of the impact of his speech on the crowd and of the fact that his call to fight against the accomplices of the Inkotanyi would be construed as a call to kill the Tutsi in general.
(v) During the said meeting, Akayesu received from the Interahamwe documents which included lists of names, and read from the lists to the crowd by stating, in particular, that the names were those of RPF accomplices.
(vi) Akayesu testified that the lists contained, especially, the name of Ephrem Karangwa, whom he named specifically, while being fully aware of the consequences of doing so. Indeed, he admitted before the Chamber that, at the time of the events alleged in the Indictment, to label anyone in public as an accomplice of the RPF would put such a person in danger.
(vii) The Chamber is of the opinion that there is a causal relationship between Akayesu's speeches at the gathering of 19 April 1994 and the ensuing widespread massacres of Tutsi in Taba.

674. From the foregoing, the Chamber is satisfied beyond a reasonable doubt that, by the above-mentioned speeches made in public and in a public place, Akayesu had the intent to directly create a particular state of mind in his audience necessary to lead to the destruction of the Tutsi group, as such. Accordingly, the Chamber finds that the said acts constitute the crime of direct and public incitement to commit genocide, as defined above.

675. In addition, the Chamber finds that the direct and public incitement to commit genocide as engaged in by Akayesu, was indeed successful and did lead to the destruction of a great number of Tutsi in the commune of Taba.

7.6. Count 11 - Crimes against Humanity (torture)

676. In the light of its factual findings with regard to the allegations set forth in paragraphs 16,17, 21, 22 and 23 of the Indictment, the Tribunal considers the criminal responsibility of the Accused on Count 11 for his acts in relation to the beatings of Victims U, V, W, X, Y and Z.

677. The Tribunal notes that evidence has been presented at trial regarding the beating of victims not specifically named in paragraphs 16,17,21,22 and 23 of the Indictment. Witness J, for example, testified that she was slapped and her brother was beaten by the Accused. As counts 11 and 12 are restricted to acts in relation to the beatings of Victims U, V, W, X, Y and Z, the Tribunal will restrict its legal findings to these acts.

678. The Tribunal notes that paragraph 16 of the Indictment alleges that the Accused threatened to kill the husband and child of Victim U. The factual finding of the Tribunal is that the Accused threatened to kill Victim U, not her husband and child. The Tribunal considers that the allegations set forth in the Indictment sufficiently informed the Accused, in accordance with the requirements of due process, of the charge against him. The material allegation is that he threatened Victim U. Whether the threat was against her life or the life of her immediate family is not legally significant in the Tribunal's view.

679. The Tribunal notes that Paragraph 21 of the Indictment refers to "communal police" without reference to the Interahamwe, although Paragraph 23 refers to "men under Jean Paul Akayesu's authority". In its factual findings, the Tribunal has determined that only Mugenzi was a communal police officer. The other person actively involved in the interrogation and beating of Victim Z and possibly the interrogation of Victim W was Francois, an Interahamwe. As Francois and Mugenzi were both acting in the presence of and under the immediate authority of the Accused, as bourgemester, the Tribunal finds that in relation to the Accused the acts of Francois may be treated as equivalent to the acts of Mugenzi.

680. The Tribunal notes that the Accused himself participated in the beating of Victim Y by hitting her on the back with a club, and the beating of Victim Z by stepping on his face and holding his foot there while others beat him. It is alleged that he interrogated them but it is not specifically alleged in Paragraphs 21 and 23 of the Indictment that the Accused committed acts of physical violence. The Tribunal finds, however, that the allegations in the Indictment were sufficient notice to the Accused of the incidents in question, and that the exact role of the Accused in these incidents was a matter which was adjudicated at trial in accordance with the requirements of due process. For these reasons, the Tribunal finds that the Accused may be judged criminally responsible for his direct participation in these beatings, despite the absence of a specific allegation of direct participation by the Accused in the relevant paragraphs of the Indictment.

681. The Tribunal interprets the word "torture", as set forth in Article 3(f) of its Statute, in accordance with the definition of torture set forth in the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that is "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted

by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

682. The Tribunal finds that the following acts committed by the Accused or by others in the presence of the Accused, at his instigation or with his consent or acquiescence, constitute torture:

(i) the interrogation of Victim U, under threat to her life, by the Accused at the bureau communal, on 19 April 1994;
(ii) the beating of Victim Y outside of her house by the Accused and Mugenzi on 20 April 1994;
(iii) the interrogation of Victim Y, under threat to her life, by the Accused, and the beating of Victim Y under interrogation by Mugenzi, in the presence of the Accused, at a mine at Buguli on 20 April 1994;
(iv) the interrogation of Victim W, under threat to her life, at a mine at Buguli by the Accused, on 20 April 1994;
(v) the beating of Victim Z under interrogation by the Accused, and by Mugenzi and Francois in the presence of the Accused, in Gishyeshye Sector, on 20 April 1994;
(vi) the forcing of Victim Z to beat Victim Y under interrogation, by Francois in the presence of the Accused, in Gishyeshye Sector, on 20 April 1994;
(vii) the beating of Victim Z and Victim V by Mugenzi and Francois and the interrogation of Victim V, under threat to his life, by the Accused outside the house of Victim V, on 20 April 1994;

683. Accordingly, the Tribunal finds the Accused criminally responsible on Count 11 under Article 6(1) of its Statute for commission of the following acts of torture as crimes against humanity under Article 3 (a) of its Statute:

(i) his interrogation of Victim U, under threat to her life, at the bureau communal on 19 April 1994;
(ii) his beating of Victim Y, outside of her house, on 20 April 1994;
(iii) his interrogation of Victim Y, under threat to her life, at a mine at Buguli on 20 April 1994;
(iv) his interrogation of Victim W, under threat to her life, at a mine at Buguli on 20 April 1994;
(v) his beating of Victim Z in Gishyeshye Sector, on 20 April 1994;
(vi) his interrogation of Victim V, under threat to his life, outside of his house, on 20 April 1994.

684. The Tribunal finds the Accused criminally responsible on Count 11 under Article 6(1) of its Statute for implicitly ordering, as well as instigating, aiding and abetting, the following acts of torture, which were committed in his presence by men acting on his behalf, as crimes against humanity under Article 3 (a) of its Statute:

(i) the beating of Victim Y outside of her house by Mugenzi on 20 April 1994;
(ii) the beating of Victim Y, under interrogation, by Mugenzi, at a mine at Buguli on 20 April 1994;
(iii) the beating of Victim Z, under interrogation, by Mugenzi and Francois, in Gishyeshye Sector on 20 April 1994;
(iv) the forcing of Victim Z to beat Victim Y, under interrogation, by Francois, in Gishyeshye Sector on 20 April 1994.

7.7. Count 13 (rape) and Count 14 (other inhumane acts) - Crimes against Humanity

685. In the light of its factual findings with regard to the allegations of sexual violence set forth in paragraphs 12A and 12B of the Indictment, the Tribunal considers the criminal responsibility of the Accused on Count 13, crimes against humanity (rape), punishable by Article 3(g) of the Statute of the Tribunal and Count 14, crimes against humanity (other inhumane acts), punishable by Article 3(i) of the Statute.

686. In considering the extent to which acts of sexual violence constitute crimes against humanity under Article 3(g) of its Statute, the Tribunal must define rape, as there is no commonly accepted definition of the term in international law. The Tribunal notes that many of the witnesses have used the term "rape" in their testimony. At times, the Prosecution and the Defence have also tried to elicit an explicit description of what happened in physical terms, to document what the witnesses mean by the term "rape". The Tribunal notes that while rape has been historically defined in national jurisdictions as non-consensual sexual intercourse, variations on the form of rape may include acts which involve the insertion of objects and/or the use of bodily orifices not considered to be intrinsically sexual. An act such as that described by Witness KK in her testimony - the Interahamwes thrusting a piece of wood into the sexual organs of a woman as she lay dying - constitutes rape in the Tribunal's view.

687. The Tribunal considers that rape is a form of aggression and that the central elements of the crime of rape cannot be captured in a mechanical description of objects and body parts. The Tribunal also notes the cultural sensitivities involved in public discussion of intimate matters and recalls the painful reluctance and inability of witnesses to disclose graphic anatomical details of sexual violence they endured. The United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment does not catalogue specific acts in its definition of torture, focusing rather on the conceptual framework of state-sanctioned violence. The Tribunal finds this approach more useful in the context of international law. Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or destruction of a person. Like torture, rape is a violation of personal dignity, and rape in fact constitutes torture when it is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

688. The Tribunal defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. The Tribunal considers sexual violence, which includes rape, as any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact. The incident described by Witness KK in which the Accused ordered the Interahamwe to undress a student and force her to do gymnastics naked in the public courtyard of the bureau communal, in front of a crowd, constitutes sexual violence. The Tribunal notes in this context that coercive circumstances need not be evidenced by a show of physical force. Threats, intimidation, extortion and other forms of duress which prey on fear or desperation may constitute coercion, and coercion may be inherent in certain circumstances, such as armed conflict or the military presence of Interahamwe among refugee Tutsi women at the bureau communal. Sexual violence falls within the scope of "other inhumane acts", set forth Article 3(i) of the Tribunal's Statute, "outrages upon personal dignity," set forth in Article 4(e) of the Statute, and "serious bodily or mental harm," set forth in Article 2(2)(b) of the Statute.

689. The Tribunal notes that as set forth by the Prosecution, Counts 13-15 are drawn on the basis of acts as described in paragraphs 12(A) and 12(B) of the Indictment. The allegations in these paragraphs of the Indictment are limited to events which took place "on or near the bureau communal premises." Many of the beatings, rapes and murders established by the evidence presented took place away from the bureau

communal premises, and therefore the Tribunal does not make any legal findings with respect to these incidents pursuant to Counts 13, 14 and 15.

690. The Tribunal also notes that on the basis of acts described in paragraphs 12(A) and 12(B), the Accused is charged only pursuant to Article 3(g) (rape) and 3(i) (other inhumane acts) of its Statute, but not Article 3(a)(murder) or Article 3(f)(torture). Similarly, on the basis of acts described in paragraphs 12(A) and 12(B), the Accused is charged only pursuant to Article 4(e)(outrages upon personal dignity) of its Statute, and not Article 4(a)(violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment). As these paragraphs are not referenced elsewhere in the Indictment in connection with these other relevant Articles of the Statute of the Tribunal, the Tribunal concludes that the Accused has not been charged with the beatings and killings which have been established as Crimes Against Humanity or Violations of Article 3 Common to the Geneva Conventions. The Tribunal notes, however, that paragraphs 12(A) and 12(B) are referenced in Counts 1-3, Genocide and it considers the beatings and killings, as well as sexual violence, in connection with those counts.

691. The Tribunal has found that the Accused had reason to know and in fact knew that acts of sexual violence were occurring on or near the premises of the bureau communal and that he took no measures to prevent these acts or punish the perpetrators of them. The Tribunal notes that it is only in consideration of Counts 13, 14 and 15 that the Accused is charged with individual criminal responsibility under Section 6(3) of its Statute. As set forth in the Indictment, under Article 6(3) "an individual is criminally responsible as a superior for the acts of a subordinate if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof." Although the evidence supports a finding that a superior/subordinate relationship existed between the Accused and the Interahamwe who were at the bureau communal, the Tribunal notes that there is no allegation in the Indictment that the Interahamwe, who are referred to as "armed local militia," were subordinates of the Accused. This relationship is a fundamental element of the criminal offence set forth in Article 6(3). The amendment of the Indictment with additional charges pursuant to Article 6(3) could arguably be interpreted as implying an allegation of the command responsibility required by Article 6(3). In fairness to the Accused, the Tribunal will not make this inference. Therefore, the Tribunal finds that it cannot consider the criminal responsibility of the Accused under Article 6(3).

692. The Tribunal finds, under Article 6(1) of its Statute, that the Accused, by his own words, specifically ordered, instigated, aided and abetted the following acts of sexual violence:

(i) the multiple acts of rape of ten girls and women, including Witness JJ, by numerous Interahamwe in the cultural center of the bureau communal;
(ii) the rape of Witness OO by an Interahamwe named Antoine in a field near the bureau communal;
(iii) the forced undressing and public marching of Chantal naked at the bureau communal.

693. The Tribunal finds, under Article 6(1) of its Statute, that the Accused aided and abetted the following acts of sexual violence, by allowing them to take place on or near the premises of the bureau communal, while he was present on the premises in respect of (i) and in his presence in respect of (ii) and (iii), and by facilitating the commission of these acts through his words of encouragement in other acts of sexual violence, which, by virtue of his authority, sent a clear signal of official tolerance for sexual violence, without which these acts would not have taken place:

(i) the multiple acts of rape of fifteen girls and women, including Witness JJ, by numerous Interahamwe in the cultural center of the bureau communal;

(ii) the rape of a woman by Interahamwe in between two buildings of the bureau communal, witnessed by Witness NN;
(iii) the forced undressing of the wife of Tharcisse after making her sit in the mud outside the bureau communal, as witnessed by Witness KK;

694. The Tribunal finds, under Article 6(1) of its Statute, that the Accused, having had reason to know that sexual violence was occurring, aided and abetted the following acts of sexual violence, by allowing them to take place on or near the premises of the bureau communal and by facilitating the commission of such sexual violence through his words of encouragement in other acts of sexual violence which, by virtue of his authority, sent a clear signal of official tolerance for sexual violence, without which these acts would not have taken place:

(i) the rape of Witness JJ by an Interahamwe who took her from outside the bureau communal and raped her in a nearby forest;
(ii) the rape of the younger sister of Witness NN by an Interahamwe at the bureau communal;
(iii) the multiple rapes of Alexia, wife of Ntereye, and her two nieces Louise and Nishimwe by Interahamwe near the bureau communal;
(iv) the forced undressing of Alexia, wife of Ntereye, and her two nieces Louise and Nishimwe, and the forcing of the women to perform exercises naked in public near the bureau communal.

695. The Tribunal has established that a widespread and systematic attack against the civilian ethnic population of Tutsis took place in Taba, and more generally in Rwanda, between April 7 and the end of June, 1994. The Tribunal finds that the rape and other inhumane acts which took place on or near the bureau communal premises of Taba were committed as part of this attack.

COUNT 13

696. The Accused is judged criminally responsible under Article 3(g) of the Statute for the following incidents of rape:

(i) the rape of Witness JJ by an Interahamwe who took her from outside the bureau communal and raped her in a nearby forest;
(ii) the multiple acts of rape of fifteen girls and women, including Witness JJ, by numerous Interahamwe in the cultural center of the bureau communal;
(iii) the multiple acts of rape of ten girls and women, including Witness JJ, by numerous Interahamwe in the cultural center of the bureau communal;
(iv) the rape of Witness OO by an Interahamwe named Antoine in a field near the bureau communal;
(v) the rape of a woman by Interahamwe in between two buildings of the bureau communal, witnessed by Witness NN;
(vi) the rape of the younger sister of Witness NN by an Interahamwe at the bureau communal;
(vii) the multiple rapes of Alexia, wife of Ntereye, and her two nieces Louise and Nishimwe by Interahamwe near the bureau communal.

COUNT 14

697. The Accused is judged criminally responsible under Article 3(i) of the Statute for the following

other inhumane acts:

(i) the forced undressing of the wife of Tharcisse outside the bureau communal, after making her sit in the mud, as witnessed by Witness KK;
(ii) the forced undressing and public marching of Chantal naked at the bureau communal;
(iii) the forced undressing of Alexia, wife of Ntereye, and her two nieces Louise and Nishimwe, and the forcing of the women to perform exercises naked in public near the bureau communal.

7.8. Count 1 - Genocide, Count 2 - Complicity in Genocide

698. Count 1 relates to all the events described in the Indictment. The Prosecutor submits that by his acts alleged in paragraphs 12 to 23 of the Indictment, Akayesu committed the crime of genocide, punishable under Article 2(3)(a) of the Statute.

699. Count 2 also relates to all the acts alleged in paragraphs 12 to 23 of the Indictment. The Prosecutor alleges that, by the said acts, the accused committed the crime of complicity in genocide, punishable under Article 2(3)(e) of the Statute.

700. In its findings on the applicable law, the Chamber indicated *supra* that, in its opinion, the crime of genocide and that of complicity in genocide were two distinct crimes, and that the same person could certainly not be both the principal perpetrator of, and accomplice to, the same offence. Given that genocide and complicity in genocide are mutually exclusive by definition, the accused cannot obviously be found guilty of both these crimes for the same act. However, since the Prosecutor has charged the accused with both genocide and complicity in genocide for each of the alleged acts, the Chamber deems it necessary, in the instant case, to rule on counts 1 and 2 simultaneously, so as to determine, as far as each proven fact is concerned, whether it constituted genocide or complicity in genocide.

701. Hence the question to be addressed is against which group the genocide was allegedly committed. Although the Prosecutor did not specifically state so in the Indictment, it is obvious, in the light of the context in which the alleged acts were committed, the testimonies presented and the Prosecutor's closing statement, that the genocide was committed against the Tutsi group. Article 2(2) of the Statute, like the Genocide Convention, provides that genocide may be committed against a national, ethnical, racial or religious group. In its findings on the law applicable to the crime of genocide *supra*, the Chamber considered whether the protected groups should be limited to only the four groups specifically mentioned or whether any group, similar to the four groups in terms of its stability and permanence, should also be included. The Chamber found that it was necessary, above all, to respect the intent of the drafters of the Genocide Convention which, according to the *travaux préparatoires*, was clearly to protect any stable and permanent group.

702. In the light of the facts brought to its attention during the trial, the Chamber is of the opinion that, in Rwanda in 1994, the Tutsi constituted a group referred to as "ethnic" in official classifications. Thus, the identity cards at the time included a reference to *"ubwoko"* in Kinyarwanda or *"ethnie"* (ethnic group) in French which, depending on the case, referred to the designation Hutu or Tutsi, for example. The Chamber further noted that all the Rwandan witnesses who appeared before it invariably answered spontaneously and without hesitation the questions of the Prosecutor regarding their ethnic identity. Accordingly, the Chamber finds that, in any case, at the time of the alleged events, the Tutsi did indeed constitute a stable and permanent group and were identified as such by all.

703. In the light of the foregoing, with respect to each of the acts alleged in the Indictment, the Chamber

is satisfied beyond reasonable doubt, based on the factual findings it has rendered regarding each of the events described in paragraphs 12 to 23 of the Indictment, of the following:

704. The Chamber finds that, as pertains to the acts alleged in **paragraph 12**, it has been established that, throughout the period covered in the Indictment, Akayesu, in his capacity as bourgmestre, was responsible for maintaining law and public order in the commune of Taba and that he had effective authority over the communal police. Moreover, as "leader" of Taba commune, of which he was one of the most prominent figures, the inhabitants respected him and followed his orders. Akayesu himself admitted before the Chamber that he had the power to assemble the population and that they obeyed his instructions. It has also been proven that a very large number of Tutsi were killed in Taba between 7 April and the end of June 1994, while Akayesu was bourgmestre of the Commune. Knowing of such killings, he opposed them and attempted to prevent them only until 18 April 1994, date after which he not only stopped trying to maintain law and order in his commune, but was also present during the acts of violence and killings, and sometimes even gave orders himself for bodily or mental harm to be caused to certain Tutsi, and endorsed and even ordered the killing of several Tutsi.

705. In the opinion of the Chamber, the said acts indeed incur the individual criminal responsibility of Akayesu for having ordered, committed, or otherwise aided and abetted in the preparation or execution of the killing of and causing serious bodily or mental harm to members of the Tutsi group. Indeed, the Chamber holds that the fact that Akayesu, as a local authority, failed to oppose such killings and serious bodily or mental harm constituted a form of tacit encouragement, which was compounded by being present to such criminal acts.

706. With regard to the acts alleged in **paragraphs 12 (A) and 12 (B)** of the Indictment, the Prosecutor has shown beyond a reasonable doubt that between 7 April and the end of June 1994, numerous Tutsi who sought refuge at the Taba Bureau communal were frequently beaten by members of the Interahamwe on or near the premises of the Bureau communal. Some of them were killed. Numerous Tutsi women were forced to endure acts of sexual violence, mutilations and rape, often repeatedly, often publicly and often by more than one assailant. Tutsi women were systematically raped, as one female victim testified to by saying that "each time that you met assailants, they raped you". Numerous incidents of such rape and sexual violence against Tutsi women occurred inside or near the Bureau communal. It has been proven that some communal policemen armed with guns and the accused himself were present while some of these rapes and sexual violence were being committed. Furthermore, it is proven that on several occasions, by his presence, his attitude and his utterances, Akayesu encouraged such acts, one particular witness testifying that Akayesu, addressed the Interahamwe who were committing the rapes and said that "never ask me again what a Tutsi woman tastes like"[177]. In the opinion of the Chamber, this constitutes tacit encouragement to the rapes that were being committed.

707. In the opinion of the Chamber, the above-mentioned acts with which Akayesu is charged indeed render him individually criminally responsible for having abetted in the preparation or execution of the killings of members of the Tutsi group and the infliction of serious bodily and mental harm on members of said group.

708. The Chamber found *supra*, with regard to the facts alleged in **paragraph 13** of the Indictment, that the Prosecutor failed to demonstrate beyond reasonable doubt that they are established.

709. As regards the facts alleged in **paragraphs 14 and 15** of the Indictment, it is established that in the early hours of 19 April 1994, Akayesu joined a gathering in Gishyeshye and took this opportunity to address the public; he led the meeting and conducted the proceedings. He then called on the population to unite in order to eliminate what he referred to as the sole enemy: the accomplices of the Inkotanyi; and the population understood that he was thus urging them to kill the Tutsi. Indeed, Akayesu himself

knew of the impact of his statements on the crowd and of the fact that his call to fight against the accomplices of the Inkotanyi would be understood as exhortations to kill the Tutsi in general. Akayesu who had received from the Interahamwe documents containing lists of names did, in the course of the said gathering, summarize the contents of same to the crowd by pointing out in particular that the names were those of RPF accomplices. He specifically indicated to the participants that Ephrem Karangwa's name was on of the lists. Akayesu admitted before the Chamber that during the period in question, that to publicly label someone as an accomplice of the RPF would put such a person in danger. The statements thus made by Akayesu at that gathering immediately led to widespread killings of Tutsi in Taba.

710. Concerning the acts with which Akayesu is charged in paragraphs 14 and 15 of the Indictment, the Chamber recalls that it has found *supra* that they constitute direct and public incitement to commit genocide, a crime punishable under Article 2(3)(c) of the Statute as distinct from the crime of genocide178.

711. With respect to the Prosecutor's allegations in **paragraph 16** of the Indictment, the Chamber is satisfied beyond a reasonable doubt that on 19 April 1994, Akayesu on two occasions threatened to kill victim U, a Tutsi woman, while she was being interrogated. He detained her for several hours at the Bureau communal, before allowing her to leave. In the evening of 20 April 1994, during a search conducted in the home of victim V, a Hutu man, Akayesu directly threatened to kill the latter. Victim V was thereafter beaten with a stick and the butt of a rifle by a communal policeman called Mugenzi and one Francois, a member of the Interahamwe militia, in the presence of the accused. One of victim V's ribs was broken as a result of the beating.

712. In the opinion of the Chamber, the acts attributed to the accused in connection with victims U and V constitute serious bodily and mental harm inflicted on the two victims. However, while Akayesu does incur individual criminal responsibility by virtue of the acts committed against victim U, a Tutsi , for having committed or otherwise aided and abetted in the infliction of serious bodily and mental harm on a member of the Tutsi group, such acts as committed against victim V were perpetrated against a Hutu and cannot, therefore, constitute a crime of genocide against the Tutsi group.

713. Regarding the acts alleged in **paragraph 17**, the Prosecutor has failed to satisfy the Chamber that they were proven beyond a reasonable doubt.

714. As for the allegations made in **paragraph 18** of the Indictment, it is established that on or about 19 April 1994, Akayesu and a group of men under his control were looking for Ephrem Karangwa and destroyed his house and that of his mother . They then went to search the house of Ephrem Karangwa's brother- in- law, in Musambira commune and found his three brothers there. When the three brothers, namely Simon Mutijima, Thaddee Uwanyiligira and Jean-Chrysostome, tried to escape, Akayesu ordered that they be captured, and ordered that they be killed, and participated in their killing.

715. The Chamber holds that these acts indeed render Akayesu individually criminally responsible for having ordered, committed, aided and abetted in the preparation or execution of the killings of members of the Tutsi group and the infliction of serious bodily and mental harm on members of said group.

716. Regarding the allegations in **paragraph 19**, the Chamber is satisfied that it has been established that on or about 19 April 1994, Akayesu took from Taba communal prison eight refugees from Runda commune, handed them over to Interahamwe militiamen and ordered that they be killed. They were killed by the Interahamwe using various traditional weapons, including machetes and small axes, in front of the Bureau communal and in the presence of Akayesu who told the killers "do it quickly". The

refugees were killed because they were Tutsi.

717. The Chamber holds that by virtue of such acts, Akayesu incurs individual criminal liability for having ordered, aided and abetted in the perpetration of the killings of members of the Tutsi group and in the infliction of serious bodily and mental harm on members of said group.

718. The Prosecutor has proved that, as alleged in **paragraph 20** of the Indictment, on that same day, Akayesu ordered the local people to kill intellectuals and to look for one Samuel, a professor who was then brought to the Bureau communal and killed with a machete blow to the neck. Teachers in Taba commune were killed later, on Akayesu's instructions. The victims included the following: Tharcisse Twizeyumuremye, Theogene, Phoebe Uwineze and her fiancé whose name is unknown. They were killed on the road in front of the Bureau communal by the local people and the Interahamwe with machetes and agricultural tools. Akayesu personally witnessed the killing of Tharcisse.

719. In the opinion of the Chamber, Akayesu is indeed individually criminally responsible by virtue of such acts for having ordered, aided and abetted in the preparation or execution of the killings of members of the Tutsi group and in the infliction of serious bodily and mental harm on members of said group.

720. The Chamber finds that the acts alleged in **paragraph 21** have been proven. It has been established that on the evening of 20 April 1994, Akayesu, and two Interahamwe militiamen and a communal policeman, one Mugenzi, who was armed at the time of the events in question, went to the house of Victim Y, a 69 year old Hutu woman, to interrogate her on the whereabouts of Alexia , the wife of Professor Ntereye. During the questioning which took place in the presence of Akayesu, the victim was hit and beaten several times. In particular, she was hit with the barrel of a rifle on the head by the communal policeman. She was forcibly taken away and ordered by Akayesu to lie on the ground. Akayesu himself beat her on her back with a stick. Later on, he had her lie down in front of a vehicle and threatened to drive over her if she failed to give the information he sought.

721. Although the above acts constitute serious bodily and mental harm inflicted on the victim, the Chamber notes that they were committed against a Hutu woman. Consequently, they cannot constitute acts of genocide against the Tutsi group.

722. As regards the allegations in **paragraphs 22 and 23** of the Indictment, the Chamber is satisfied beyond reasonable doubt that on the evening of 20 April 1994, in the course of an interrogation, Akayesu forced victim W to lay down in front of a vehicle and threatened to drive over her . That same evening, Akayesu, accompanied by Mugenzi, a communal policeman, and one Francois, an Interahamwe militiaman, interrogated victims Z and Y. The accused put his foot on the face of victim Z, causing the said victim to bleed, while the police officer and the militiaman beat the victim with the butt of their rifles. The militiaman forced victim Z to beat victim Y with a stick. The two victims were tied together, causing victim Z to suffocate. Victim Z was also beaten on the back with the blade of a machete.

723. The Chamber holds that by virtue of the above-mentioned acts Akayesu is individually criminally responsible for having ordered, committed, aided and abetted in the preparation or infliction of serious bodily or mental harm on members of the Tutsi group.

724. From the foregoing, the Chamber is satisfied beyond a reasonable doubt, that Akayesu is individually criminally responsible, under Article 6(1) of the Statute, for having ordered, committed or otherwise aided and abetted in the commission of the acts described above in the findings made by the

Chamber on paragraphs 12, 12A, 12B, 16, 18, 19, 20, 22 and 23 of the Indictment, acts which constitute the killing of members of the Tutsi group and the infliction of serious bodily and mental harm on members of said group.

725. Since the Prosecutor charged both genocide and complicity in genocide with respect to each of the above-mentioned acts, and since, as indicated *supra*, the Chamber is of the opinion that these charges are mutually exclusive, it must rule whether each of such acts constitutes genocide or complicity in genocide.

726. In this connection, the Chamber recalls that, in its findings on the applicable law, it held that an accused is an accomplice to genocide if he or she knowingly and wilfully aided or abetted or instigated another to commit a crime of genocide, while being aware of his genocidal plan, even where the accused had no specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. It also found that Article 6(1) of the Statute provides for a form of participation through aiding and abetting which, though akin to the factual elements of complicity, nevertheless entails, in and of itself, the individual responsibility of the accused for the crime of genocide, in particular, where the accused had the specific intent to commit genocide, that is, the intent to destroy a particular group; this latter requirement is not needed where an accomplice to genocide is concerned.

727. Therefore, it is incumbent upon the Chamber to decide, in this instant case, whether or not Akayesu had a specific genocidal intent when he participated in the above-mentioned crimes, that is, the intent to destroy, in whole or in part, a group as such.

728. As stated in its findings on the law applicable to the crime of genocide, the Chamber holds the view that the intent underlying an act can be inferred from a number of facts[179]. The Chamber is of the opinion that it is possible to infer the genocidal intention that presided over the commission of a particular act, *inter alia*, from all acts or utterances of the accused, or from the general context in which other culpable acts were perpetrated systematically against the same group, regardless of whether such other acts were committed by the same perpetrator or even by other perpetrators.

729. First of all, regarding Akayesu's acts and utterances during the period relating to the acts alleged in the Indictment, the Chamber is satisfied beyond reasonable doubt, on the basis of all evidence brought to its attention during the trial, that on several occasions the accused made speeches calling, more or less explicitly, for the commission of genocide. The Chamber, in particular, held in its findings on Count 4, that the accused incurred individual criminal responsibility for the crime of direct and public incitement to commit genocide. Yet, according to the Chamber, the crime of direct and public incitement to commit genocide lies in the intent to directly lead or provoke another to commit genocide, which implies that he who incites to commit genocide also has the specific intent to commit genocide: that is, to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.

730. Furthermore, the Chamber has already established that genocide was committed against the Tutsi group in Rwanda in 1994, throughout the period covering the events alleged in the Indictment[180]. Owing to the very high number of atrocities committed against the Tutsi, their widespread nature not only in the commune of Taba, but also throughout Rwanda, and to the fact that the victims were systematically and deliberately selected because they belonged to the Tutsi group, with persons belonging to other groups being excluded, the Chamber is also able to infer, beyond reasonable doubt, the genocidal intent of the accused in the commission of the above-mentioned crimes.

731. With regard, particularly, to the acts described in paragraphs 12(A) and 12(B) of the Indictment, that is, rape and sexual violence, the Chamber wishes to underscore the fact that in its opinion, they

constitute genocide in the same way as any other act as long as they were committed with the specific intent to destroy, in whole or in part, a particular group, targeted as such. Indeed, rape and sexual violence certainly constitute infliction of serious bodily and mental harm on the victims181 and are even, according to the Chamber, one of the worst ways of inflict harm on the victim as he or she suffers both bodily and mental harm. In light of all the evidence before it, the Chamber is satisfied that the acts of rape and sexual violence described above, were committed solely against Tutsi women, many of whom were subjected to the worst public humiliation, mutilated, and raped several times, often in public, in the Bureau Communal premises or in other public places, and often by more than one assailant. These rapes resulted in physical and psychological destruction of Tutsi women, their families and their communities. Sexual violence was an integral part of the process of destruction, specifically targeting Tutsi women and specifically contributing to their destruction and to the destruction of the Tutsi group as a whole.

732. The rape of Tutsi women was systematic and was perpetrated against all Tutsi women and solely against them. A Tutsi woman, married to a Hutu, testified before the Chamber that she was not raped because her ethnic background was unknown. As part of the propaganda campaign geared to mobilizing the Hutu against the Tutsi, the Tutsi women were presented as sexual objects. Indeed, the Chamber was told, for an example, that before being raped and killed, Alexia, who was the wife of the Professor, Ntereye, and her two nieces, were forced by the Interahamwe to undress and ordered to run and do exercises "in order to display the thighs of Tutsi women". The Interahamwe who raped Alexia said, as he threw her on the ground and got on top of her, "let us now see what the vagina of a Tutsi woman takes like". As stated above, Akayesu himself, speaking to the Interahamwe who were committing the rapes, said to them: "don't ever ask again what a Tutsi woman tastes like". This sexualized representation of ethnic identity graphically illustrates that tutsi women were subjected to sexual violence because they were Tutsi. Sexual violence was a step in the process of destruction of the tutsi group - destruction of the spirit, of the will to live, and of life itself.

733. On the basis of the substantial testimonies brought before it, the Chamber finds that in most cases, the rapes of Tutsi women in Taba, were accompanied with the intent to kill those women. Many rapes were perpetrated near mass graves where the women were taken to be killed . A victim testified that Tutsi women caught could be taken away by peasants and men with the promise that they would be collected later to be executed. Following an act of gang rape, a witness heard Akayesu say "tomorrow they will be killed" and they were actually killed. In this respect, it appears clearly to the Chamber that the acts of rape and sexual violence, as other acts of serious bodily and mental harm committed against the Tutsi, reflected the determination to make Tutsi women suffer and to mutilate them even before killing them, the intent being to destroy the Tutsi group while inflicting acute suffering on its members in the process.

734. In light of the foregoing, the Chamber finds firstly that the acts described *supra* are indeed acts as enumerated in Article 2 (2) of the Statute, which constitute the factual elements of the crime of genocide, namely the killings of Tutsi or the serious bodily and mental harm inflicted on the Tutsi. The Chamber is further satisfied beyond reasonable doubt that these various acts were committed by Akayesu with the specific intent to destroy the Tutsi group, as such. Consequently, the Chamber is of the opinion that the acts alleged in paragraphs 12, 12A, 12B, 16, 18, 19, 20, 22 and 23 of the Indictment and proven above, constitute the crime of genocide, but not the crime of complicity; hence, the Chamber finds Akayesu individually criminally responsible for genocide.

7.9. Count 3 - Crimes against Humanity (extermination)

735. Count 3 of the indictment charges the Accused with crimes against humanity (extermination), pursuant to Article 3(b) of the Statute, for the acts alleged in paragraphs 12 to 23 of the indictment.

736. The definition of crimes against humanity, including the various elements that comprise the enumerated offences under Article 3 of the Statute have already been discussed.

737. The Chamber finds beyond a reasonable doubt that during his search for Ephrem Karangwa on 19 April 1994, the Accused participated in the killing of Simon Mutijima, Thaddée Uwanyiligra and Jean Chrysostome, by ordering their deaths and being present when they were killed.

738. The Chamber finds beyond a reasonable doubt that on 19 April 1994, the Accused took eight detained refugees and handed them over to the local militia, known as the Interahamwe with orders that they be killed.

739. The Chamber finds beyond a reasonable doubt that the Interahamwe and the local population, acting on the orders of the Accused killed five teachers namely; a professor known as Samuel; Tharcisse who was killed in the presence of the Accused; Theogene, Phoebe Uwineze and her fiancé.

740. The Chamber finds beyond a reasonable doubt that the eight refugees as well as Simon Mutijima, Thaddée Uwanyiligra, Jean Chrysostome, Samuel, Tharcisse, Theogene, Phoebe Uwineze and her fiancé were all civilians, taking no active part in the hostilities that prevailed in Rwanda in 1994 and the only reason they were killed is because they were Tutsi.

741. The Chamber finds beyond a reasonable doubt that in ordering the killing of the eight refugees as well as Simon Mutijima, Thaddée Uwanyiligra, Jean Chrysostome, Samuel, Tharcisse, Theogene, Phoebe Uwineze and her fiancé, the Accused had the requisite intent to cause mass destruction, directed against certain groups of individuals, as part of a widespread or systematic attack against the civilian population of Rwanda on ethnic grounds.

742. The Chamber finds beyond a reasonable doubt that in ordering the killing of the eight refugees as well as Simon Mutijima, Thaddée Uwanyiligra, Jean Chrysostome, Samuel, Tharcisse, Theogene, Phoebe Uwineze and her fiancé, the Accused is individually criminally responsible for the death of these victims, pursuant to Article 6(1) of the Statute.

743. The Chamber finds beyond a reasonable doubt that there was a widespread and systematic attack against the civilian population in Rwanda on 19 April 1994 and the conduct of the Accused formed part of this attack.

744. Therefore the Chamber finds, beyond a reasonable doubt that the killing of the eight refugees as well as Simon Mutijima, Thaddée Uwanyiligra, Jean Chrysostome, Samuel, Tharcisse, Theogene, Phoebe Uwineze and her fiancé, constitute extermination committed, as part of a widespread or systematic attack on the civilian population on ethnic grounds and as such constitutes a crime against humanity. Accordingly, the Chamber finds beyond a reasonable doubt that the Accused is guilty as charged in count 3 of the indictment.

8. VERDICT

FOR THE FOREGOING REASONS, having considered all of the evidence and the arguments,

THE CHAMBER unanimously finds as follows:

Count 1: Guilty of Genocide

Count 2: Not guilty of Complicity in Genocide

Count 3: Guilty of Crime against Humanity (Extermination)

Count 4: Guilty of Direct and Public Incitement to Commit Genocide

Count 5: Guilty of Crime against Humanity (Murder)

Count 6: Not guilty of Violation of Article 3 common to the Geneva Conventions (Murder)

Count 7: Guilty of Crime against Humanity (Murder)

Count 8: Not guilty of Violation of Article 3 common to the Geneva Conventions (Murder)

Count 9: Guilty of Crime against Humanity (Murder)

Count 10: Not guilty of Violation of Article 3 common to the Geneva Conventions (Murder)

Count 11: Guilty of Crime against Humanity (Torture)

Count 12: Not guilty of Violation of Article 3 common to the Geneva Conventions (Cruel Treatment)

Count 13: Guilty of Crime against Humanity (Rape)

Count 14: Guilty of Crime against Humanity (Other Inhumane Acts)

Count 15: Not guilty of Violation of Article 3 common to the Geneva Conventions and of Article 4(2)(e) of Additional Protocol II (Outrage upon personal dignity, in particular Rape, Degrading and Humiliating Treatment and Indecent Assault)

Done in English and French,

Signed in Arusha, 2 September 1998,

Laïty Kama	Lennart Aspegren	Navanethem Pillay
Presiding Judge	Judge	Judge

(Seal of the Tribunal)

Footnotes:

Footnote 1. UN Document S/RES/955 of 8 November 1994

Footnote 2. Preliminary Report of the Commission of Experts established pursuant to Security Council resolution 935 (1994)

(UN Document S/1994/1125), Final Report of the Commission of Experts established pursuant to Security Council Resolution 935 (1994) (Document S/1994/1405) and Reports of the Special Rapporteur for Rwanda of the United Nations Commission of Human Rights (Document S/1994/1157, annexes I and II).

Footnote 3. The establishment of a special international tribunal was also requested by the Government of Rwanda (UN Document S/1994/1115). However, its representative at the Security Council later voted against resolution 955.

Footnote 4. S/RES/978 of 27 February 1995, operative paragraph 1

Footnote 5. The Rules were successively amended on 12 January 1996, 15 May 1996, 4 July 1996, 5 June 1997 and 8 June 1998.

Footnote 6. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949, United Nations Treaty Series, vol. 75, No.970 ("Geneva Convention I"); Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 12 August 1949, ibid No.971 ("Geneva Convention II"); Geneva Convention relative to the Treatment of Prisoners of War , 12 August 1949, ibid, No.972 ("Geneva Convention III"); Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949, ibid No.973 (" Geneva Convention IV").

Footnote 7. Protocol Additional...relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, United Nations Treaty Series, vol. 1125, No. 17513

Footnote 8. On 1 October 1996, Louise Arbour succeeded Richard Goldstone as Prosecutor of the Tribunal.

Footnote 9. On 26 April 1997, Bernard Acho Muna succeeded Honoré Rakotomanana as Deputy Prosecutor of the Tribunal.

Footnote 10. Besides the people already mentioned, the Prosecutor was represented during the trial by Patricia Viseur Sellers, James K. Stewart, Luc C"té, Sara Dareshori and Rosette Muzigo-Morrison.

Footnote 11. Decision: Order for Continued Detention Awaiting Trial, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 30 May 1996.

Footnote 12. ICTR/2/L.2

Footnote 13. Decision Concerning a Replacement of an Assigned Counsel and Postponement of the Trial, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, 31 October 1996

Footnote 14. Decision on the Request of the Accused for Replacement of Assigned Counsel, The Prosecutor Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 16 January 1997.

Footnote 15. As adopted on 5 July 1995

Footnote 16. Decision on the Preliminary Motion Submitted by the Defence on the Form of the Indictment and Exclusion of Evidence. The Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 27 September 1996.

Footnote 17. Decision on Postponement of the Trial, The Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 27 September 1996. However, at the hearing of 31 October, the beginning of the trial was postponed to 9 January 1997 at the request of the Defence.

Footnote 18. Order for Temporary Transfer of Three Detained Witnesses Pursuant to Rule 90*bis* of the Rules of Procedure and Evidence, The Prosecutor v. Jean-Paul Akayesu, Case NO. ICTR-96-4-T, Trial Chamber I, 31 October 1997

Footnote 19. Decison on a Motion for the Appearance and Protection of Witnesses Called by the Defence, The Prosecutor v.

Jean-Paul Akayesu, Case NO. ICTR-96-4-T, Trial Chamber I, 9 February 1998, & Decision on the Motion for the Transfer and Protection of Defence Witnesses, The Prosecutor v. Jean-Paul Akayesu, Case NO. ICTR-96-4-T, Trial Chamber I, 26 February 1998

Footnote 20. Decision on the preliminary motion submitted by the Prosecutor for protective measures for witnesses, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, 27 September 1996.

Footnote 21. Ibid 14

Footnote 22. Oral decision. The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 9 March 1998, written decision issued on 24 March 1998.

Footnote 23. Decision by the Tribunal on its Request to the Prosecutor to Submit the Written Witness Statements, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 28 January 1997.

Footnote 24. Decision on the Prosecutor's Motion to Reconsider and Rescind the Order of 18 January 1997, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 6 March 1997

Footnote 25. Leave to amend the Indictment, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 17 June 1997.

Footnote 26. Decision on the Motion to Subpoena a Witness. The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-94-T, Trial Chamber I, 19 November 1997.

Footnote 27. Order Granting Leave for Amicus Curiae to Appear, The Prosecutor v. Jean-Paul Akayesu, Trial Chamber I, Case No. ICTR-96-4-T, 12 February 1998.

Footnote 28. Oral decision on a Motion for Summonses and Protection of Witnesses Called by the Defence, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 17 February 1998, written decision 23 February 1998.

Footnote 29. Decision on a Defence Motion for the Appearance of an Accused as an Expert Witness, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 9 March 1998.

Footnote 30. Oral decision on the Defence Motion Requesting an Inspection of the Site and the Conduct of a Forensic Analysis, The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber I, 17 February 1998, written decision 3 March 1998.

Footnote 31. See Evidentiary Matters'.

Footnote 32. Hearing of 26 March 1998, p.61 (French version)

Footnote 33. Transcript of hearing of 26 March 1998, p.17.

Footnote 34. See Procedural Background' as relates to Decision on False Testimony.

Footnote 35. See Adrian Keane, The Modern Law of Evidence, (Butterworths: 1989), p. 120: "A cross-examiner who wishes to suggest to the jury that the witness is not speaking the truth on a particular matter must lay a proper foundation by putting that matter to the witness so that he has an opportunity of giving any explanation which is open to him", noting, however, that this is not a "hard and fast" rule.

Footnote 36. In France, Belgium and Rwanda, the bourgmestre has basically a threefold function: (1) head of the communal administration; (2) officier de l'état civil; and (3) maintaining and/or restoring the peace.

Footnote 37. Loi du 23 novembre 1963 sur l'organisation communale (reprinted in Codes et Lois du Rwanda, Reyntjens, F. et Gorus, J. (eds.), 1995).

Article 58: Le bourgmestre est, d'une manière générale, chargé d'exécuter les décisions du Conseil communal[...]

However, in case of urgency, the bourgmestre can issue police regulations and impose sanctions for violations (article 61). Furthermore, he always has the power to arrest, for a maximum of 48 hours, any person who breaches the peace (article 62).

Footnote 38. Article 56: Le bourgmestre est ... la foi représentant du pouvoir centrale dans la commune et personnification de l'autorité communale.

Footnote 39. Article 93: Le pouvoir d'engagement, de suspension et de révocation appartient au bourgmestre après avis du Conseil communal conformément aux instructions du Ministre de l'intérieur.

Footnote 40. Loi sur la police communale du 4 octobre 1977 (arrˆté présidentiel n 285/03) (reprinted in Codes et Lois du Rwanda, Reyntjens, F. et Gorus, J. (eds.), 1995)
Article 1: La Police communale est une force constituée au niveau de la commune. Elle est placée sous l'autorité du bourgmestre qui l'utilise dans sa t*f*che de maintien et de rétablissement de l'ordre public et d'exécution des lois et des règlements.
Article 4: Le bourgmestre assume l'entière responsabilité de l'organisation, du fonctionnement et du contr"le du corps de la Police communale. Il est aidé dans cette t*f*che par le brigadier.

Footnote 41. Article 104 of the Loi sur l'organisation communale: Le bourgmestre a seul autorité sur les agents de la Police communale [...]

Footnote 42. Article 104 [...] Toutefois, en cas de calamité publique ou lorsque des troubles menacent d'éclater ou ont éclaté, le préfet peut réquisitionner les agents de la Police communale et les placer sous son autorité directe.

Footnote 43. Décret loi du 23 janvier 1974 sur la création de la Gendarmerie Nationale
Article 3: La Gendarmerie Nationale est une force armée instituée pour assurer le maintien de l'ordre et de l'exécution des loi.

Article 4: Les fonctions de la Gendarmerie Nationale ont un caractère ... la fois préventif et répressif. Elles se divisent en fonctions ordinaires et fonctions extraordinaires. Les fonctions ordinaires sont celles que la Gendarmerie Nationale remplit en vertu de la loi sans réquisition préalable de l'autorité.
Les fonctions extraordinaires sont celles que la Gendarmerie Nationale ne peut remplir que sur réquisition de l'autorité compétente.

Footnote 44. Article 103: [...] En outre, le préfet peut mettre ... la disposition de la commune des éléments de la Police Nationale. [actuellement, il faut sans doute lire: la Gendarmerie Nationale]

Footnote 45. Article 104: Le bourgmestre a seul autorité sur les agents de la Police communale et, par délégation de préfet, sur les éléments de la Police Nationale [lire: Gendarmerie Nationale] mis ... la disposition de la commune.

Footnote 46. Article 39 de la lois sur la Gendarmerie Nationale:

Footnote 47. éTAT D'EXCEPTION - 20 octobre 1959 - Décret:
Article 1: En cas de guerre, de mobilisation en Belgique ou au Congo, de troubles ou de circonstances graves menaçant la sécurité ou l'intérˆts publics, le gouverneur général peut déclarer l'état d'exception.
Article 4: Le gouverneur général, les autorités q'il désigne et leurs délégués peuvent:
(1) ordonner:
a) des perquisitions de jour et de nuit dans les domiciles;
b) l'évacution des personnes, leur éloignement, leur mise sous surveillance ou leur internement.
(2) interdire:

[...]
MESURES D'EXéCUTION - 10 décembre 1959 - ordonnance n 11/630
Article 1: Dans l'ensemble ou la partie du territoire déclarés en état d'exception:
a) le gouverneur de province, le commissaire de district, le premier bourgmestre, ou leurs délégués exercent les pouvoirs prévus ... l'article 4 du décret sur l'état d'exception.
b) ...

Footnote 48. Prosecution Exhibit No. 14

Footnote 49. Prosecution Exhibits Nos. 68 and 69.

Footnote 50. Prosecution Exhibit No. 74.

Footnote 51. Prosecution Exhibit No.18

Footnote 52. See the cross examination of Dr. Zachariah (witness) by one of the defence counsel.

Footnote 53. The Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948.

Footnote 54. See *supra*, in the chapter on the history of Rwanda, the statements made by Léon Mugesera during the meeting of the MRND held on 22 November 1992, referred to the fact that Tutsi had supposedly come from Ethiopia and that, after they were killed, their bodies should be thrown into the Rwandan tributaries of the Nile, so that they can go back to where they supposedly came. See Prosecution Exhibit tendered and recorded as No. 74.

Footnote 55. These are the Kinyarwanda words used by witness PP

Footnote 56. The term ethnic group is, in general, used to refer to a group whose members speak the same language and/or have the same culture. Therefore, one can hardly talk of ethnic groups as regards Hutu and Tutsi, given that they share the same language and culture. However, in the context of the period in question, they were, in consonance with a distinction made by the colonizers, considered both by the authorities and themselves as belonging to two distinct ethnic groups; as such, their identity cards mentioned each holder's ethnic group. In its findings in chapter 7 of the judgment, the Chamber will come back to this issue.

Footnote 57. However, the Tutsi were not the sole victims of the massacres. Many Hutu were also killed, though not because they were Hutu, but simply because they were , for one reason or another, viewed as having sided with the Tutsi.

Footnote 58. It will be noted in this regard that in the travaux preparatoires of the Genocide Convention, the Yugoslav delegate indicated with regard to the genocide of Jews by the Nazis that the crimes began with the preparation and mobilization of the masses by means of the ideas spread by the necessary propaganda and in circles which financed this propaganda. See the Summary Records of the meetings of the Sixth Committee of the General Assembly, 21 September 1948-10 December 1948, Official Records of the General Assembly.

Footnote 59. See the " Report of the United Nations High Commissioner for Human Rights on his mission to Rwanda, 11-12 May 1994" (E/CN.4?s-3?3, 19 May 1994), reproduced in annex "The United Nations and Rwanda, 1993-1996", Department of Public Information, United Nations, New York, 1996, p. 287.

Footnote 60. See transcript of the hearing of 12 March 1998, p. 152

Footnote 61. In the opinion of the Chamber, it is not only obvious that an accused person could be declared innocent of the crime of genocide even when it is established that genocide had indeed taken place, but also, in a case other than that of Rwanda, a person could be found guilty of genocide without necessarily having to establish that genocide had taken place throughout the country concerned.

Footnote 62. See ICTY Tadic Judgment, 7 May 1997, paras. 535 to 539

Footnote 63. *supra* Procedural Background',

Footnote 64. Ibid

Footnote 65. Issue no. 10, page 10, 1993

Footnote 66. Dr. Ruzindana believed that RTLM broadcasted somewhat extremist messages, abusive by their very nature, for instance "Well you will know those to kill because you will look at their noses...We will look at their nose, and so, we know which ones to kill"

Footnote 67. Issue no. 45, page 3, July 1993.

Footnote 68. Dictionnaire Rwandais-Français de l'Institut National de Recherche Scientifique (Three Volumes), Edition abrégée et adaptée par Irenée JACOB.

Footnote 69. The witness identified Trial Exhibits 31, 33 & 37, as types of weapons carried by the youths'.

Footnote 70. Kinyarwanda "Yarababwiye ngo: Burya abatutsi mubana nabo, ngo ntabwo muzi ibyo bakora, ngo ibyo naraye menyeye mu nama I Gitarama birahagije. Ubu nta mpuhwe na nkeya nagirira abatutsi, cyane cyane abize. Ngo Nabariya bari hariya twari twarabitse, ngiye kubabaha mubacire urubanza'."

Footnote 71. Kinyarwanda: "Ngo twabanaga n'abatutsi ari inzigo. Ngo IPJ Karangwa Ephrem ngo yari yarateganyije kuzanyica; ngo kugira ngo ansimbure abe burugumesitiri; ngo none natwe tubahigire kutababura."

Footnote 72. Kinyarwanda: "Ibyitso tubifite ari byinshi muri Komini yacu. Ngo inyuma ya komini hari icyitso cyitwa Tharcisse. Ubwo yari umuprofeseri."

Footnote 73. See Exhibit 120

Footnote 74. See Exhibit 134

Footnote 75. Exhibits 144, 144(a), 145 and 145(a)

Footnote 76. See Evidentiary Matters, Unus testis nullus testis'.

Footnote 77. See further Evidentiary Matters, assessment of evidence'

Footnote 78. Exhibit No. 120

Footnote 79. Judgment of 20 December 1985, Bulletin des arrets de la Cour de Cassation, 1985, p. 1038 e.s)

Footnote 80. See Virginia Morris & Michael P. Scharpf, Ibid., p.235

Footnote 81. Para. 692, page 270, The Prosecutor v. Dusko Tadic , Case No. IT-94-1-T, 7 May 1997, ICTY.

Footnote 82. See, for example, the "Lexique Anglais-Français (principalement juridique) of the Council of Europe, Strasbourg, January 1997, which translates "incitement" by incitation, instigation ou provocation or the "Dictionnaire Français/ Anglais" Larousse, or the "Dictionnaire Francais/ Anglais" Super Senior Robert Collins.

Footnote 83. Article 6 of the Nuremberg Charter, Article 7(1) of the ICTY Statute and Article 2(3)(b) of the Draft Code of Crimes Against the Peace and the Security of Mankind.

Footnote 84. See, for instance, Article 91 of the Rwandan Penal Code, quoted and analyzed above under Chapter 6.3.2.

Footnote 85. See Virginia Morris and Michael P. Scharpf, Ibid. p.239. Comments on Article 2 (3)(f) of the Draft Code on Crimes Against the Peace and the Security of Mankind by the International Law Commission, which article considers incitement to commit a crime in the same way as Article 6(1) of the Tribunal's Statute.

Footnote 86. See *infra* the findings of the Chamber on the crime of direct and public incitement to commit genocide.

Footnote 87. On this issue, also see *infra* the findings of the Chamber on the crime of direct and public incitement to commit genocide.

Footnote 88. See Article 91 of the Penal Code, in "Codes et Lois du Rwanda", Université nationale du Rwanda, 31 December 1994 update, Volume I, 2nd edition: 1995, p.395.

Footnote 89. See *infra* the findings of the Chamber on the crime of direct and public incitement to commit genocide.

Footnote 90. Claude Pilloud et al., "Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949", 1987, p.1036.

Footnote 91. The Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the United Nations General Assembly, on 9 December 1948.

Footnote 92. Secretary General's Report pursuant to paragraph 2 of resolution 808 (1993) of the Security Council, 3 May 1993, S/25704.

Footnote 93. Legislative Decree of 12 February 1975, Official Gazette of the Republic of Rwanda, 1975, p.230. Rwanda acceded to the Genocide Convention but stated that it shall not be bound by Article 9 of this Convention.

Footnote 94. Summary Records of the meetings of the Sixth Committee of the General Assembly, 21 September-10 December 1948, Official Records of the General Assembly.

Footnote 95. "Attorney General of the Government of Israel vs. Adolph Eichmann", "District Court" of Jerusalem, 12 December 1961, quoted in the "The International Law Reports", vol. 36,1968, p.340.

Footnote 96. Summary Records of the meetings of the Sixth Committee of the General Assembly, 21 September - 10 December 1948, Official Records of the General Assembly.

Footnote 97. International Court of Justice, 1995

Footnote 98. See in particular: Roger Merle et André Vitu, " Traité de droit criminel", Cujas, 1984, (first edition, 1967), p.723 et seg.

Footnote 99. Summary Records of the meetings of the Sixth Committee of the General Assembly, 21 September - 10 December 1994, op. cit., p.109.

Footnote 100. Concerning this issue, see in particular Nehemiah Robinson, "The Genocide Convention. Its Origins as Interpretation", p.15, which states that victims as individuals "are important not *per se* but as members of the group to which they belong".

Footnote 101. International Criminal Tribunal for the former Yugoslavia, Decision of Trial Chamber 1, Radovan Karadzic, Ratko Mladic case (Cases Nos. IT-95-5-R61 and IT-95-18-R61), Consideration of the Indictment within the framework of Rule 61 of the Rules of Procedure and Evidence, paragraph 94.

Footnote 102. Ibid. Paragraph 95.

Footnote 103. "Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal," adopted by the International Law Commission of the United Nations, 1950.

Footnote 104. The Osborn's Concise Law Dictionary defines an accomplice as :"any person who, either as a principal or as an accessory, has been associated with another person in the commission of any offence.", Sweet and Maxwell, 1993, p.6

Footnote 105. It appears from the *travaux préparatoires* of the Genocide Convention that only complicity in the completed offence of genocide was intended for punishment and not complicity in an attempt to commit genocide, complicity in incitement to commit genocide nor complicity in conspiracy to commit genocide, all of which were, in the eyes of some states, too vague to be punishable under the Convention.

Footnote 106. See, for example, Article 46 of the Senegalese Penal Code, Article 121-7 of the Nouveau code pénal français (New French Penal Code).

Footnote 107. See Article 91 of the Penal Code in "Codes et lois du Rwanda", Université nationale du Rwanda, 31 December 1994 update, volume 1, 2nd edition: 1995, p. 395.

Footnote 108. See especially Cour de cassation française (French Court of Cassation): Crim. 24 December 1942. JCP 19 944, ruling out prosecuting an individual as an accomplice who simply gave advice on committing a crime.

Footnote 109. National Coal Board v. Gamble, [1959] 1 QB 11.

Footnote 110. DPP for Northern Ireland v. Lynch, [1975] AC 653.

Footnote 111. Eichmann, Op. Cit., p. 340.

Footnote 112. Ibid, p. 323.

Footnote 113. District Court judgment, p. 179.

Footnote 114. Ibid p. 14.

Footnote 115. Jefferson case (1994) 1 A11 ER 270 - Coney case (1882) 8 QDB 534; See Blackstone A5.7, p. 72.

Footnote 116. Crim, 20 January 1992: Dr. pénal 1992, 194.

Footnote 117. See Judgment of the International Criminal Tribunal for the Former Yugoslavia, Case No. IT-94-1-T, "The Prosecutor versus Dusko Tadic ", 7 May 1997, paragraph 689.

Footnote 118. Nuremberg Proceedings, Vol. 22, p. 502

Footnote 119. Summary Records of the meetings of the Sixth Committee of the General Assembly, 21 September - 10 December 1948, Official Records of the General Assembly, statements by Mr. Morozov, p. 241.

Footnote 120. Cf. Jean Pradel, Droit pénal comparé (Comparative Penal Law), Précis Dalloz: 1995, p. 277-278.

Footnote 121. Penal Code in, "Codes et Lois du Rwanda" (Codes and Laws of Rwanda), National University of Rwanda, 31 December 1994 update, Volume I, 2nd Edition: 1995, p. 395.[unofficial translation]

Footnote 122. "... someone who instigates or encourages another person to commit an offence should be liable to conviction for those acts of incitement, both because he is culpable for trying to cause a crime and because such liability is a step towards crime prevention." Andrew Ashworth, Principles of Criminal Law, Clarendon Press, Oxford: 1995, p. 462.

Footnote 123. "The conduct required for incitement is some form of encouragement or persuasion to commit an offence, although there is authority which would regard threats or other forms of pressure as incitement." Ibid, p. 462.

Footnote 124. See for example the French Penal Code, which defines provocation as follows: "Anyone, who whether through speeches, shouting or threats uttered in public places or at public gatherings or through the sale or dissemination, offer for sale or display of written material, printed matter, drawings, sketches, paintings, emblems, images or any other written or spoken medium or image in public places or at public gatherings, or through the public display of placards or posters, or through any other means of audiovisual communication" shall have directly provoked the perpetrator(s) to commit a crime or misdemeanour, shall be punished as an accomplice to such a crime or misdemeanour; L No. 72-546 of 1 July 1972 and L. No. 85-1317 of 13 December 1985.[Unofficial translation]

Footnote 125. French Court of Cassation, Criminal Tribunal, 2 February 1950, Bull, crim. No. 38, p. 61.

Footnote 126. The[...] Element of public incitement requires communicating the call for criminal action to a number of individuals in a public place or to members of the general public at large. Thus, an individual may communicate the call for criminal action in person in a public place or by technical means of mass communication, such as by radio or television.", Draft Code of Crimes Against the Peace and Security of Mankind, art. 2(3)(f); Report of the International Law Commission to the General Assembly, 51 U.N. ORGA Supp. (No. 10), at 26, U.N. Doc. A/51/10(1996).

Footnote 127. See Yearbook of the United Nations, UN Fiftieth Edition, 1945-1995, Martinus Nijhoff Publishers, 1995 and the Summary Records of the Sixth Committee of the General Assembly, 21 September - 10 December 1948, Official Records of the General Assembly.

Footnote 128. "The element of direct incitement requires specifically urging another individual to take immediate criminal action rather than merely making a vague or indirect suggestion." Draft Code of Crimes Against the Peace and Security of Mankind, art. 2(3)(f); Report of the International Law Commission to the General Assembly, 51 U.N. ORGA Supp. (No. 10), at 26, U.N. Doc. A/51/10(1996).

Footnote 129. Article 23 of the French Law of 29 July 1881 on the provoking of crimes and offenses. See especially the analysis of André Vitu, Traité de Droit criminel, Droit pénal spécial, 1982.

Footnote 130. On this subject, see above, in the findings of the Chamber on Evidentiary Matters, the developments pertaining to the analysis of the Kinyarwanda language presented by the expert witness Professor Mathias Ruzindana.

Footnote 131. Summary Records of the Sixth Committee of the General Assembly, 21 September- 10 December 1948, Official Records of the General Assembly.

Footnote 132. Merle and Vitu, Ibid, p. 619

Footnote 133. International Law Reports, Volume 36, p. 31.

Footnote 134. Secretary General's Report on the ICTY Statute, (S/25704), paragraph 47.

Footnote 135. Roger Clark, Crimes against Humanity at Nuremberg, The Nuremberg and International Law, page 177, Ginburgs and Kudriavtsev

Footnote 136. Id. p 178

Footnote 137. International Law Report; volume 36; 1968 at p.30

Footnote 138. ILR, Volume 36, Part 4, p5 at 41

Footnote 139. 78 ILR 136 at 137

Footnote 140. ILR pp.332 and 336. Gaz. Pal. 1988, II, p. 745)

Footnote 141. ILR, pp. 340 and 352-5.

Footnote 142. Le Monde, 21 April 1994.

Footnote 143. Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Court on 17 July 1998.

Footnote 144. In the original French version of the Statute, these requirements were worded cumulatively: "Dans le cadre dune adieux generalise et systematic", thereby significantly increasing the threshold for application of this provision. Since Customary International Law requires only that the attack be either widespread or systematic, there are sufficient reasons to assume that the French version suffers from an error in translation.

Footnote 145. Report on the International Law Commission to the General Assembly, 51 U.N. GAOR Supp. (No 10) at 94 U.N.Doc. A/51/10 (1996)

Footnote 146. Note that this definition assimilates the definition of "civilian" to the categories of person protected by Common Article 3 of the Geneva Conventions; an assimilation which would not appear to be problematic. Note also that the ICTY Vukovar Rule 61 Decision, of 3 April 1996, recognised that crimes against humanity could be committed where the victims were captured members of a resistance movement who at one time had borne arms, who would thus qualify as persons placed hors de combat by detention.

Footnote 147. Protocol Additional to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of International Armed Conflict; Article 50.

Footnote 148. The Judgment of Prosecutor v. Du ko Tadic , case no. IT94-I-T, addressed this issue, citing the case the Federation Nationale des Deportes et Internes Resistant et Patriot and Other v. Barbie 78 Int'L. Rep.124, 125 (1995). On Appeal the Cour de Cassation quashed and annulled the judgment in part, holding that members of the resistance could be victims of crimes against humanity as long as the necessary intent for crimes against humanity was present. (Para. 641)

Footnote 149. Convention against Torture and Other Cruel , Inhuman or Degrading Treatment or Punishment, Article 1

Footnote 150. See Article 1 (Material field of application) of Additional Protocol II.

Footnote 151. Ibid and International Committee of the Red Cross Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949, para. 4438, (hereinafter the "Commentary on Additional Protocol II").

Footnote 152. See the Secretary General's Report on practical arrangements for the effective functioning of the International Tribunal for Rwanda, recommending Arusha as the seat of the Tribunal, UN Doc. S/1995/134, of 13 February 1995.

Footnote 153. Ibid paragraphs 11 - 12

Footnote 154. See the Secretary General's Report to the Security Council on establishment of the ICTY, UN Doc. S/25704, of 3 May 1993, para 34.

Footnote 155. See ICTY Tadic Judgment of 7 May 1997, paragraph 609

Footnote 156. Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction of 2 October 1995, paragraphs 116 and 134.

Footnote 157. Ibid paragraph 117

Footnote 158. Save for 4(2)(f) slavery and the slave trade in all their forms

Footnote 159. As regards Collective Punishments'note should be taken of commentary thereon, para 4535 - 4536 Commentary on Additional Protocol II

Footnote 160. Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction of 2 October 1995, paragraph 128

Footnote 161. Ibid paragraph 134

Footnote 162. See ICTY Tadic Judgment of 7 May 1997, paragraph 613

Footnote 163. See ICTY Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction of 2 October 1995, para. 70

Footnote 164. See International Committee of the Red Cross, Commentary I Geneva Convention, Article 3, Paragraph 1 - Applicable Provisions

Footnote 165. Ibid

Footnote 166. See Commentary on Additional Protocol II, paras 4338-4341

Footnote 167. See Factual Findings - General Allegations (paragraphs 5-11 of the Indictment)'

Footnote 168. See generally Commentary on Additional Protocol II, Article 1 (Material field of application)

Footnote 169. See in particular documents referred to in Factual Findings - General Allegations (paragraphs 5-11 of the Indictment)'

Footnote 170. Report of the United Nations High Commissioner for Human Rights on his mission to Rwanda of 11-12 May 1994 (E/CN.4/S-3/3. 19 May 1994)

Footnote 171. See General Legal Findings - Individual Criminal Responsibility (Article 6 of the Statute)'

Footnote 172. See The Hadamar Trial, Law Reports of Trials of War Criminals ("LRTWC"), Vol. I, pp. 53-54: "The accused were not members of the German armed forces, but personnel of a civilian institution. The decision of the Military Commission is, therefore, an application of the rule that the provisions of the laws or customs of war are addressed not only to combatants but also to civilians, and that civilians, by committing illegal acts against nationals of the opponent, may become guilty of war crimes"; The Essen Lynching Case, LRTWC, Vol. I, p.88, in which, *inter alia*, three civilians were found guilty of the killing of unarmed prisoners of war; and the Zyklon B Case, LRTWC, Vol. I, p. 103: "The decision of the Military Court in the present case is a clear example of the application of the rule that the provisions of the laws and customs of war are addressed not only to combatants and to members of state and other public authorities, but to anybody who is in a position to assist in their violation. [...] The Military Court acted on the principle that any civilian who is an accessory to a violation of the laws and customs of war is himself also liable as a war criminal".

Footnote 173. Commentary on Additional Protocol II, paragraph 4490

Footnote 174. See ICTY Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction of 2 October 1995, paragraph 69

Footnote 175. *supra* Legal Findings on Article 4 of the Statute' and Genocide in Rwanda in Rwanda in 1994'

Footnote 176. *supra* Factual findings on paragraphs 14 and 15 of the Indictment'

Footnote 177. "Ntihazagire umbaza uko umututsikazi yari ameze, ngo kandi mumenye ko ejo ngo nibabica nta kintu muzambaza."

Footnote 178. See findings of the Chamber on Count 4.

Footnote 179. 1 See above the findings of the Trial Chamber on the law applicable to the crime of genocide.

Footnote 180. 2 See above, the findings of the Trial Chamber on the occurrence of genocide against the Tutsi group in Rwanda in 1994.

Footnote 181. See above, the findings of the Trial Chamber on the Chapter relating to the law applicable to the crime of genocide, in particular, the definition of the constituent elements of genocide.

PROSECUTION INDEX OF AUTHORITIES

6. *Prosecutor v. Mirloslav Kvocka, Milojica Kos, Mlado Radic, Zoran Zigic, Dragoljub Prcac*, Decision on Judicial Notice, 8 June 2000.

2741

IN THE TRIAL CHAMBER

Before:
Judge Almiro Rodrigues, Presiding
Judge Fouad Riad
Judge Patricia Wald

Registrar:
Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of:
8 June 2000

THE PROSECUTOR

v.

MIROSLAV KVOCKA
MILOJICA KOS
MLADO RADIC
ZORAN ZIGIC
DRAGOLJUB PRCAC

DECISION ON JUDICIAL NOTICE

The Office of the Prosecutor:

Ms. Brenda Hollis
Mr. Michael Keegan
Mr. Kapila Waidyaratne

Defence Counsel:

Mr. Krstan Simic for Miroslav Kvocka
Mr. Zarko Nikolic for Milojica Kos
Mr. Toma Fila for Mladjo Radic
Mr. Simo Tosic for Zoran Zigic
Mr. Jovan Simic for Dragoljub Prcac

TRIAL CHAMBER I of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 ("the Tribunal");

NOTING Rules 54, 73 and 94 of the Rules of Procedure and Evidence (hereinafter "the Rules");

2742.

NOTING the "Prosecutor's Motion for Judicial Notice of Adjudicated facts" filed on 11 January 1999 and listing in its Annex I 583 paragraphs from the judgements in *Prosecutor* v. *Dusko Tadic* ("the *Tadic* judgement") and *Prosecutor v. Zejnil Delalic, et al.* ("the *Celebici* judgement"), (hereafter, "the Prosecutor's motion dated 11 January 1999");

NOTING the decision of Trial Chamber III in this case dated 19 March 1999 taking judicial notice of facts contained in paragraphs 1 to 6, 8, 10 to 17, 21 to 70, 74, 78 to 87, 89, 96 to 113, 115 to 125 of the Annex I of the Prosecutor's Motion;

NOTING the appeal judgement of 15 July 1999 in case number IT-94-1-A, *Prosecutor v. Dusko Tadic*, and in particular paragraph 148;

NOTING the submissions of the parties following the Prosecutor's Motion of 11 January 1999 and in particular:

NOTING the "Defence Proposal for Admission of Adjudicated Facts" filed by the accused Radic on 2 February 2000, in which he agrees to judicial notice of the facts from the *Tadic* judgement with the exception of those listed in paragraphs 421 and 422 of the annex to the Prosecutor's motion; and the "Motion of the Defence of the Accused Milojica Kos Concerning the Admission of Adjudicated Facts" dated 9 February 2000;

NOTING the "Prosecution's Response to Defence Motions for the Admission of Adjudicated Facts" dated 14 February 2000, in which the Prosecutor argues that if judicial notice is taken of the facts from *Tadic*, such decision should apply to all accused, whether or not they consent;

NOTING the "Order on Judicial Notice" dated 17 February 2000 requiring the defence to respond to the previous pleadings and specify which paragraphs, if any, in the annex to the Prosecutor's motion dated 11 January 1999 they find objectionable;

NOTING the "Defence Motion Pursuant to the Trial Order Dated 17 February 2000" filed by Zigic on 22 February 2000, in which he objects to the taking of judicial notice;

HAVING HEARD the Prosecution and defence of the accused persons, Kvocka, Kos, Radic et Zigic, in a status conference on 24 February 2000, at which time the parties stated that they had reached an agreement on the facts contained in 444 out of the 583 paragraphs proposed by the Prosecutor in the annex I to her motion dated 11 January 1999;

HAVING HEARD the defence of the accused Prcac at the Status Conference on 12 April 2000, in which he also accepted the facts included in the 444 paragraphs just mentioned;

NOTING the "Prosecution's Rule 65 *ter* (E) (ii) Motion for Judicial Notice" dated 28 April 2000 requesting the Trial Chamber to take judicial notice of the facts contained in the 444 paragraphs mentioned about and to draw legal conclusions and in particular, to declare that the facts establish beyond a reasonable doubt the common elements of Articles 3 and 5 of the Statute, notably: that there was an armed conflict in the times and places alleged in the indictment; that the victims of the acts and omissions alleged in the indictment were persons taking no active part in the hostilities pursuant to Article 3 common to the Geneva Conventions of 1949; that there was a nexus between the acts or omissions alleged in the indictment and the armed conflict; that there was an ongoing widespread or systematic attack against the Bosnian Muslim and Bosnian Croat population in the times and places alleged in the indictment; that the acts or omissions alleged in the indictment were committed as part of

2743

or in the context of that widespread or systematic attack; and that the acts or omissions alleged in the indictment were committed during an armed conflict, whether international or internal in character;

NOTING "Defence Response to Prosecution's Motion for Clarification of Additional Matters and Prosecution's Rule 65 Motion for Judicial Notice" dated 2 May 2000 in which the defence of Radic agrees to the judicial notice of the facts contained in the aforementioned 444 paragraphs but objects to drawing the legal conclusions related to Articles 3 and 5 of the Statute;

NOTING the "Response of the Accused Kos to the Prosecution's Rule 65*ter* (E) (ii) Motion for Judicial Notice Filed on 28 April 2000," in which he agrees to the judicial notice of the facts contained in the 44 paragraphs but opposes any Trial Chamber finding that the adjudicated facts establish beyond a reasonable doubt the common elements of the crimes under Articles 3 and 5 of the Statute;

NOTING the "Prosecution's Reply to Defence Response to "Prosecution's Motion for Clarification of Additional Matters and Prosecution's Rule 65 Motion for Judicial Notice"" dated 19 May 2000, in which the Prosecutor contends that the arguments raised by the accused Radic are without merit;

NOTING the "Defence Reply to Prosecution's Reply to Defence Response to "Prosecution's Motion for Clarification of Additional Matters and Prosecution's Rule 65 Motion for Judicial Notice"" of Radic (dated 23 May 2000 but filed 30 May 2000, following the authorization by the Trial Chamber to file a reply), in which the defence stresses its belief that drawing conclusions that the agreed upon adjudicated facts prove beyond a reasonable doubt the common elements of Articles 3 and 5 would be the practical equivalent of turning that agreement into a guilty plea;

HAVING HEARD the parties, and in particular the Defense of all accused, during the status conference dated 6 June 2000;

CONSIDERING that the defence of the accused Radic opposes the Trial Chamber's drawing legal conclusions on the common elements of Articles 3 and 5 of the Statute on the grounds that Rule 94 authorizes judicial notice of facts but not legal conclusions; that the parties are not allowed to resolve legal issues through mutual negotiation; that consent to a finding on the common elements could be considered to be a confession of guilt; that the common elements of Articles 3 and 5 may only be considered at the same time as individual criminal responsibility is considered pursuant to Article 7(1) and 7(3) of the Statute; that there was a widespread and/or systematic attack in Bosnia and Herzegovina not only on the Muslim and Croat civilian population, but also on the Serb population; and that the armed conflict did not have an international character;

CONSIDERING that the defence of the accused Kos opposed the Trial Chamber's drawing legal conclusions on the common elements of Articles 3 and 5 of the Statute on the grounds that Rule 94 is intended to cover facts and not the legal conclusions inferred from those facts, as was held by Trial Chamber III in its decision of 25 March 1999 in *Prosecutor v. Simic*; and that such legal findings have no biding force except between the parties in respect of a particular case;

CONSIDERING that the Prosecutor argues that the Trial Chamber has the inherent power to draw legal conclusions from facts established beyond a reasonable doubt at any time in the proceeding; that the importance of the judicial notice by the trial chamber of the 444 adjudicated facts agreed to by the parties is that those facts are proven beyond a reasonable doubt, and conclusions may therefore be drawn from them; that in most national judicial systems, issues concerning the jurisdictional elements of crimes are often determined *in limine;* that during the 24 February 2000 status conference, the defence of the accused Radic accepted "the positions presented in the Tadic judgement, and the elements on the basis

2744

of which such judgement was made" and the defence of Kvocka said "we accept all the facts that are relevant to the jurisdiction of the Tribunal, the conflict, the fact that it was an armed conflict, the question of the nature and the ethnicity of the prisoners and so on"; that the question of the existence of the common elements of Articles 3 and 5 is completely distinct from the determination of the individual criminal responsibility of the accused, such that establishment of those elements cannot be deemed a confession;

CONSIDERING that the Prosecution believes that the defence of the accused Radic is partially correct when it says that parties are not authorized to resolve legal issues, including the common elements of the offences, by mutual negotiation, but that parties can make an agreement pursuant to Rule 65*ter* and that, while the Trial Chamber is not bound by a potential agreement between the parties about those elements it may accept the agreement as a basis for making findings about the existence of the common elements;

CONSIDERING that the amended indictment dated 31 May 1999 charges the accused with violations of the laws and customs of war and crimes against humanity in Bosnia-Herzegovina in the Prijedor municipality and in particular in the Omarska, Keraterm and Trnopolje camps between 26 May and 30 August 1992; and that the accused Ducko Tadic was convicted of crimes committed in the same places between 23 May and 31 December 1992, and his appeal is completed and his conviction has now become final; that the Celebici judgement (the Trial Chamber observes that it is now on appeal) also concerns the conflict in Bosnia-Herzegovina at the same time;

CONSIDERING that the parties accepted, during the status conferences on 24 February 2000 and 12 April 2000, that it was in the interests of justice, and in particular of expediting the trial, that judicial notice should be taken of facts included in 444 out of the 583 paragraphs listed by the Prosecutor from the *Tadic* and Celebici cases, which are relevant to the present case, since this would relieve the parties from presenting proof on uncontested issues regarding the historical context, geography, military and administrative situation of the Prijedor municipality between 23 May and 31 December 1992;

CONSIDERING that the Trial Chamber notes that Rule 94 permits it to take judicial notice of adjudicated facts from other proceedings of the Tribunal relating to matters at issue in the current proceedings; that Trial Chamber III already took judicial notice of facts included in 94 out of the 444 paragraphs in its aforementioned decision dated 19 March 1999 concerning the accused Kvocka, Kos, Radic and Zigic; that there exists an agreement between the parties about the facts included in 444 of the paragraphs mentioned in the Prosecutor's motion dated 11 January 1999; that the Trial Chamber informed the parties that it took note of the agreement;

CONSIDERING that even if Rule 94 is concerned only with judicial notice of facts and documentary evidence, no provision in the Statute or the Rules forbids the Trial Chamber, having taken account of the rights of the accused, from drawing legal conclusions based on facts thereby established beyond a reasonable doubt;

CONSIDERING that the Defense of the accused was given the opportunity to make its argument at the Status Conference on 6 June 2000, whether any legal conclusion about the common elements of Articles 3 and 5 of the Statute could be based on the agreed adjudicated facts; that the Defense of the accused Kos, supported by the Defense of the accused Prcac, submitted that some of the required elements of Articles 3 and 5 of the Statute could be based upon the agreed facts;

CONSIDERING that the Trial Chamber agrees with the Defence that it is still up to the Prosecution to prove the individual responsibility of the accused for the crimes in the indictment;

2745

CONSIDERING that it results necessarily and incontestably from the facts that the parties have agreed upon and which the Trial Chamber is taking judicial notice of, that there was an armed conflict, accompanied by a widespread and systematic attack on the Muslim and Croat civilian population, in the times and places alleged in the indictment; and it further is included in these agreed upon facts that the existence of the Omarska, Keraterm and Trnopolje camps and the mistreatment of the prisoners in those camps was linked to the armed conflict and to the widespread and systematic attack on the civilian population[1];

CONSIDERING that the determination so made by the Chamber does not indicate in itself that the accused are responsible for the commission of the alleged crimes; and that it is up to the Prosecutor to prove such responsibility under Article 7(1) and Article 7(3) of the statute, and that the defence is entitled to raise its arguments on these points in the full exercise of its rights;

FOR THE FOREGOING REASONS

TAKES JUDICIAL NOTICE of the facts contained in paragraphs 1 to 330[2], 332, 334 to 339, 342, 343, 345 to 366, 475 to 492, 519 to 583 in the annex I to the motion of the Prosecutor dated 11 January 1999;

DECIDES that at the times and places alleged in the indictment, there existed an armed conflict; that this conflict included a widespread and systematic attack against notably the Muslim and Croat civilian population; and that there was a nexus between this armed conflict and the widespread and systematic attack on the civilian population and the existence of the Omarska, Keraterm and Tronpolje camps and the mistreatment of the prisoners therein.

Done in English and French, the French version being authoritative.

Done this eight day of June 2000,
At The Hague
The Netherlands.

_____
Almiro Rodrigues
Presiding Judge

[Seal of the Tribunal]

---

1. In particular, paragraphs 559 to 574 concern the existence of an armed conflict and paragraphs 575 to 583 are related to the existence of a nexus between the armed conflict and the mistreatment of persons detained in the camps.
2. The 19 March 1999 decision of Trial Chamber III regarding the accused Kvocka, Kos, Radic and Zigic took judicial notice of the facts in paragraphs 1 to 6, 8, 10 to 17, 21 to 70, 74, 78 to 87, 89, 96 to 113, 115 to 125 of the aforementioned Annex I.

PROSECUTION INDEX OF AUTHORITIES

7. *Prosecutor v. Kanyabashi*, ICTR-96-15-T, Decision on Jurisdiction, 18 June 1997.

ICTR-96-15A-T
(730-719.)
3-7-97

730
Kanyabashi
2747

UNITED NATIONS NATIONS UNIES

International Criminal Tribunal for Rwanda
Trial Chamber 2

Before: Judge William H. Sekule, Presiding Judge
Judge Tafazzal H. Khan
Judge Navanethem Pillay

OR: ENG

Registrar: Mr. Frederik Harhoff

Decision of: 18 June 1997

THE PROSECUTOR
versus
JOSEPH KANYABASHI

Case No. ICTR-96-15-T

DECISION ON THE DEFENCE MOTION ON JURISDICTION

ICTR
RECEIVED
03 JUL 1997
ACTION: REGISTRAR
COPY:

Office of the Prosecutor:

Mr. Yacob Haile-Mariam

Counsel for the Defence

Mr. Evans Monari
Mr. Michel Marchand

THE TRIBUNAL,

SITTING AS Trial Chamber 2 of the International Criminal Tribunal for Rwanda ("the Tribunal"), composed of Judge William H. Sekule as Presiding Judge, Judge Tafazzal H. Khan and Judge Navanethem Pillay;

CONSIDERING the indictment submitted by the Prosecutor against Joseph Kanyabashi pursuant to Rule 47 of the Rules of Procedure and Evidence ("the Rules") and confirmed by Judge Yakov A. Ostrovsky on 15 July 1996 on the basis that there existed sufficient evidence to provide reasonable grounds for believing that he has committed genocide, conspiracy to commit genocide, crimes against humanity and serious violations of Article 3 common to the Geneva Conventions and Additional Protocol II thereto;

TAKING NOTE of the transfer of the accused from Belgium to the Tribunal's Detention Facilities on 8 November 1996 and his initial appearance on 29 November 1996 before this Chamber;

BEING NOW SEIZED OF the preliminary motion filed by the Defence Counsel on 17 April 1997 pursuant to Rule 73(A)(i) of the Rules, challenging the jurisdiction of the Tribunal;

HAVING ALSO RECEIVED the Prosecutor's response, filed on 22 May 1997, to the Defence Counsel's motion;

HAVING HEARD the parties at the hearing of the Defence Counsel's motion and the Prosecutor's response, held on 26 May 1997;

CONSIDERING the provisions of the UN Charter, the Statute of the Tribunal and the Rules, in particular Rules 72 and 73;

TAKING INTO CONSIDERATION the decision of 10 August 1995 of the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia in Case No. IT-94-1-T, The Prosecutor versus Duško Tadić; and the decision of 2 October 1995 rendered by the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia in Case No. IT-94-1-AR72, on appeal of the said decision of the Trial Chamber.

AFTER HAVING DELIBERATED:

1. The Defence Counsel submitted his preliminary motion pursuant to Rule 73(A)(i) of the Rules 139 days after the initial appearance of the accused. By so doing, he manifestly exceeded the time-limit prescribed in Rule 73(B) of the Rules, which stipulates that preliminary motions by the accused shall be brought within sixty (60) days after the initial appearance, and in any case before the hearing on the merits. Rule 73(C) of the Rules further lays down that failure to apply within this time-limit shall constitute a waiver of the right, unless the Trial Chamber grants relief to hear the preliminary motion upon good cause being shown by the Defence Counsel.

2. The Trial Chamber, therefore, must first examine whether there are reasonable grounds for proceeding with the examination of this preliminary motion.

A. On the Consequence of the Defence Counsel's Failure to Submit his Preliminary Motion Within Sixty Days After the Initial Appearance Of the Accused.

3. Rule 72(B) of the Rules allows the Prosecution as well as the Defence to file preliminary motions and further establishes that the Trial Chamber shall dispose thereof *in limine litis*. The purpose of this requirement, evidently, is to ensure that all basic questions and fundamental objections raised by the parties against the competence, the proceedings and the functions of the Tribunal are properly addressed and dealt with before the beginning of the trial on its merits.

4. Rule 73(A) identifies some of the preliminary motions which must, for reasons of expediency, be raised and disposed of before the beginning of the trial on the merits, such as objections against the jurisdiction of the Tribunal or against defects in the indictment. Rule 73(B), accordingly, specifies that such motions must be filed within sixty (60) days after the initial appearance in order to ensure their consideration well in advance of the trial. Rule 73(C) goes on to establish that failure to meet the time-limit shall constitute a waiver of the right to submit such preliminary motions. If, however, the Defence shows good cause, the Trial Chamber might grant relief from this waiver. These Rules are clear and leave no room for misunderstanding.

5. The Trial Chamber notes, however, that the Defence motion was filed out of time, and was surprised that neither the Defence nor the Prosecutor made any reference to this fact when the preliminary motion was heard by the Trial Chamber. Defence Counsel did not file any request for a waiver and did not provide the Trial Chamber with any explanation for his failure to respect the prescribed time-limit. The Prosecutor, on her part, did not object to hearing this motion

6. Notwithstanding the fact that some of the questions raised by the Defence Counsel have already been addressed in the decision rendered on 2 October 1995 by the Appeals Chamber for the Former Yugoslavia, the Trial Chamber finds that, in view of the issues raised regarding the establishment of this Tribunal, its jurisdiction and its independence and in the interests of justice, that the Defence Counsel's motion deserves a hearing and full consideration. The Trial Chamber, therefore, grants relief from the waiver *suo motu* and will thus proceed with the examination of the Defence Counsel's preliminary motion.

B. On the Substance of the Preliminary Motion

7. In his preliminary motion, the Defence Counsel raised a number of challenges concerning the jurisdiction of the Tribunal. These challenges can be adequately condensed into the following five principal objections:

(i) That the sovereignty of States, in particular that of the Republic of Rwanda, was violated by the fact that the Tribunal was not established by a treaty through the General Assembly;

(ii) that the Security Council lacked competence to establish an ad-hoc Tribunal under Chapter VII of the UN Charter;

(ii) that the Security Council lacked competence to establish an ad-hoc Tribunal under Chap ter VII of the UN Charter;

(iii) that the primacy of the Tribunal's jurisdiction over national courts was unjustified and violated the principle of *jus de non evocando*;

(iv) that the Tribunal cannot have jurisdiction over individuals directly under international law; and

(v) that the Tribunal is not and cannot be impartial and independent;

8. The Prosecutor responded that the basic arguments in the Defence Counsel's motion were addressed by the Trial Chamber and, in particular, by the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia in the Tadić-case. The Trial Chamber notes that, in terms of Article 12(2) of the Statute, the two Tribunals share the same Judges of their Appeals Chambers and have adopted largely similar Rules of Procedure and Evidence for the purpose of providing uniformity in the jurisprudence of the two Tribunals. The Trial Chamber, respects the persuasive authority of the decision of the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia and has taken careful note of the decision rendered by the Appeals Chamber in the Tadic case.

B.1. On the Defence Counsel's Objection that the Sovereignty of States, in Particular that of the Republic of Rwanda, Was Violated by the Fact that the Tribunal Was Not Established by a Treaty Through the General Assembly.

9. The Defence Counsel submitted in his written and oral submissions that the Tribunal should and in fact could only have been established by an international treaty upon recommendation of the General Assembly, which would have permitted the member States of the United Nations to express their approval or disapproval of the establishment of an ad-hoc Tribunal. The Defence Counsel argued that by leaving the establishment of the Tribunal to the Security Council through a Resolution under Chapter VII of the UN Charter, the United Nations not only encroached upon the sovereignty of the Republic of Rwanda, and other Member States, but also frustrated the endeavours of its General Assembly to establish a permanent criminal court. The Tribunal, in the Defence Counsel's view, was therefore not lawfully established.

10. The Prosecutor, in response to this first objection raised by Defence Counsel, rejected the notion that the Tribunal was unlawfully established and contended that, since there was a need for an effective and expeditious implementation of the decision to establish the Tribunal, the treaty approach would have been ineffective because of the considerable time required for the establishment of an instrument and for its entry into force.

11. The Trial Chamber finds that two issues need to be addressed. One is whether the accused as an individual has *locus standi* to raise a plea of infringement of the sovereignty of States, in particular that of the Republic of Rwanda, and the other is whether the sovereignty of the Republic of Rwanda and other Member States were in fact violated in the present case.

12. As regards the first of these questions, the Appeals Chamber held in the Tadić-case that

> "To bar an accused from raising such a plea is tantamount to deciding that , in this day and age, an international court could not, in a criminal matter where the liberty of an accused is at stake, examine a plea raising the issue of violation of State sovereignty. "

The Trial Chamber agrees with this conclusion and accepts that the accused in the present case can raise the plea of State sovereignty. In any event, it is the individual and not the State who has been subjected to the jurisdiction of the Tribunal.

13. As regards the second question whether the sovereignty of the Republic of Rwanda has been violated by the Security Council's decision to establish the Tribunal, the Trial Chamber notes that membership of the United Nations entail certain limitations upon the sovereignty of the member States. This is true in particular by virtue of the fact that all member States, pursuant to Article 25 of the UN Charter, have agreed to accept and carry out the decisions of the Security Council in accordance with the Charter. For instance, the use of force against a State sanctioned by the Security Council in accordance with Article 41 of the UN Charter is one clear example of limitations upon sovereignty of the State in question which can be imposed by the United Nations.

14. The Trial Chamber notes, furthermore, that the establishment of the ICTR was called for by the Government of Rwanda itself, which maintained that an international criminal tribunal could assist in prosecuting those responsible for acts of genocide and crimes against humanity and in this way promote the restoration of peace and reconciliation in Rwanda. The Ambassador of Rwanda, during the discussion and adoption of Resolution 955 in the Security Council on 8 November 1994 declared that:

> "The tribunal will help national reconciliation and the construction of a new society based on social justice and respect for the fundamental rights of the human person, all of which will be possible only if those responsible for the Rwandese tragedy are brought to justice."

15. Against this background, the Trial Chamber is of the view that the Security Council's establishment of the Tribunal through a Resolution under Chapter VII of the UN Charter and with the participation of the Government of Rwanda, rather than by a treaty adopted by the Member States under the auspices of the General Assembly, did not violate the sovereignty of the Republic of Rwanda and that of the Member States of the United Nations..

16. The Defence Counsel further argued that the establishment of the Tribunal through a resolution of the Security Council effectively undermined the General Assembly's initiative to set up a permanent international Criminal Court. The Trial Chamber, however, mindful of the fact that such a tribunal may well be created by an international treaty, finds that this question has no bearing on the jurisdiction of this Tribunal and must therefore, be rejected.

B.2. On the Defence Counsel's Objections that the Security Council Lacked Competence to Establish an *ad-hoc* Tribunal under Chapter VII of the UN Charter

17. The second main issue addressed by the Defence relates to the interpretation and delimitation of Chapter VII of the UN Charter and more specifically to the contents and boundaries of the authority of the Security Council.

18. In his written and oral submissions, the Defence Counsel argued that the establishment of the Tribunal by the Security Council was ill-founded for five basic reasons:

(i) that the conflict in Rwanda did not pose any threat to international peace and security;

(ii) that there was no international conflict to warrant any action by the Security Council;

(iii) that the Security Council thus could not act within Chapter VII of the UN Charter;

(iv) that the establishment of an ad-hoc tribunal was never a measure contemplated by Article 41 of the UN Charter; and finally

(v) that the Security Council has no authority to deal with the protection of Human Rights.

The Trial Chamber will now examine each of these contentions in turn.

19. ***"The conflict in Rwanda did not pose any threat to international peace and security"***.

On several occasions, e.g. in Congo, Somalia and Liberia, the Security Council has established that incidents such as sudden migration of refugees across the borders to neighbouring countries and extension or diffusion of an internal armed conflict into foreign territory may constitute a threat to international peace and security. This, might happen, in particular where the areas immediately affected have exhausted their resources. The reports submitted by the Special Rapporteur for Rwanda of the United Nations Commission on Human Rights (see Doc. S/1994/1157) and also by the Commission of Experts appointed by the Secretary General (see Doc. S/1994/1125) concluded that the conflict in Rwanda as well as the stream of refugees had created a highly volatile situation in some of the neighbouring regions. As a matter of fact, this conclusion was subsequently shared by the Security Council and formed the basis for the adoption of Security Council's resolution 955 (1994) of 8 November 1994.

20. Although bound by the provisions in Chapter VII of the UN Charter and in particular Article 39 of the Charter, the Security Council has a wide margin of discretion in deciding when and where there exists a threat to international peace and security. By their very nature, however, such discretionary assessments are not justiciable since they involve the consideration of a number of social, political and circumstantial factors which cannot be weighed and balanced objectively by this Trial Chamber.

21. While it is true that the conflict in Rwanda was internal in the sense that it emerged from inherent tensions between the two major groups forming the population within the territory of Rwanda and otherwise did not involve the direct participation of armed forces belonging to any other State, the Trial Chamber cannot accept the Defence Counsel's notion that the conflict did not pose any threat to international peace and security. The question of, whether or not the conflict posed a threat to international peace and security is a matter to be decided exclusively by the Security Council. The Trial Chamber nevertheless takes judicial notice of the fact that the conflict in Rwanda created a massive wave of refugees, many of whom were armed, into the neighbouring countries which by itself entailed a considerable risk of serious destabilisation of the local areas in the host countries where the refugees had settled. The demographical composition of the population in certain neighbouring regions outside the territory of Rwanda, furthermore, showed features which suggest that the conflict in Rwanda might eventually spread to some or all of these neighbouring regions.

22. The Trial Chamber concludes that there is no merit in the Defence Counsel's argument that the conflict in Rwanda did not pose any threat to international peace and security and holds that this was a matter to be decided exclusively by the Security Council.

23. ***"There was no international conflict to warrant any action by the Security Council."***

The Defence Counsel further contends that there was no international conflict to warrant any action by the Security Council. This argument has been partly addressed in the preceding paragraphs in the sense that *if* the Security Council had decided that the conflict in Rwanda did in fact pose a threat to international peace and security, this conflict would thereby fall within the ambit of the Security Council's powers to restore and maintain international peace and security pursuant to the provisions in Chapter VII of the UN Charter.

24. The Security Council's authority to take such action, furthermore, exists independently of whether or not the conflict was deemed to be international in character. The decisive pre-requisite for the Security Council's prerogative under Article 39 and 41 of the UN Charter is not whether there *exists* an *international* conflict, but whether the conflict at hand entails a threat to international peace and security. Internal conflicts, too, may well have international implications which can justify Security Council action. The Trial Chamber holds that there is no basis for the Defence Counsel's submission that the Security Council's competence to act rested on a pre-existing international conflict.

25. ***"The Security Council could not act within Chapter VII of the UN Charter."***

During his oral submission, the Defence Counsel further added that the Security Council was not competent to act in the case of the conflict in Rwanda because international peace and security had already been re-established by the time the Security Council decided to create the Tribunal.

26. The Trial Chamber observes, once again, that this argument entails a finding of fact based on evidence and that, in any case, the question of whether or not the Security Council was justified in taking actions under Chapter VII when it did, is a matter to be determined by the Security Council itself. The Trial Chamber notes, in particular, that cessation of the atrocities of the conflict does not necessarily imply that international peace and security had been restored, because peace and security cannot be said to be re-established adequately without justice being done. In the Trial Chamber's view, the achievement of international peace and security required that swift international action be taken by the Security Council to bring to justice those responsible for the atrocities in the conflict.

27. ***"The establishment of an ad-hoc tribunal was never a measure contemplated by Article 41 of the UN Charter."***

The thrust of this argument lies in the contention that the establishment of an ad-hoc Tribunal to prosecute perpetrators of genocide and violations of international humanitarian law is not a measure contemplated by the provisions of Chapter VII of the UN Charter. While it is true that establishment of judicial bodies is not directly mentioned in Article 41 of the UN Charter as a measure to be considered in the restoration and maintenance of peace, it clearly falls within the ambit of measures to satisfy this goal. The list of actions contained in Article 41 is clearly not exhaustive but indicates some examples of the measures which the Security Council might eventually decide to impose on States in order to remedy a conflict or an imminent threat to international peace and security. This is also the view of the Appeals Chamber in the Tardic-case.

28. ***"The Security Council has no authority to deal with the protection of Human Rights"*** Finally, the Defence Counsel holds that the international protection of Human Rights is embedded in particular international instruments such as the global International Covenants on Civil and Political Rights & Social, Economic and Cultural Rights and in the regional conventions on Human Rights for Europe and Africa, all of which have established particular international institutions entrusted with the task of protecting the body of international Human Rights. The Defence Counsel claims, therefore, that the protection of Human Rights is not a matter for the Security Council.

29. The Trial Chamber cannot accept the Defence Counsel's argument that the existence of specialized institutions for the protection of Human Rights precludes the Security Council from taking action against violation of this body of law. Rather to the contrary, the protection of international Human Rights is the responsibility of all United Nations organs, the Security Council included, without any limitation, in conformity with the UN Charter.

B.3. On the Defence Counsel's Objections Against the Primacy of the Tribunal's Jurisdiction Over National Courts and Against Violation of the Principle of *Jus de non Evocando.*

30. Although the Defence Counsel did not explicitly challenge the primacy of the Tribunal's jurisdiction over national courts, this objection is implied in the Defence Counsel's contention that establishment of the Tribunal violated the principle of *jus de non evocando*.

31. This principle, originally derived from constitutional law in civil law jurisdictions, establishes that persons accused of certain crimes should retain their right to be tried before the regular domestic criminal Courts rather than by politically founded ad-hoc criminal tribunals which, in times of emergency, may fail to provide impartial justice. As stated by the Appeals Chamber in the Tadić-case: "As a matter of fact and of law the principle advocated by the Appellant aims at one very specific goal: to avoid the creation of special or extraordinary courts designed to try political offences in times of social unrest without guarantees of a fair trial." In the Trial Chamber's opinion, however, the Tribunal is far from being an institution designed for the purpose of removing, for political reasons, certain criminal offenders from fair and impartial justice and have them prosecuted for political crimes before prejudiced arbitrators.

32. It is true that the Tribunal has primacy over domestic criminal Courts and may at any stage request national Courts to defer to the competence of the Tribunal pursuant to article 8 of the Statute of the Tribunal, according to which the Tribunal may request that national Courts defer to the competence of the Tribunal at any stage of their proceedings. The Tribunal's primacy over national Courts is also reflected in the principle of *non bis in idem* as laid down in Article 9 of the Statute and in Article 28 of the Statute which establishes that States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber. The primacy thereby entrenched for the Tribunal, however, is exclusively derived from the fact that the Tribunal is established under Chapter VII of the UN Charter, which in turn enables the Tribunal to issue directly binding international legal orders and requests to States, irrespective of their consent. Failure of States to comply with such legally binding orders and requests may, under certain conditions, be reported by the President of the Tribunal to the Security Council for further action.

The Trial Chamber concludes, therefore, that the principle of *jus de non evocando* has not been violated.

B.4. On the Defence Counsel's Objections Against the Tribunal's Jurisdiction over Individuals Directly under International Law.

33. The Defence Counsel further contends that bestowing the Tribunal with jurisdiction over individuals is inconsistent with the UN Charter, for the reason that the Security Council has no authority over individuals, and that only States can pose threats to international peace and security.

34. The Prosecution responded to this contention by citing the Nüremberg Trials which, in the Prosecution's view, established that individuals who have committed crimes under international law can be held criminally responsible directly under international law. The Prosecutor further contended that attribution of individual criminal responsibility is a fundamental expression of the need for enforcement action by the Security Council. It is indeed difficult to separate the individual from the State, as the duties and rights of States are only duties and rights of the individuals who compose them, and as international criminal law, like other branches of law, deals with the regulation of human conduct. It is to individuals, not the abstract, that international law applies, and it is against individuals that it should provide sanctions. In the words of the Deputy Prosecutor in the trial against *Frank Hans* in 1946:

> "It seems intolerable to every sensitized human being that the men who put their good will at disposition of the State entity in order to make use of the power and material resources of this entity to slaughter, as they have done, millions of human beings in the execution of a policy long since determined, should be assured of immunity. The principle of State sovereignty which might protect these men is only a mask; this mask removed, the man's responsibility reappears."

35. The Trial Chamber recalls that the question of direct individual criminal responsibility under international law is and has been a controversial issue within and between various legal systems for several decades and that the Nüremberg trials in particular have been interpreted differently in respect of the position of the individual as a subject under international law. By establishing the two International Criminal Tribunals for the Former Yugoslavia and Rwanda, however, the Security Council explicitly extended international legal obligations and criminal responsibilities directly to individuals for violations of international humanitarian law. In doing so, the Security Council provided an important innovation of international law, but there is nothing in the Defence Counsel's motion to suggest that this extension of the applicability of international law against individuals was not justified or called for by the circumstances, notably the seriousness, the magnitude and the gravity of the crimes committed during the conflict.

36. In his submissions, furthermore, the Defence Counsel referred to a number of other areas of conflicts and incidents in which the Security Council took no action to establish an international criminal tribunal, e.g. Congo, Somalia and Liberia, and the Defence Counsel seems to infer from the lack of such action in these cases that individual criminal responsibility should not be taken in the case of the conflict in Rwanda. The Trial Chamber, however, disagrees entirely with this perception. The fact that the Security Council, for previously prevailing geo-strategic and international political reasons, was unable in the past to take adequate measures to bring to justice the

perpetrators of crimes against international humanitarian law is not an acceptable argument against introducing measures to punish serious violations of international humanitarian law when this becomes an option under international law. The Trial Chamber, thus, cannot accept the Defence Counsel's objections against the Tribunal's jurisdiction over individuals.

B.5. On the Defence Counsel's Objections Based on the Allegation that the Tribunal is not Impartial and Independent.

37. The Defense Motion asserted that the Tribunal was set up by the Security Council, a political body and as such the Tribunal is just another appendage of an international organ of policing and coercion, devoid of independence.

38. The Prosecutor, in response, challenged the claim in the Defense Motion that the Tribunal cannot act both as a subsidiary organ of the Security Council and as an independent Judicial body. He stated that although the ICTY and the ICTR share certain aspects of personnel, materials and means of operation, the Tribunal for Rwanda is a separate Tribunal with its own Statute, its own sphere of jurisdiction and its own rules of operation and as such it has legal independence.

39. This Trial Chamber is of the view that criminal courts worldwide are the creation of legislatures which are eminently political bodies. This was an observation also made by the Trial Chamber in the Tadić-case. To support this view, the Trial Chamber in that case relied on *Effect of Awards of Compensation made by the United Nations Administrative Tribunal* (1954) I.C.J. 47, 53; Advisory Opinion of 13 July), which specifically held that a political organ of the United Nations, in that case the General Assembly, could and had created "an independent and truly judicial body." Likewise, the Security Council could create such a body using its wide discretion under Chapter VII.

40. This independence is, for example, demonstrated by the fact that the Tribunal is not bound by national rules of evidence as stated under rule 89 A of the Rules of Procedure and Evidence. The Tribunal is free to apply those Rules of Evidence which best favor a fair determination of the matter before it as stipulated in rule 89(B) of the Rules.

41. Further, the judges of the Tribunal exercise their *judicial* duties independently and freely and are under oath to act honorably, faithfully, impartially and conscientiously as stipulated in rule 14 of the Rules. Judges do not account to the Security Council for their judicial functions.

42. In this Trial Chamber's view, the personal independence of the judges of the Tribunal and the integrity of the Tribunal are underscored by Article 12 (1) of the Statute of the Tribunal which states that persons of high moral character, integrity, impartiality who possess adequate qualifications to become judges in their respective countries and having widespread experience in criminal law, international law including international humanitarian law and human rights law, shall be elected.

43. This Trial Chamber also subscribes to a view which was expressed by the Appeals Chamber in the Tadic case that when determining whether a tribunal has been 'established by law', consideration should be made to the setting up of an organ in keeping with the proper international standards providing all the guarantees of fairness and justice.

44. Under the Statute and the Rules of Procedure and Evidence, the Tribunal will ensure that the accused receives a fair trial. This principle of fair trial is further entrenched in Article 20 which embodies the major principles for the provision of a fair trial, *inter alia,* the principles of public hearing and subject to cross examination. The rights of the accused are also set out such as the right to counsel, presumption of innocence until the contrary is proved beyond a reasonable doubt, privilege against self-incrimination and the right to adequate time for the preparation of his/her case. These guarantees are further included in rules 62, 63 and 78 of the Rules. The rights of the accused enumerated above are based upon Article 14 of the International Covenant on Civil and Political Rights and are similar to those found in Article 6 of the European Convention on Human Rights.

45. Defence Counsel argued that the obligation imposed on the Tribunal to report to the Security Council derogates its independence as a judicial organ. The Prosecutor contended that this obligation was discretionary. In fact it is mandatory. In Article 34 of the Statute, the Tribunal is duty bound to do this annually. This requirement is not only a link between it and the Security Council but it is also a channel of communication to the International community, which has an interest in the issues being addressed and the right to be informed of the activities of the Tribunal. In the Chamber`s view, the Tribunal`s obligation to report progress to the Security Council is purely administrative and not a judicial act and therefore does not in any way impinge upon the impartiality and independence of it`s judicial decision.

46. The Defence Counsel further contended that African jurisprudence and Human Rights Covenants were overlooked in the setting up the Tribunal. This contention cannot be correct because the important instruments on human rights in Africa, including the Charter of the Organization of African Unity (O.A.U.) and the African Charter On Human Rights ("the African Charter") were indirectly included in the law applicable to the Tribunal. Articles 3 and 7 of the African Charter on Human and People's Rights, for example, contain rights which are similar to those guaranteed in the Statute.

47. The Defence Counsel argued that the impartiality of the of the Tribunal has not been demonstrated for the reason that there has been selective prosecution only of persons belonging to the Hutu ethnic group.

48. In his response, the Prosecutor dismissed these allegations and stated that indictments have been issued against leading perpetrators of the genocide and that subject to the availability of evidence, he intended to prosecute Hutu and Tutsi "extremists". The use of the word "extremists" is inaccurate and unfortunate, in view of Article 1 of the statute.

49. The Trial Chamber simply reiterates that, pursuant to Article 1 of the Statute, all persons who are suspected of having committed crimes falling within the jurisdiction of the Tribunal are liable to prosecution.

50. The Trial Chamber is not persuaded by the arguments advanced by the Defence Counsel that the Tribunal is not impartial and independent and accordingly rejects this contention.

FOR THESE REASONS,

DECIDES to dismiss the motion submitted by the Defence Counsel challenging the jurisdiction of the Tribunal.

Arusha, 18 June 1997.

William H. Sekule
Presiding Judge

T. H. Khan
Judge

Navanethem Pillay
Judge

Pronounced in Open Court on the 3rd of July 1997

William H. Sekule
Presiding Judge

(Seal of the Tribunal)

PROSECUTION INDEX OF AUTHORITIES

8. *Prosecutor v. Kayishema & Ruzindana*, ICTR-95-1-T, Judgement, 21 May 1999.

Westlaw.

1999 WL 33288417 (UN ICT (Rwa))

International Criminal Tribunal for Rwanda

THE PROSECUTOR
v.

CLÉMENT KAYISHEMA and OBED RUZINDANA

ICTR-95-1-T

Decision of: 21 May 1999

JUDGEMENT

The Office of the Prosecutor: Mr. Jonah Rahetlah, Ms. Brenda Sue Thornton, Ms. Holo Makwaia

Counsel for Clément Kayishema: Mr. André Ferran, Mr. Philippe Moriceau

Counsel for Obed Ruzindana: Mr. Pascal Besnier, Mr. Willem Van der Griend

Before: Presiding Judge William H. Sekule, Judge Yakov A. Ostrovsky, Judge Tafazzal Hossain Khan

Registrar: Mr. Agwu U. Okali

List of Contents

I. INTRODUCTION

1.1 The Tribunal and its Jurisdiction

1.2 The Indictment

1.3 The Accused

1.4 Procedural Background of the Case

II. Historical Context of the 1994 Events in Rwanda

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

III. EVIDENTIARY MATTERS

3.1 Equality of Arms

3.2 Reliability of Eyewitnesses

3.3 Witness Statements

3.4 Specificity of die Indictment

IV.THE LAW

4. 1 Genocide

4.2 Crimes Against Humanity

4.3 Violations of Article 3 Common to the Geneva Conventions and Additional Protocol II, thereto

4.4 Criminal Responsibility, Articles 6(1) and 6(3)

V. FACTUAL FINDINGS

5.1 Alibi

5.2 Did Genocide Occur in Rwanda and Kibuye in 1994?

5.3 An Introduction: The Massacres at the Catholic Church and Home St. Jean Complex, Stadium in Kibuye Town and the Church in Mubuga

5.4 The Massacres in the Area of Bisesero

VI.LEGAL FINDINGS

6.1 Kayishema's Command Responsibility

6.2 Genocide

6.3 Crimes Against Humanity

6.4 Common Article 3 and Additional Protocol II

VII. Cumulative Charges

VIII. The Verdict

Sentencing Order

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

Separate and Dissenting Opinion of Judge Khan regarding the Verdicts under Charges of Crimes Against Humanity/Murder and Crimes Against Humanity/Murder

Dissenting Opinion

I. INTRODUCTION

1.1 The Tribunal and its Jurisdiction

1.2 The Indictment

1.3 The Accused

1.4 Procedural Background of the Case

1.1 The Tribunal and its Jurisdiction

1. This Judgement is rendered by Trial Chamber II of the International Tribunal for the prosecution of persons responsible for the serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January and 31 December 1994 (the Tribunal). The Judgement follows the Indictment and the joint trial of Clement Kayishema and Obed Ruzindana.

2. The Tribunal was established by the United Nations Security Council's Resolution 955 of 8 November 1994. [FN1] After official investigations, the Security Council found indications of wide spread violations of international humanitarian law and concluded that the situation in that country in 1994 constituted a threat to international peace and security within the meaning of Chapter VII of the United Nations Charter, thus giving rise to the establishment of the Tribunal.

FN1 UN Doc. S/RES/955 of 8 Nov. 1994.

3. The Tribunal is governed by its Statute (the Statute), annexed to the Security Council Resolution 955, and by its Rules of Procedure and Evidence (the Rules), adopted by the Judges on 5 July 1995 and amended subsequently. [FN2] The Judges of the Tribunal, currently fourteen in all, are selected by the General Assembly and represent the principal legal systems of the world.

FN2 The Rules were successively amended on 12 Jan. 1996, 15 May 1996, 4 Jul. 1996, 5 Jun. 1997 and 8 Jun. 1998.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

4. The ratione materiae jurisdiction of the Tribunal is set out in Articles 2, 3 and 4 of the Statute. Under the Statute, the Tribunal is empowered to prosecute persons who are alleged to have committed Genocide, as defined in Article 2, persons responsible for Crimes Against Humanity, as defined in Article 3 and persons responsible for serious violations of Article 3 Common to the Geneva Conventions of 12 August 1949 on the Protection of Victims of War, and of Additional Protocol II thereto of 8 June 1977, a crime defined under Article 4 of the Tribunal's Statute. [FN3] Article 8 of the Statute provides that the Tribunal has concurrent jurisdiction with national courts over which, however, it has primacy. The temporal jurisdiction of the Tribunal is limited to acts committed from 1 January 1994 to 31 December 1994.

FN3 The provisions of these offences are detailed in Part IV of the Judgement, entitled The Law.

5. Finally, the Statute stipulates that the Prosecutor, who acts as a separate organ of the Tribunal. is responsible for the investigation and prosecution of the perpetrators of such violations. The Prosecutor is assisted by a Deputy Prosecutor, a team of senior trial attorneys, trial attorneys, and investigators based in Kigali, Rwanda.

1.2 The Indictment

The amended Indictment, against the accused persons, is reproduced, in full, below.

INTERNATIONAL CRIMINAL, TRIBUNAL FOR RWANDA

CASE NO: ICTR-95-1-1 (sic)

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

CLEMENT KAYISHEMA OBED RUZINDANA

[Registry date stamped

11 April 1997]

First Amended Indictment

Richard J. Goldstone, Prosecutor of the International Criminal Tribunal for

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

Rwanda, pursuant to his authority under Article 17 of the Statute of the International Criminal Tribunal for Rwanda (Tribunal Statute), charges:

1. This indictment charges persons responsible for the following massacres which occurred in the Prefecture of Kibuye, Republic of Rwanda:

1.1 The massacre at the Catholic Church and the Home St. Jean complex in Kibuye town, where thousands of men, women and children were killed and numerous people injured around 17 April 1994.

1.2 The massacre at the Stadium in Kibuye town, where thousands of men, women and children were killed and numerous people injured on about 18 and 19 April 1994.

1.3 The massacre at the Church in Mubuga, where thousands of men, women and children were killed and numerous people injured between about 14 and 17 April 1994.

1.4 The massacres in the area of Bisesero, where thousands of men, women and children were killed and numerous people injured between about 10 April and 30 June 1994.

THE MASSACRES SITES

2. The Republic of Rwanda is divided into eleven Prefectures. These eleven Prefectures are further divided into communes. The Prefecture of Kibuye consists of nine communes. The massacres which form the basis of the charges in the indictment occurred in the Prefecture of Kibuye, in Gitesi, Gishyita and Gisovu communes.

3. The first massacre site addressed in this indictment, namely, the Catholic Church and Home St. Jean complex, is located in Kibuye town, Gitesi commune, on a piece of land which is surrounded on three sides by Lake Kivu. A road runs past the entrance to the Catholic Church and Home St. Jean complex. The Catholic Church is visible from the road. The Home St. Jean is behind the Church and is not visible from the road.

4. The second massacre site addressed to in this indictment, the Stadium, is located near the main traffic circle in Kibuye town, Gitesi Commune. The town's main road runs past the Stadium. Immediately behind the Stadium is a high hill.

5. The third massacre site addressed in this indictment, the Church of Mubuga, is located in Gishyita Commune. Gishyita Commune is located in the southern part of Kibuye Prefecture. The Church in Mubuga is located approximately 20 kilometres from Kibuye town.

6. The fourth massacre site addressed in this indictment is the area of Bisesero. The area of Bisesero extends through two communes in the Prefecture of Kibuye: Gishyita and Gisovu. Bisesero is an area of high rolling hills, located in the southern portion of Kibuye Prefecture. The hills are very large, and are often separated by deep valleys.

BACKGROUND

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

7. The structure of the executive branch, and the authority of the members therein, is set forth in the laws of Rwanda. In the Prefecture, the Prefect is the highest local representative of the government, and is the trustee of the State Authority. The Prefect has control over the government and its agencies throughout the Prefecture.

8. In each commune within a Prefecture there exists the council of the commune, which is led by the Bourgmestre of that Commune. The Bourgmestre of each commune is nominated by the Minister of the Interior and appointed by the President. As representative of the executive power, the Bourgmestre is subject to the hierarchical authority of the Prefect, but, subject to this authority, the Bourgmestre is in charge of governmental functions within his commune.

9. The Prefect is responsible for maintaining the peace, public order, and security of persons and goods within the Prefecture. In fulfilling his duty to maintain peace, the Prefect can demand assistance from the army and the Gendarmerie Nationale. The Bourgmestre also has authority over those members of the Gendarmerie Nationale stationed in his commune.

10. The Gendarmerie Nationale is an armed force established to maintain the public order and execute the laws. It is lead by the Minister of Defence, but can exercise its function of safeguarding the public order at the request of the competent national authority, which is the Prefect. The Gendarmerie Nationale has an affirmative duty to report to the Prefect information which has a bearing on the public order, as well as a duty to assist any person who, being in danger, requests its assistance. From January - July 1994, there were approximately 200 gendarmes in the Prefecture of Kibuye.

11. The members of the executive branch also have control over the communal police. Each commune has Police Communale, who are engaged by the Bourgmestre of the commune. Normally the Bourgmestre has exclusive authority over the members of the Police Communale. In case of public calamities, however, the Prefect can claim the policemen of the Police Communale and place them under his direct control.

12. The Interahamwe, an unofficial paramilitary group composed almost exclusively of extremist Hutus, had significant involvement in the events charged in this indictment. The National Revolutionary Movement for Development (MRND) party created the members of the Interahamwe as a military training organisation for MRND youth and based the members of the Interahamwe's leadership on the MRND's own structure, with leaders at the national, prefectoral, and communal levels. There was no official link between the Interahamwe and the Rwandan military, but members of the Army and Presidential Guard trained, guided and supported the Interahamwe. Occasionally, members of the Army or Presidential Guard participated in Interahamwe activities.

13. On 6 April 1994, the airplane carrying then-president of Rwanda Juvenal Habyarimana crashed during its approach into Kigali airport in Rwanda. Almost immediately, the massacre of civilians began throughout Rwanda. During that time, individuals seeking Tutsis were able to focus their activities on specific locations because Tutsis, who believed themselves to be in danger, often fled in large numbers to perceived safe areas such as churches and communal buildings. This practice, which was widely known, was based on the fact that in the past Tutsis who had sought refuge in such places had not been attacked. Thus, during the period of time relevant to this indictment, groups of people seeking refuge in

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

the same area were most likely predominantly Tutsis.

14. Also, during the times relevant to this indictment, the Rwandan government required all Rwandans to carry, at all times, identity cards that designated the bearer's status as Hutu, Tutsi, Twa or "naturalised". Individuals seeking Tutsis could identify their targets simply by asking individuals to show their identification card.

GENERAL ALLEGATIONS

15. All acts of (sic) omissions by the accused set forth in this indictment occurred during the period of 1 January 1994 to 31 December 1994 and in the territory of the Republic of Rwanda.

16. In each paragraph charging genocide, a crime recognised by Article 2 of the Tribunal Statute, the alleged acts or omissions were committed with intent to destroy, in whole or in part, an ethnic or racial group.

17. In each paragraph charging crimes against humanity, crimes recognised by Article 3 of the Tribunal Statute, the alleged acts or omissions were part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds.

18. At all times relevant to this indictment, the victims referred to in this indictment were protected under Article 3 common to the Geneva Conventions and by the Additional Protocol II thereto.

19. At all times relevant to this indictment, there was an internal armed conflict occurring within Rwanda.

20. At all times relevant to this indictment, Clement Kayishema was Prefect of Kibuye and exercised control over the Prefecture of Kibuye, including his subordinates in the executive branch and members of the Gendarmerie Nationale.

21. Each of the accused is individually responsible for the crimes alleged against him in this indictment, pursuant to Article 6 (1) of the Tribunal Statute. Individual responsibility includes planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation and execution of any of the crimes referred to in Articles 2 to 4 of the Tribunal Statute.

22. In addition, Clement Kayishema is also or alternatively individually responsible as a superior for the criminal acts of his subordinates in the administration, the Gendarmerie Nationale, and the communal police with respect to each of the crimes charged, pursuant to Article 6 (3) of the Tribunal Statute. Superior individual responsibility is the responsibility of a superior for the acts of his subordinate if he knew or had reasons to know that his subordinate was about to commit such criminal acts or had done so and failed to take the necessary and reasonable measures to prevent such acts, or to punish the perpetrators thereof.

THE ACCUSED

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

23. Clement Kayishema was born in 1954 in Bwishyura Sector, Gitesi Commune, Kibuye Prefecture, Rwanda. Kayishema's father was Jean Baptiste Nabagiziki, and his mother was Anastasie Nyirabakunzi. He was appointed to the position of Prefect of Kibuye on 3 July 1992, and assumed his responsibility as Prefect soon after. Clement Kayishema acted as Prefect of Kibuye until his departure to Zaire in July 1994. He is believed to be currently in Bukavu, Zaire.

24. Obed Ruzindana is believed to have been borne around 1962 in Gisovu Sector, Gisovu Commune, Kibuye Prefecture, Rwanda. Ruzindana's father was Elie Murakaza. Obed Ruzindana was a commercial trader in Kigali during the time period in which the crimes alleged in this indictment occurred. He is believed to be currently somewhere in Zaire.

The Massacre at the Catholic Church and Home St. Jean

COUNTS 1• 6

25. By about 17 April 1994, thousands of men, women and children from various locations had sought refuge in the Catholic Church and Home St. Jean complex (the Complex) located in Kibuye town. These men, women and children were unarmed and were predominantly Tutsis. They were in the complex seeking protection from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

26. Some of the people who sought refuge in the Complex did so because Clement Kayishema ordered them to go there. When Clement Kayishema ordered people to the Complex, he knew or had reason to know that an attack on the complex was going to occur.

27. After people gathered in the Complex, the Complex was surrounded by persons under Clement Kayishema's control, including members of the Gendarmerie Nationale. These persons prevented the men, women and children within the Complex from leaving the Complex at a time when Clement Kayishema knew or had reason to know that an attack on the Complex was going to occur.

28. On about 17 April 1994, Clement Kayishema ordered members of the Gendarmerie Nationale, communal police of Gitesi commune, members of the Interahamwe and armed civilians to attack the Complex, and personally participated in the attack. The attackers used guns, grenades, machetes, spears, cudgels and other weapons to kill the people in the Complex.

29. The attack resulted in thousands of deaths and numerous injuries to the people within the complex. (Attachment A contains a list of some of the individuals killed in the attack, members of the Gendarmerie Nationale, the Interahamwe and armed civilians searched for and killed or injured survivors of the attack.

30. Before the attack on the Complex, Clement Kayishema did not take measures to prevent an attack, and after the attack Clement Kayishema did not punish the perpetrators.

31. By these acts and omissions, Clement Kayishema is criminally responsible for:

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

Count 1: GENOCIDE, a violation of Article 2 (3)(a) of the Tribunal Statute;

Count 2: CRIMES AGAINST HUMANITY, a violation of Article 3 (a) (murder) of the Tribunal Statute;

Count 3: CRIMES AGAINST HUMANITY, a violation of Article 3 (b) (extermination) of the Tribunal Statute;

Count 4: CRIMES AGAINST HUMANITY, a violation of Article 3 (i) (other inhumane acts) of the Tribunal Statute;

Count 5: A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS, a violation of Article 4 (a) of the Tribunal Statute; and

Count 6: A VIOLATION OF ADDITIONAL PROTOCOL II, a violation of Article 4 (a) of the Tribunal Statute.

The Massacre at the Stadium in Kibuye Town

COUNTS 7 - 12

32. By about 18 April 1994, thousands of men, women and children from various locations had sought refuge in the Stadium located in Kibuye town. These men, women and children were unarmed and were predominantly Tutsis. They were in the Stadium seeking refuge from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

33. Some of the people who sought refuge in the Stadium did so because Clement Kayishema ordered them to go there. When Clement Kayishema ordered people to go to the Stadium, he knew or had reason to know that an attack on the Stadium was going to occur.

34. After people gathered in the Stadium, the Stadium was surrounded by persons under Clement Kayishema's control, including members of the Gendarmerie Nationale. These persons prevented the men, women and children within the Stadium from leaving the Stadium at a time when Clement Kayishema knew or had reason to know that an attack on the Complex (sic) was going to occur.

35. On or about 18 April 1994, Clement Kayishema, went to Stadium and ordered the Gendarmerie Nationale, the communal police of Gitesi Commune, the members of the Interahamwe and armed civilians to attack the Stadium. Clement Kayishema initiated the attack himself by firing a gun into the air. In addition, Clement Kayishema personally participated in the attack. The attackers used guns, grenades, pangas, machetes, spears, cudgels and other weapons to kill the people in the Stadium. There were survivors of the attack on 18 April 1994. During the night of 18 April 1994 and the morning of 19 April 1994 gendarmes surrounding the Stadium prevented the survivors from leaving. The attack on the Stadium continued on 19 April 1994.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Throughout the attacks, men, women and children attempting to flee the attacks were killed.

36. The two days of attacks resulted in thousands of deaths and numerous injuries to the men, women and children within the Stadium (Attachment B contains a list of some of the individuals killed in the attacks).

37. Before the attacks on the Stadium Clement Kayishema did not take measures to prevent an attack from occurring, and after the attacks Clement Kayishema did not punish the perpetrators.

38. By these acts and omissions Clement Kayishema is criminally responsible for:

Count 7: GENOCIDE, a violation of Article 2 (3)(a) of the Tribunal Statute;

Count 8: CRIMES AGAINST HUMANITY, a violation of Article 3 (a) (murder) of the Tribunal Statute;

Count 9: CRIMES AGAINST HUMANITY, a violation of Article 3 (b) (extermination) of the Tribunal Statute;

Count 10: CRIMES AGAINST HUMANITY, a violation of Article 3 (i) (other inhumane acts) of the Tribunal Statute;

Count 11: A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS, a violation of Article 4 (a) of the Tribunal Statute; and

Count 12: A VIOLATION OF ADDITIONAL PROTOCOL II, a violation of Article 4 (a) of the Tribunal Statute.

The Massacre at the Church in Mubuga

COUNTS 13 • 18

39. By about 14 April 1994, thousands of men, women and children congregated in the Church in Mubuga, Gishyita Commune. These men, women and children were predominantly Tutsis. They were in the church seeking refuge from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

40. After the men, women and children began to congregate in the Church, Clement Kayishema visited the Church on several occasions. On or about 10 April Clement Kayishema brought gendarmes, under his control, to the Church. These gendarmes prevented the men, women and children within the church from leaving.

41. On or about 14 April 1994 individuals, including individuals under Clement Kayishema's control, directed members of the Gendarme Nationale, communal police

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

of Gishyita commune, the Interahamwe and armed civilians to attack the Church. In addition, each of them personally participated in the attacks. The attackers used guns, grenades, machetes, spears, pangas, cudgels and other weapons to kill the people in the Church. Not all the people could be killed at once, so the attacks continued for several days. Both before and during these attacks persons under Clement Kayishema's control, including members of the Gendarmerie Nationale and communal police, prevented the men, women and children within the church from leaving.

42. The attacks resulted in thousands of deaths and numerous injuries to the men, women and children within the Church (Attachment C contains a list of some of the victims killed in the attacks).

43. Before the attacks on the Church in Mubuga, Clement Kayishema did not take measures to prevent the attacks, and after the attacks Clement Kayishema did not punish the perpetrators.

44. By these acts and omissions Clement Kayishema is criminally responsible for:

Count 13: GENOCIDE, a violation of Article 2 (3)(a) of the Tribunal Statute;

Count 14: CRIMES AGAINST HUMANITY, a violation of Article 3 (a) (murder) of the Tribunal Statute;

Count 15: CRIMES AGAINST HUMANITY, a violation of Article 3 (b) (extermination) of the Tribunal Statute;

Count 16: CRIMES AGAINST HUMANITY, a violation of Article 3 (i) (other inhumane acts) of the Tribunal Statute;

Count 17: A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS, a violation of Article 4 (a) of the Tribunal Statute; and

Count 18: A VIOLATION OF ADDITIONAL PROTOCOL II, a violation of Article 4 (a) of the Tribunal Statute.

The Massacres in the Area of Bisesero

COUNTS 19-24

45. The area of Bisesero spans over two communes of the Kibuye Prefecture. From about 9 April 1994 through 30 June 1994, thousands of men, women and children sought refuge in the area of Bisesero. These men, women and children were predominantly Tutsis and were seeking refuge from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

46. The area of Bisesero was regularly attacked, on almost a daily basis, throughout the period of about 9 April 1994 through about 30 June 1994. The attackers used guns, grenades, machetes, spears, pangas, cudgels and other weapons to kill the Tutsis in Bisesero. At various times the men, women and children seeking refuge in Bisesero attempted to defend themselves from these attacks with stones, sticks and other crude weapons.

47. At various locations and times throughout April, May and June 1994, and often in concert, Clement Kayishema and Obed Ruzindana brought to the area of Bisesero members of the Gendarmerie Nationale, communal police of Gishyita and Gisovu communes, Interahamwe and armed civilians, and directed them to attack the people seeking refuge there. In addition, at various locations and times, and often in concert, Clement Kayishema and Obed Ruzindana personally attacked and killed persons seeking refuge in Bisesero.

48. The attacks described above resulted in thousands of deaths and numerous injuries to the men, women and children within the area of Bisesero (Attachment D contains a list of some of the individuals killed in the attacks).

49. Throughout this time, Clement Kayishema did not take measures to prevent the attacks, and after the attacks Clement Kayishema did not punish the perpetrators

50. By these acts and omissions Clement Kayishema and Obed Ruzindana are criminally responsible for:

Count 19: GENOCIDE, a violation of Article 2 (3) (a) of the Tribunal Statute;

Count 20: CRIMES AGAINST HUMANITY, a violation of Articles 3(a) (murder) of the Tribunal Statute;

Count 21: CRIMES AGAINST HUMANITY, a violation of Article 3(b) (extermination) of the Tribunal Statute;

Count 22: CRIMES AGAINST HUMANITY, a violation of Article 3(1) (other inhumane acts) of the Tribunal Statute;

Count 23: A VIOLATION OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS, a violation of Article 4 (a) of the Tribunal Statute; and

Count 24: A VIOLATION OF ADDITIONAL PROTOCOL II, a violation of Article 4 (a) of the Tribunal Statute.

1996 Arusha, Tanzania

Signed

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

Richard J. Goldstone, Prosecutor

This rearranged version conforms to the Order of Trial Chamber II in its decision of 10 April 1997 on the indictment of 28 November 1995 confirmed by the Honourable Judge Pillay and amended on 29 April 1996, to serve as the Indictment for the accused Clement Kayishema and Obed Ruzindana in the case ICTR 95-1-I.

1.3 The Accused

Clement Kayishema

6. According to Clement Kayishema's (Kayishema), own testimony, he was born into a Hutu family in the Bwishyura Sector, Kibuye Prefecture in Rwanda, in 1954. His father was a teacher and later worked as a janitor in a hospital. Subsequently, he was hired as the commune secretary and was finally appointed judge at the Canton Tribunal. His mother and seven siblings were uneducated farmers.

7. In 1974, Kayishema was appointed registrar in Kagnagare Canton Tribunal. The following year he was granted a scholarship to attend the faculty of medicine of the National University of Rwanda, in Butare. Upon graduation, he practiced general medicine and surgery. In 1984, he was sent by the Rwandan Government to work as a doctor in an Ugandan refugee camp. From 1986 to 1991, he held the position of medical director of the hospital of Nyanza. He was then transferred to the Kibuye hospital.

8. Kayishema married a Rwandan woman by the name of Mukandoli, in 1987 with whom he had two children. Mukandoli holds a degree in education science from the National University of Rwanda, with a specialization in psychology.

9. Kayishema joined the Christian Democratic Party (PDC), whose motto was "work, justice and fraternity," in April 1992. On 3 July 1992, Kayishema was appointed the Prefect of Kibuye Prefecture. This occurred at a time when the multiparty system came into effect in Rwanda. He was re-appointed to his post, after the death of the President in 1994, by the Interim Government.

Obed Ruzindana

10. According to the testimony of witnesses, Obed Ruzindana (Ruzindana) was born in 1962 into a wealthy Hutu family in Gisovu Commune, Kibuye Prefecture, Rwanda. His father, Elie Murakaza, had been a Bourgmestre in the Mugonero Commune, where the family resided. Murakaza and, by extension, his family were well known and respected in the community.

11. Ruzindana left his home in Kibuye for Kigali in 1986-1987 and engaged in transporting merchandise out of Rwanda and importing goods into the country. He

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

employed four drivers and by all accounts became a successful businessman in his own right.

12. In 1991 he married a woman whom he had known since childhood. Mrs. Ruzindana testified that although both her parents were Tutsi, her father's identity card indicated that he was a Hutu. According to Mrs. Ruzindana it was possible to "pay" to change one's ethnicity on the identity card. Two children were born from this union in 1991 and 1993. Ruzindana and his family lived in Remera, Kigali until the tragic events of 1994 when they returned to Ruzindana's parents' home in Mugonero.

1.4 Procedural Background of the Case

Pre-trial

13. Kayishema and Ruzindana were initially charged in the original Indictment submitted by the Prosecutor, Richard Goldstone, [FN4] on 22 November 1995 together with six other suspects. The charges included conspiracy to commit genocide, Genocide and Crimes Against Humanity and violations of Common Article 3 and Additional Protocol II. The Indictment was confirmed by Judge Navanethem Pillay on 28 November 1995. Judge Pillay ordered that the Indictment be amended on 6 May 1996 to remove the conspiracy charges. It should be noted that a second Indictment was brought against Ruzindana on 17 June 1996, the trial of which is still pending. That Indictment was confirmed by Judge Tafazzal H. Khan on 21 June 1996.

FN4 On 1 October 1996, Louise Arbour succeeded Richard Goldstone as Prosecutor of the Tribunal.

14. Kayishema was arrested on 2 May 1996 in Zambia and transferred to the United Nations Detention Unit Facility (the UNDF) in Arusha, on 26 May 1996. His initial appearance was held on 31 May 1996 before Trial Chamber I. Kayishema, represented by Mr. André Ferran, of the bar of Montpellier, France, and Philippe Moriceau of the bar of Montpellier, France, pleaded not guilty to all of the charges.

15. Ruzindana was arrested on 20 September 1996 in Nairobi, Kenya and transferred to the UNDF on 22 September 1996. His initial appearance was held on 29 October 1996 before the Trial Chamber II. Ruzindana, represented by Mr. Pascal Besnier, of the bar of Paris, France, and Mr. Willem Van der Griend of the Bar of Rotterdam, the Netherlands, pleaded not guilty to all of the charges. The Chamber set a date for trial for 20 February 1997 while reserving the right to join with Kayishema.

16. At the pretrial stage, the Trial Chamber received and decided many written motions from the Parties. Some of the more pertinent ones are detailed below.

17. Kayishema filed a preliminary Motion on 26 July 1996 in which he requested the annulment of the proceedings, and consequently, his provisional release. The Parties were heard on 5 November 1996 and the Defence request was rejected.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Kayishema filed a further Motion on 23 October 1996 for postponement of the trial in order to enable him to prepare his case. The Prosecutor did not oppose the Motion but on 5 November 1996, filed a Motion for joinder of Kayishema and Ruzindana. The Tribunal ordered the joinder of the two accused. The trial date for Kayishema consequently was postponed to the trial date set for Ruzindana, which as mentioned above was 20 February 1997. [FN5]

FN5 Decision on the joinder of the Accused and Setting the Date for Trial, the Prosecutor v. ClJment Kayishema, Case No. ICTR-95-1-T, 6 November 1996.

18. On 30 December 1996 Ruzindana filed a preliminary Motion objecting to the form of the Indictment and against joinder of his case with that of Kayishema based on various alleged procedural difficulties with the Indictment and the warrant of arrest. The request for annulment of the two Indictments and for his release was rejected as was the objection to the joinder.

19. On 27 March 1997, the Prosecution brought a Motion for leave to sever and to join in a superseding Indictment and to amend the superseding Indictment in the cases against Kayishema, Gérard Ntakirutimana, and Ruzindana on the grounds of involvement in a same transaction. The Chamber rejected the Motion because the Prosecutor did not offer any evidence that demonstrated the nature of the common scheme.

20. Kayishema brought another Motion on 7 March 1997 calling for the application of Article 20 (2) and (4)(b) (Rights of the accused) of the Statute of the Tribunal by the Prosecution. The Defence further requested the Prosecution to divulge and limit its number of lawyers, consultants, assistants and investigators working on the case. The Chamber ruled [FN6] that the rights of the accused and equality between the parties should not be confused with the equality of means and resources. The Chamber concluded that the Defence had not proved any violation of the rights of the accused as provided in Article 20(2) and (4)(b) of the Statute.

FN6 Order on the Motion by the Defence Counsel for Application of Article 20 (2) and (4) (b) of the Statute of the International Tribunal for Rwanda, the Prosecutor v. ClJment Kayishema, Case No. ICTR-95-1-T, Obed Ruzindana, Case No. ICTR-96-10-T, 5 May 1997.

Trial

21. On 11 April 1997 the trial of Kayishema and Ruzindana commenced before Trial Chamber II, composed of Judge William H. Sekule, presiding, Judge Yakov A. Ostrovsky and Judge Tafazzal H. Khan, based on the First Amended Indictment filed with the Registry on that day. The Prosecution team consisted of Mr. Jonah Rahetlah, Ms. Brenda Sue Thornton, and Ms. Holo Makwaia. Kayishema was represented by Mr. Andre Ferran and Mr. Philippe Moriceau. Mr. Pascal Besnier and Mr. Van der Griend formed the Defence team for Ruzindana. The Prosecution completed its case on 13 March 1998, having called a total of 51 witnesses and having tendered into

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

evidence over 350 exhibits.

22. The Prosecution filed a Motion on 18 February 1998, pursuant to Rule 73 of the Rules, requesting the Trial Chamber to order the uninterrupted continuation of the trial of the accused and the consultation of both Parties in respect of the scheduling of this continuation. The Chamber was of the view that pursuant to Article 20(4)(b) of the Statute, the accused should be accorded adequate time and facilities for the preparation of their case. [FN7]

FN7 Decision on the Prosecution Motion for Directions for the Scheduling of the Continuation of the Trial of ClJment Kayishema and Obed Ruzindana on the Charges as Contained in the Indictment No. ICTR-95-1-T, 12 March 1998.

23. The Defence commenced their case on 11 May 1998 and closed on 15 September 1998. It should be noted that at the conclusion of the Prosecution's case, the Defence requested an adjournment in order to prepare its case. In the interest of justice, the Trial Chamber granted the Defence Teams a generous two-month adjournment to prepare. The Defence presented a total of twenty-eight witnesses, sixteen of whom testified on behalf of accused, Ruzindana, seven for Kayishema and five for both accused persons. Kayishema testified on his own behalf. Over 59 Defence exhibits were admitted.

24. The Prosecutor presented closing argument from 21 October to 28 October 1998, Ruzindana's Defence from 28 October to 2 November 1998 and Kayishema's Defence from 3 to 16 November 1998. The Prosecutor presented the argument in rebuttal on 17 November 1998. The case was adjourned the same day for deliberation by the Trial Chamber.

25. During the trial, numerous written and oral motions were heard. On 17 April 1997, the Defence challenged the credibility of a witness, where the oral testimony varied from the previous written statement taken by the prosecutor's investigators. The Chamber opined that variation may occur at times for appreciable reasons without giving cause to disregard the statement in whole or in part. [FN8] The Chamber ordered that when counsel perceives there to be a contradiction between the written and oral statement of a witness, Counsel should raise such question by putting to the witness the exact portion in issue to enable the witness to explain the discrepancy before the Tribunal. Counsels should then mark the relevant portion and submit it as an exhibit if they find that the contradiction or discrepancy raised was material to the credibility of the witness concerned.

FN8 Order on the Probative Value of Alleged Contradiction between the Oral and Written Statement of A Witness During Examination, the Prosecutor v. ClJment Kayishema and Obed Ruzindana, Case No. ICTR-95-1-T, 17 April 1997.

26. On 9 July 1997, Ruzindana filed a Motion pursuant to Rule 75 of the Rules seeking protective measures for potential witnesses noting that this protection

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

should not extend to providing immunity from prosecution by an appropriate authority. The Trial Chamber [FN9] granted the Motion. A Motion filed by Kayishema seeking general protective measures for witnesses who would testify on his behalf was also granted by the Chamber in its Decision on 23 March 1998. [FN10]

FN9 Decision on the Motion for the Protection of Defence Witnesses, the Prosecutor v. ClJment Kayishema and Obed Ruzindana, Case No. ICTR-95-1-T, 6 October 1997.

FN10 Decision on the Motion for the Protection of Defence Witnesses, the Prosecutor v. ClJment Kayishema and Obed Ruzindana, Case No. ICTR-95-1-T, 23 February 1998.

27. On 12 March 1998 the Prosecutor filed a Motion requesting the Trial Chamber to order the Defence to comply with the provisions of rules 67(A)(ii) and 67(C) of the Rules of Procedure and Evidence. The Prosecutor submitted that if the Defence intended to offer the defence of alibi, it should notify the Prosecution as early as practicable but in any event prior to the commencement of the trial. The Chamber opined that Kayishema should make the necessary disclosure immediately if they intend to rely upon the defence of alibi or special defence. However, the Defence filed a joint Motion on 30 April 1998 requesting the Trial Chamber to interpret the notion of 'defence of alibi' and 'special defence' as stipulated in Rule 67 of the Rules of Procedure and Evidence. The Chamber dismissed the Defence Motion on the ground that it can not define rule 67 of the Rules in an abstract form without a specific problem to address. [FN11]

FN11 Decision on the Prosecution Motion for An Order Requesting Compliance by the Defence with Rules 67 (A)(ii) and 67(C) of the Rules, the Prosecutor v. ClJment Kayishema and Obed Ruzindana, 15 June 1998.

28. Due to the Defence's continued non compliance with Rule 67(A)(ii) of the Rule of Procedure and Evidence, the Prosecution filed another Motion on 11 August 1998, seeking, inter alia, an order prohibiting the Defence of Kayishema from invoking the Defence of alibi or any special Defence. The Defence responded that, under Rule 67(B), failure of the Defence to notify the Prosecutor of the Defence of alibi or any special Defence as required by rule 67(A)(ii), does not limit the right of the accused to raise the Defence of alibi or special Defence. The Trial rejected the Defence's reasons for not providing details noting that the accused himself could have provided at least some details. The Chamber therefore reiterated its previous decision on this matter. [FN12]

FN12 Decision on the Prosecution Motion for A Ruling on the Defence Continued non Compliance with Rule 67 (A)(ii) and with the Written and Oral Orders of the Trial Chamber, the prosecutor v. ClJment Kayishema and Obed Ruzindana, Case No. ICTR-95-1-T, 3 September 1998.

29. On 22 June 1998, the Prosecution filed a Motion, seeking for a ruling that evidence of a Defence expert witness, a psychiatrist, be ruled inadmissible. The

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Chamber noted that it is important to observe the rights of the accused to a fair trial guaranteed under the provisions of Article 20 of the Statute in particular 20(4)(e) which provides that the accused shall have the rights to obtain the attendance of witnesses on his or her behalf. The expert was heard. [FN13]

30. On 19 August 1998, the Chamber dismissed a Motion filed by the Defence requesting to re-examine witness DE. The Trial Chamber found that the case of Kayishema would not suffer prejudice in the absence of additional evidence from this witness and rejected the Motion. [FN14]

FN14 Decision on the Defence Motion for the Re-examination of Defence Witness DE, the Prosecutor v. ClJment Kayishema and Obed Ruzindana, Case No. ICTR-95-1- T, 19 August 1998.

II. Historical Context of the 1994 Events in Rwanda

31. It is necessary to address the historical context within which the events unfolded in Rwanda in 1994, in order to understand fully the events alleged in the Indictment and the evidence before the Trial Chamber. We will not engage in a lengthy examination of the geo-political or historical difficulties faced by Rwanda as a number of reports and other publications have been written on these issues to which interested persons can refer.

32. The Trial Chamber is of the opinion that an attempt to explain the causal links between the history of Rwanda and the suffering endured by this nation in 1994 is not appropriate in this forum and may be futile. It is impossible to simplify all the ingredients that serve as a basis for killings on such a scale. Therefore, the account presented below is a brief explanation of issues related to the division of ethnic groups in Rwanda, a brief history of Rwanda's post-independence era, including a look at the 1991 Constitution, the Arusha Accords, and the creation of militias.

33. The Trial Chamber has chosen to relay the events using neutral language and, where necessary, to discuss the cross-examination of the Prosecution witnesses. The summary is based exclusively on the evidence presented to this Trial Chamber and no reference has been made to sources or materials that do not constitute a part of the record of the present case.

The Question of Ethnicity in Rwanda

34. In 1994, apart from some foreign nationals, there were three officially recognised ethnic groups living in Rwanda, the Hutus, the Tutsis and the Twas. The Hutus constituted the overwhelming majority of the population. The Rwandan use of the term "ethnicity" requires some explanation because according to Prosecution witness, André Guichaoua, Professor of Sociology and Economics at the University of Lille, France, all Rwandans share the same national territory, speak the same language, believe in the same myths and share the same cultural traditions. The

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Trial Chamber opines that these shared characteristics could be tantamount to a common ethnicity. Thus, it is recognised that prior to the colonisation of Rwanda, by Germany and later Belgium, the line separating the Hutus and Tutsis was permeable as the distinction was class-based. In other words, if a Hutu could acquire sufficient wealth, he would be considered a Tutsi.

35. This begs the question of how it became possible permanently to seal a person into one category after the Belgian colonisation. The Belgians instituted a system of national identification cards bearing the terms Hutu, Tutsi and Twa, under the category of ethnicity, which were used for administrative purposes in 1931. Although prior to the arrival of the European colonisers the Rwandans had referred to themselves as Hutus, Tutsis or Twas, it was after this point that the group identity solidified and this former sociological categorisation became a means of ethnic identification. From its inception, the identification card has been used to facilitate discrimination against one group or another in Rwanda, be it in the implementation of an ethnic based quota system in educational and employment opportunities or in implementing a policy of genocide as was done in 1994.

36. For decades some claimed that Hutus and Twas were the original inhabitants of Rwanda and that Tutsis were "people from the Nile." [FN1] During cross-examination Guichaoua deposed that this idea has never been proven scientifically and that no one "category of occupants has more legitimacy than others." [FN2] Nonetheless, certain Hutu politicians have periodically used this concept to legitimise their call for "Hutu Power" and to incite hatred and division amongst the Rwandan population, as outlined below.

FN1 Pros. exh. 103A, p. 8.

FN2 Ibid.

A Brief Glance at the Post-Independence Era

37. In 1959, shortly prior to gaining independence, Rwanda witnessed the beginnings of intense ethnic tensions. During that year a number of Tutsi chiefs, farmers and other persons were massacred and their houses were set ablaze. Thousands of other Tutsis were forced to flee to neighbouring countries. Guichaoua stated that the deterioration of ethnic relations could be attributed to the legacy of Tutsi favouritism by the colonial powers.

The First Republic

38. The country's first President, Gregoire Kayibanda, was elected in 1962 at which time the Hutu movements began to display their radicalisation more openly. Professor Guichaoua testified that anti-Tutsi movements had become so hostile that by 1963, 200,000 to 300,000 Tutsis sought refuge in neighbouring countries. Between 1962 and 1966 there were repeated attempts by armed Tutsi groups (labelled

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Inyenzi -- cockroach) to regain power through incursions organised from neighbouring countries, mainly from Burundi. According to Professor Guichaoua, because an incursion in December 1963 reached the gates of Kigali, a hunt for Tutsis ensued throughout the country thereafter. The worsening tensions led to the consolidation of power by "the radical Hutu elements and helped to suppress the deep divisions within the regime in power which was increasingly marked by the personal and authoritarian style of government of President Kayibanda." [FN3]

FN3 Pros. exh. 103A, p. 12.

39. President Kayibanda's attempt to maintain his hold on power is evident from the institution of a de facto single-party system in Rwanda in 1965. His party, the Republican Democratic Movement (MDR-PARMEHUTU) eliminated the Tutsi parties as well as other Hutu parties such as the Association for the Social Advancement of the Masses (APROSOMA). Factional political divisions, based on regions of origin from within the country, added further strain on the ethnic- base difficulties at that time. A new sense of supremacy, based on the existence of a legitimate majority population was fostered and contributed to the massacres of the Tutsis that occurred in Rwanda and Burundi in 1972-73. Thus, the inability of the First Republic to overcome ethnic tensions lead to its downfall and the assassination of President Kayibanda.

The Second Republic

40. On 5 July 1973, the Chief of Staff, Major Juvenal Habyarimana, a native of Gisenyi Prefecture, seized power in a coup d'etat. His then Chief of Security, Alexis Kanyarengwe "implemented a strategy of political and ethnic tension, aimed at making the coup d'etat%i" seem necessary for restoring order to the country. Although the 1973 coup was interpreted as "simply settling scores between rival factions" [FN4] and having nothing to do with ethnic tensions, those in power encouraged the Hutus to chase away their Tutsi friends and colleagues from educational establishments and places of employment. Again, like in 1959, many Tutsis died at the hands of Hutu assailants and thousands of others fled the country. This brought about the advent of Rwanda's Second Republic.

FN4 Ibid., p. 15. Professor Guichaoua cited to a proclamation following the coup by commander Theoneste Lizinde, which made no reference to the ethnic confrontations.

41. Two years later, in 1975, the National Revolutionary Movement for Development (MRND) was created to replace the MDR. At its helm was President Habyarimana. This party controlled the country until the time of the tragic events in 1994. In 1978, President Habyarimana declared that the Hutu-Tutsi problem would be solved by ensuring that all Rwandans, from birth, were members of the MRND. Compulsory and exclusive membership in this party effectively erased any distinction between the party and the State. Habyarimana also promised that all segments of society would be ensured representation in high ranking government posts, taking into account its percentage in the total population. Of course this idea inherently contained a

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

quota system that would further frustrate the efforts in reconciling ethnic difficulties.

42. For the next few years the Habyarimana government focused its efforts on issues of development. According to Professor Guichaoua, throughout the late 1970s and a part of the 1980s this government's efforts met with undeniable success in terms of low national debt, maintaining macroeconomic balances, monetary stability, food self-sufficiency, etc. Also during this time, the government re-introduced the system of umuganda -- the Rwandan concept of communal work -- meant to promote the value of organised or spontaneous solidarity (mutual help among neighbours) among the people living in the hills. [FN5] Additionally, "the social cohesion of this peasant state and the submission of the peasantry to an extremely authoritarian and constraining order was due largely to a policy which succeeded in establishing a weakly differentiated social system." [FN6] Thus the misplaced belief and confidence the Rwandans had in their leadership, that existed during the colonial era, was put to use once again in 1994.

FN5 Ibid., p.16.

FN6 Ibid., p.18.

43. Despite this economic success and the government's ability to bring its citizens together to engage in community work, the largely agrarian population of Rwanda did not benefit. Rwandans began to protest the inequities, noticing the nepotism and widespread corruption in the government. The quota system mentioned above was another source of difficulties for the population. As gross social inequalities persisted and with other economic problems and food shortages that arose in 1988- 89, the time was ripe for Tutsis outside the country to attempt to regain power once more.

44. On a number of occasions members of the Tutsi diaspora had attempted to return to Rwanda, only to be stopped at the boarder by claims that the small country could not absorb the returnees. For example, in 1982, when Uganda expelled various categories of refugees, Rwanda responded by closing its borders, refusing assistance to the thousands in need and only later allowing a small fraction of the Tutsi refugees to enter and resettle. Following these incidents, the thousands of Rwandans that remained in the neighbouring countries of Burundi, Tanzania, Uganda and Zaire began to pressure the world community and these governments to find a solution to their plight.

45. The Rwandan Patriotic Front (the RPF) was created as a response to the Tutsi Diaspora's frustration with the international community's minimal attention to the emotionally charged refugee problem. In October 1990, the RPF launched an attack into northeastern Rwanda from Uganda. This attack was supported by, inter alia, the majority of Tutsis living abroad and brought an intense period of diplomatic negotiations which produced some noticeable results. For instance, by November 1990, the system of ethnic based scholastic and professional quotas was officially abolished and in December the Rwandan government declared an amnesty for certain

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

prisoners. By March 1991 a cease- fire was called. Certain elements of the then Rwandan government however, were not eager to begin the process and therefore ensured that some of the more significant promises made were not implemented with due haste. Additionally, the extreme violence targeting the Tutsi population, especially in rural areas, continued unabated. Therefore, the RPF continued its strategy of a protracted war. Nevertheless, attempts were made at a democratic transition between 1991 and 1993.

The 1991 Constitution and Multi-Partism

46. Francois Nsanzuwera, a Rwandan scholar, testified that the 1991 Rwandan Constitution replaced the single party system with a multiparty system. It entrusted the National Assembly and the President of the Republic with legislative and executive power, respectively. The Constitution however did not render the President of the Republic accountable to the National Assembly.

47. The officially recognised parties were forbidden to use paramilitary forces (Article 26) and were granted access to the official media. Thereafter, the following parties were created: the Mouvement Democratique République (MDR), the Parti Libéral (PL), the Parti Social-democrate (PSD), the Parti Democrate-chrétien (PDC) and the Coalition pour la Défense de la République (CDR).

48. With the advent of multi-party politics, a very distinctive constitutional and administrative status quo would have purportedly manifested itself in Rwanda. This was the view of Professor Guibal, a titular Professor of constitutional and administrative law, Montpellier University, France. He was commissioned by the Defence to produce a report on the constitutional landscape of Rwanda, based upon the laws promulgated and in effect during and prior to the events of 1994. [FN7]

FN7 What follows is a synopsis of this report and Professor Guibal's testimony on 27 and 28 May 1998.

49. It was Professor Guibal's opinion that as a result of the multi-partyism that emerged after the 1991 Constitution, the traditional delineation of the branches of Government was not discernible. Thus, there was no clear separation of powers between the executive, judiciary and central and regional administration. Rather, the witness testified, the constitutional framework that existed after 1991 was one that was delineated on a party-political basis also. Consequently, a dichotomy of hierarchies and relationships would have emerged throughout, and even transcended the branches of Government -- one on an administrative level and one on a party political basis.

50. Professor Guibal then went on to describe the theoretical consequence of the system that existed in Rwanda, when faced with the events and turmoil of 1994. He was of the opinion that such a paradigm of multi-partyism, when confronted with these chaotic and unstable times, would have become a system of crisis multi-partyism. The Chamber was informed that such crisis multi-partyism would

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

arise as pivotal governmental figures were moved to resolve the turmoil and conflicts upon party-political lines, rather than by the delineated constitutional means.

The Arusha Accords

51. Nsanzuwera testified that the Rwandan government and the RPF signed the Arusha Accords on 4 August 1993 in Arusha, Tanzania in order to bring about a peaceful settlement to the political and military crisis in Rwanda. The Accords constituted a compilation of several agreements and protocols previously signed, concerning notably cease-fire and power sharing between the warring factions. 47 articles of the 1991 Constitution were replaced by the provisions of the Arusha Accords, including articles on power sharing and the entrusting of additional power to the Prime Minister and certain organs of the government.

The Creation of Militias

52. While the negotiations for peace and power sharing were underway in Arusha, the MRND and the CDR stepped up their efforts to recruit members, especially from the youth segment of the population. Both the MRND and the CDR, two Hutu based parties, intensified their efforts to fortify membership in their youth organisations known as the Interahamwe and the Impuzamugambi, respectively. Within a short period of time these recruits were converted to paramilitary forces. The parties ensured that the young recruits, made up mostly of former soldiers, gendarmes and prisoners, were militarily trained and indoctrinated. All these activities were carried out in direct violation of Article 26 of the 1991 Constitution and with the knowledge of the then Minister of Internal Affairs who was entrusted with the duty to suspend the activities of any political party for such activities.

53. By the end of 1993 CDR speeches, broadcast from government owned radio stations, referred to the Tutsis and Hutus from the opposition parties as collaborators of the RPF. These speeches encouraged the militias to target Tutsis in their daily acts of vandalism. Between 1992 and 1994 there were claims that the militias were supported by certain member of the military and the Presidential Guard. During this period many members of the judiciary were said to have turned a blind eye to the criminal acts of the militias either because they supported their activities or out of fear of reprisals. Assassination attempts, some of which were successful, were made on the lives of certain judges or magistrates who sought to carry out their duties faithfully. According to Nsanzuwera, by that time some claimed that members of the militias had become more powerful than members of the armed forces. As indicated in the parts that follow, the militias did in fact play a substantial role in the 1994 Genocide that occurred in this country.

Conclusion

54. The ethnic tensions were used by those in power in 1994 to carry out their

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

plans to avoid power sharing. The responsible parties ignored the Arusha Accords and used the militias to carry out their genocidal plan and to incite the rest of the Hutu population into believing that all Tutsis and other persons who may not have supported the war against the RPF were in fact RPF supporters. It is against this backdrop that of thousands of people were slaughtered and mutilated in just three short months.

III. EVIDENTIARY MATTERS

3.1 Equality of Arms

3.2 Reliability of Eyewitnesses

3.3 Witness Statements

3.4 Specificity of the Indictment

3.1 Equality of Arms

55. The notion of equality of arms is laid down in Article 20 of the Statute. Specifically, Article 20(2) states, "... the accused shall be entitled to a fair and public hearing. ...'' Article 20(4) also provides, "... the accused shall be entitled to the following minimum guarantees, in full equality... ," there then follows a list of rights that must be respected, including the right to a legal counsel and the right to have adequate time and facilities to prepare his or her defence.

56. Counsel for Kayishema filed a Motion, on 13 March 1997, calling for the application of Rule 20(2) and 20(4). [FN1] The Defence submitted that in order to conduct a fair trial, full equality should exist between the Prosecution and the Defence in terms of the means and facilities placed at their disposal. To this end, the Defence requested the Chamber to order the disclosure of the number of lawyers, consultants, assistants and investigators that had been at the disposal of the Prosecution since the beginning of the case. The Motion also requested the Chamber to order the Prosecutor to indicate the amount of time spent on the case and the various expenditures made. Finally, the Motion called upon the Chamber to restrict the number of assistants utilised by the Prosecution during trial to the same number as those authorised for the Defence.

FN1 Motion by the Defence Counsel for Kayishema Calling for the Application by the Prosecutor of Article 20(2) and 20 (4)(b) of the Statute. Filed with the Registry, 13 March 1997. The issue was raised again by Mr. Ferran in his closing arguments. Trans., 3 Nov 1998, from p. 30.

57. On the first two points raised by the Defence (request for information on the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Prosecutor's resources), the Prosecution submitted that the information requested by Defence was not public and was intrinsically linked to the exercise of the Prosecutor's mandate, in accordance with Article 15 of the Statute. [FN2]

FN2 The Prosecution's response to the Motion was filed with the Registry on 29 April 1997 and additional information was filed on 5 May 1997.

58. On the third point (request to limit the number of assistants to the Prosecutor), the Prosecution submitted that Article 20 of the Statute establishes an equality of rights, rather than an equality of means and resources.

59. The Chamber considered that the Defence did not prove any violation of the rights of the accused as laid down in Article 20(2) and 20(4). [FN3] The Chamber considered that the Defence should have addressed these issues under Article 17(C) of the Directive on Assignment of Defence Counsel (Defence Counsel Directive). This provision clearly states

FN3 Order on the Motion by the Defence Counsel for Application of Article 20(2) and (4)(b) of the Statute, 5 May 1997.

the costs and expenses of legal representation of the suspect or accused necessarily and reasonably incurred shall be covered by the Tribunal to the extent that such expenses cannot be be borne by the suspect or the accused because of his financial situation. [emphasis added]

60. This provision should be read in conjunction with Article 20(4)(d) of the Statute which stipulates that legal assistance shall be provided by the Tribunal, "... if he or she does not have sufficient means to pay for it." [emphasis added]. Therefore, at this juncture, the Trial Chamber would reiterate its earlier ruling on this Motion that the rights of the accused should not be interpreted to mean that the Defence is entitled to same means and resources as the Prosecution. Any other position would be contrary to the status quo that exists within jurisdictions throughout the world and would clearly not reflect the intentions of the drafters of this Tribunal's Statute.

61. The question of equality of arms was verbally raised on other occasions. The Defence Counsel complained, for example, of the impossibility to verify the technical and material data about Kibuye Prefecture submitted by the Prosecution. [FN4] However, the Trial Chamber is aware that investigators, paid for by the Tribunal, was put at the disposal of the Defence. Furthermore, Article 17(C) establishes that any expenses incurred in the preparation of the Defence case relating, inter alia alia, to investigative costs are to be met by the Tribunal. The Trial Chamber is satisfied that all of the necessary provisions for the preparation of a comprehensive defence were available, and were afforded to all Defence Counsel in this case. The utilisation of those resources is not a matter for the Trial Chamber.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN4 Defence Closing Brief for Kayishema, 16 Oct. 1998, p. 3.

62. Counsel for Kayishema also raised the issue of lack of time afforded to the Defence for the preparation of its case. [FN5] In this regard the Trial Chamber notes that Kayishema made his initial appearance before the Tribunal on 31 May 1996, Counsel having been assigned two days prior. The trial began on 11 April 1997 and the Defence did not commence its case until 11 May 1998, almost two years after the accused's initial appearance. As such, the Trial Chamber is satisfied that sufficient time was accorded to both Parties for the preparation of their respective cases.

FN5 Ibid., p. 2-3.

63. Specifically, on the time designated for the preparation of the closing arguments, the Defence expressed further dissatisfaction. [FN6] Having expressed his opinion that "the trial has been fair," Counsel for Kayishema however went on to submit that the eight days allowed him to prepare for his closing arguments was inequitable in light of the one month time frame afforded to the Prosecution. However, the Chamber pronounced itself on this issue from the bench when it was declared,

FN6 See Mr. Ferran's closing arguments, Trans., 3 Nov. 1998, pp. 54-55.

... for the record, I think the parties ... agreed that the presentation of oral argument and filing of the relevant documents will be done within a time frame ... So the concept of either one party being given one month does not arise . . [I]t was discussed openly with the understanding that each and every respective party had some work to do ... That is the defence could prepare its own case ... right from the word go ... (President of the Chamber) [FN7]

FN7 Trans., 3 Nov. 1998, pp. 55-56.

64. Moreover, were any particular issues of dispute or dissatisfaction to have arisen, the Trial Chamber should have been seized of these concerns in the appropriate manner and at the appropriate time. A cursory reference in the closing brief, and a desultory allusion in Counsel's closing remarks is not an acceptable mode of raising the issue before the Chamber.

3.2 Reliability of Eyewitnesses

65. Unlike the leaders of Nazi Germany, who meticulously documented their acts during World War II, the organisers and perpetrators of the massacres that occurred in Rwanda in 1994 left little documentation behind. Thus, both Parties relied predominantly upon the testimony of witnesses brought before this Chamber in order to establish their respective cases.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

66. A majority of the Prosecution witnesses were Tutsis who had survived attacks in Kibuye Prefecture (survivor witnesses), in which both accused allegedly participated. As such the Defence presented Dr. Régis Pouget to address the Trial Chamber on the credibility of eyewitness testimonies generally and, more specifically, upon the reliability of testimony from persons who had survived attacks having witnessed violent acts committed against their families, friends and neighbours. [FN8]

FN8 Def. exh. 59, Report on the Crowd Psychology. Dr. Pouget has been, inter alia, Professor of Psychiatry and Psychology, Director of Education, Montpellier University, France; and the appointed expert in psychology for Nimes and Montepellier Courts of Appeal, France.

67. The Prosecution contested the submission of the report, submitting that it was unnecessary and without probative value. [FN9] Nevertheless, the Trial Chamber, in exercising its discretion on this issue, received the report and heard the testimony of Dr. Pouget between 29 June and 2 July 1998.

FN9 Motion by the Prosecutor that Evidence of a Defence Expert Witness, Dr. Pouget, be Ruled Inadmissible Pursuant to Article 19(1) of the Statute and Rules 54 and 89 of the Rules.

Eyewitness Testimonies Generally

68. The issue of identification is particularly pertinent in light of the defence of alibi advanced by the accused. The report prepared by Dr. Pouget and submitted on behalf of the Defence suggests that eyewitnesses often are not a reliable source of information.

69. In order to support such a conclusion, Dr. Pouget proffered a number of reasons. It was his opinion, for example, that people do not pay attention to what they see yet, when uncertain about the answer to a question, they often give a definite answer nonetheless. He went on to describe various other, common-place factors that may affect the reliability of witness testimony generally. He observed, inter alia, that the passage of time often reduces the accuracy of recollection, and how this recollection may then be influenced either by the individual's own imperfect mental process of reconstructing past events, or by other external factors such as media reports or numerous conversations about the events.

70. The Chamber does not consider that such general observations are in dispute. Equally, the Chamber concurs with Dr. Pouget's assertion that the corroboration of events, even by many witnesses, does not necessarily make the event and/or its details correct. However, the Trial Chamber is equally cognisant that, notwithstanding the foregoing analysis, all eyewitness testimony cannot be simply disregarded out-of-hand on the premise that it may not be an exact recollection. Accordingly, it is for the Trial Chamber to decide upon the reliability of the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

witness' testimony in light of its presentation in court and after its subjection to cross-examination. Thus, whilst corroboration of such testimony is not a guarantee of its accuracy, it is a factor that the Trial Chamber has taken into account when considering the testimonies.

71. Similarly, prior knowledge of those identified is another factor that the Trial Chamber may take into account in considering the reliability of witness testimonies. For example, in the Tanzanian case of Waziri Amani v. Republic [FN10] the accused called into question his identification by witnesses. The Court of Appeals held that,

FN10 1980 TLR 250, 252.

if at the end of his (the witness') examination the judge is satisfied that the quality of identification is good, for example, when the identification was made by a witness after a long period of observation or in satisfactory conditions by a relative, a neighbour, a close friend, a workmate and the like, we think, he could in those circumstances safely convict on the evidence of identification.

The case of United States v. Telafaire [FN11] also offers persuasive guidance on the other factors which may be taken into account. Firstly, the court in Telafaire held that the trier of fact must be convinced that the witness had the capacity and an adequate opportunity to observe the offender. Secondly, the identification of the accused by the witness should be the product of his own recollection and, thirdly, the trier of fact should take into consideration any inconsistency in the witness's identification of the accused at trial. Finally, it was held that the general credibility of the witness -- his truthfulness and opportunity to make reliable observations -- should also be borne in mind by the trier of fact.

FN11 469 F.2d 552 (D.C. Cir. 1972).

72. The Trial Chamber, in its examination of the evidence, has been alive to these various approaches and, where appropriate, has specifically delineated the salient considerations pertinent to its findings.

Survivors as Witnesses

73. The report of Dr. Pouget, an expert in the field of psychology, address the reliability of testimony from those who have witnessed traumatic events. It was his opinion that strong emotions experienced at the time of the events have a negative effect upon the quality of recollection. During traumatic events, he expounded, the natural defensive system either prevents the retention of those incidents or buries their memories so deep that they are not easily, if at all, accessible.

74. This is the view of the expert Defence witness. However, as the Prosecutor highlighted, other views do exist. She produced, for example, other academic views

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

which stated that stressful conditions lead to an especially vivid and detailed recollection of events. [FN12] What is apparent to the Trial Chamber is that different witnesses, like different academics, think differently.

FN12 An article by Ann Maass and Gautier Kohnken, in the Law and Human Behaviour Journal, vol. 13, no. 4, 1989, was shown to the witness and discussed in cross-examination. Trans., 2 Jul. 1998, p. 104.

75. The Chamber is aware of the impact of trauma on the testimony of witnesses. However, the testimonies cannot be simply disregarded because they describe traumatic and horrific realities. Some inconsistencies and imprecision in the testimonies are expected and were carefully considered in light of the circumstances faced by the witnesses.

3.3 Witness Statements

76. The Parties raised apparent discrepancies or omissions that arose with regard to certain evidence when the witnesses' written statements were juxtaposed with their testimony given orally in Court. These written statements were drafted after the witnesses were interviewed by Prosecution investigators as part of the investigative process. Alleged inconsistencies were raised in relation to both Prosecution and Defence witnesses. The procedure adopted by the Trial Chamber for dealing with apparent inconsistencies was expounded during the hearing of evidence by Prosecution witness A. There, the Trial Chamber ordered that an alleged inconsistency be put to the witness and the witness be offered an opportunity to explain. In light of this explanation, if Counsel asserted that the inconsistency remained, the Counsel would mark the relevant portion of the witness statement and submit it as an exhibit for consideration by the Trial Chamber. Both Prosecution and Defence Counsel submitted such exhibits. [FN13]

FN13 Decision on the Prosecution Motion Request to Rule Inadmissible the Evidence of Defence Expert Witness, Dr. Pouget, the Prosecutor v. Clment Kayishema and Obed Ruzindana, Case No. ICTR-95-1-T, 29 June 1998.

77. The witness statements are not automatically evidence before the Trial Chamber per se. However, the statements may be used to impeach a witness. Where the relevant portion of the statement has been submitted as an exhibit, this portion will be considered by the Trial Chamber in light of the oral evidence and explanation offered by the witness. The Chamber is mindful that there was generally a considerable time lapse between the events to which the witnesses testified, the making of their prior statements, and their testimony before the Trial Chamber. However, notwithstanding the above, inconsistencies may raise doubt in relation to the particular piece of evidence in question or, where such inconsistencies are found to be material, to the witnesses' evidence as a whole.

FN13 See Pros. exh. 350A, 350B and 350C.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

78. Whether or not the explanation by the witness is enough to remove the doubt is determined on a case-by-case basis considering the circumstances surrounding the inconsistency and the subsequent explanation. However, to be released from doubt the Trial Chamber generally demands an explanation of substance rather than mere procedure. For example, a common explanation provided by witnesses was that the interviewing investigator did not accurately reflect in the written statement what the witness said. Although such an explanation may well be true, particularly considering the translation difficulties, in the absence of evidence that corroborates the explanation, it is generally not enough to remove doubt. Indeed, it is not for the Trial Chamber to search for reasons to excuse inadequacies in the Prosecution's investigative process.

79. Conversely, where the witness provides a convincing explanation of substance, perhaps relating to the substance of the investigator's question, then this may be sufficient to remove the doubt raised.

80. Doubts about a testimony can be removed with the corroboration of other testimonies. However, corroboration of evidence is not a legal requirement to accept a testimony. This Chamber is nevertheless aware of the importance of corroboration and considered the testimonies in this light. This notion has been emphasised in the Factual Findings of this Judgement.

3.4 Specificity of the Indictment

Introduction

81. The Indictment, in setting out the particulars of the charges against the accused, refers to events "around" and "about" a specific date, or between two specified dates. Kayishema is charged separately for massacres at the sites of the Catholic Church and Home St. Jean, the Stadium in Kibuye and Mubuga Church. Paragraphs 28, 35 and 41 of the Indictment detail these massacres as occurring on or about the 17, 18 and 14 April 1994 respectively. The fourth crime site for which both Kayishema and Ruzindana are charged is the Bisesero area between 9 April and 30 June. The question arises, therefore, as to whether sufficient certainty exists to enable an adequate defence to be advanced, thus to ensure the right of the accused to a fair trial.

The Allegations in Relation to the Massacres in the Bisesero Area

82. The Trial Chamber considers it appropriate to distinguish between the first three sites in the Indictment, and the charges raised in respect of the Bisesero area. The exact dates on which massacres occurred at the Catholic Church and Home St. Jean, the Stadium and Mubuga Church were identified in the course of the trial by the Prosecution's case-in-chief. Accordingly, the findings made by this Chamber are set out below in the Factual Findings Part.

83. The Chamber is aware of the difficulties of raising a defence where all of the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

elements of the offence are not precisely detailed in the Indictment. The difficulties are compounded because the alibi defence advanced by both accused persons does not remove them from the Bisesero vicinity at the time in question. The accused in the Tadic case faced similar difficulties. [FN14] In that instance the Trial Chamber observed the near impossibility of providing a 24-hour, day-by-day, and week-by-week account of the accused's whereabouts for an alibi defence which covers a duration of several months. The Trial Chamber is of the opinion that this is a substantive issue.

FN14 Prosecutor v. Dusko Tadic, International Criminal Tribunal for the Former Yugoslavia, Case No. IT-94-1-T, 7 May 1997, para. 533. (Tadic Judgement.)

84. Nevertheless, it is important to note here that throughout the trial the burden of proving each material element of the offence, beyond a reasonable doubt, has remained firmly on the Prosecution. Whilst, prima facie, the accused should be informed in as greater detail as possible of the elements of the offence against them, such details will necessarily depend on the nature of the alleged crimes. The Trial Chamber finds that during its case-in-chief the Prosecution did focus upon various sites throughout the Bisesero region, but because of the wide-ranging nature of the attacks no further specificity was possible in the Indictment.

85. It is unnecessary, however, for the Prosecution to prove an exact date of an offence where the date or time is not also a material element of the offence. Whilst it would be preferable to allege and prove an exact date of each offence, this can clearly not be demanded as a prerequisite for conviction where the time is not an essential element of that offence. [FN15] Furthermore, even where the date of the offence is an essential element, it is necessary to consider with what precision the timing of the offence must be detailed. It is not always possible to be precise as to exact events; this is especially true in light of the events that occurred in Rwanda in 1994 and in light of the evidence we have heard from witnesses. Consequently, the Chamber recognises that it has balanced the necessary practical considerations to enable the Prosecution to present its case, with the need to ensure sufficient specificity of location and matter of offence in order to allow a comprehensive defence to be raised.

FN15 See, the Tadic Judgement, para. 534 and the cases cited therein.

86. However, because of the foregoing observations, the Trial Chamber opines that where timing is of material importance to the charges, then the wording of the count should lift the offence from the general to the particular. [FN16] In this respect, the Trial Chamber notes that the ratione temporis of this Tribunal extends from 1 January 1994 to 31 December 1994, and the Indictment only refers only to events that occurred in the Bisesero area between the 9 April and 30 June. In fact, during its case-in-chief, and with the more precise definition of massacre sites within the Bisesero area, the Prosecution was able to pinpoint specific periods during which the alleged events occurred. Therefore, the date need only be identified where it is a material element of the offence and, where it is such a necessary element, the precision with which such dates need be identified varies from case to case. In light of this, the Trial Chamber opines

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

that the lack of specificity does not have a bearing upon the otherwise proper and complete counts, and it did not prejudice the right of the accused to a fair trial.

FN16 See, for example, the Canadian cases of, G.B., A.B. and C.S. v. R (1990) 2 S.C.R. 30, and R v. Colgan (1986) 30 C.C.C. (3d) 193 (Court of Appeal), where Monnin C.J.M. found an offence specified as occurring at some point within a six year period to be sufficiently precise.

IV. THE LAW

4.1 Genocide

4.2 Crimes Against Humanity

4.3 Violations of Article 3 Common to the Geneva Conventions and Additional Protocol II, thereto

4.4 Criminal Responsibility, Articles 6(1) and 6(3)

4.1 GENOCIDE

87. Article 2(2) of the ICTR Statute reads:

Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

a. Killing members of the group;

b. Causing serious bodily or mental harm to members of the group;

c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

d. Imposing measures intended to prevent births within the group;

e. Forcibly transferring children of the group to another group.

The above definition reproduces Articles II and III of the Genocide Convention of 1948 and Article 17 of the International Law Commission Report 1996, Draft Code of Crimes Against the Peace and Security of Mankind (ILC Draft Code of Crimes).

88. The concept of genocide appeared first in the International Military Tribunal (Nuremberg) Judgement of 30 September and 1 October 1946, referring to the destruction of groups. The prohibition of genocide then was recognised by the General Assembly of the United Nations as a principle of international law.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Resolution 260(A)(III) of 9 December 1948, adopting the Draft Genocide Convention, crystallised into international law the prohibition of that crime. The Genocide Convention became widely accepted as an international human rights instrument. Furthermore, the crime of genocide is considered part of international customary law and, moreover, a norm of jus cogens.

89. The definition of the crime of genocide was based upon that of crimes against humanity, that is, a combination of "extermination and persecutions on political, racial or religious grounds" and it was intended to cover "the intentional destruction of groups in whole or in substantial part" (emphasis added). The crime of genocide is a type of crime against humanity. Genocide, however, is different from other crimes against humanity. The essential difference is that genocide requires the aforementioned specific intent to exterminate a protected group (in whole or in part) while crimes against humanity require the civilian population to be targeted as part of a widespread or systematic attack. There are instances where the discriminatory grounds coincide and overlap. This scenario is detailed in the present Judgement, in the Part VII on Cumulative Charges.

90. For the crime of genocide to be committed, two elements are required, namely, the mens rea, the requisite specific intent, and the actus reus, the prohibited act or omission.

4.1.1 The Mens Rea

91. A distinguishing aspect of the crime of genocide is the specific intent (dolus specialis) to destroy a group in whole or in part. The dolus specialis applies to all acts of genocide mentioned in Article 2(a) to (e) of the Statute, that is, all the enumerated acts must be committed 'with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.' It is this specific intent that distinguishes the crime of genocide from the ordinary crime of murder. [FN1] The Trial Chamber opines that for the crime of genocide to occur, the mens rea must be formed prior to the commission of the genocidal acts. The individual acts themselves, however, do not require premeditation; the only consideration is that the act should be done in furtherance of the genocidal intent.

FN1 Virginia Morris & Michael Scharf, THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA, 167 (1998)

92. Under Article 6(3) of the Statute, the superior is criminally responsible for the acts committed by his subordinates if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

Proof of the Requisite Intent

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

93. Regarding the assessment of the requisite intent, the Trial Chamber acknowledges that it may be difficult to find explicit manifestations of intent by the perpetrators. The perpetrator's actions, including circumstantial evidence, however may provide sufficient evidence of intent. The Commission of Experts in their Final Report on the situation in Rwanda also noted this difficulty. Their Report suggested that the necessary element of intent can be inferred from sufficient facts, such as the number of group members affected. [FN2] The Chamber finds that the intent can be inferred either from words or deeds and may be demonstrated by a pattern of purposeful action. [FN3] In particular, the Chamber considers evidence such as the physical targeting of the group or their property; the use of derogatory language toward members of the targeted group; the weapons employed and the extent of bodily injury; the methodical way of planning, the systematic manner of killing. Furthermore, the number of victims from the group is also important. In the Report of the Sub- Commission on Genocide, the Special Rapporteur stated that "the relative proportionate scale of the actual or attempted destruction of a group, by any act listed in Articles II and III of the Genocide Convention, is strong evidence to prove the necessary intent to destroy a group in whole or in part." [FN4]

FN2 Cited in Bassiouni, in THE LAW OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FOR?? YUGOSLAVIA, p. 524, and UN AND RWANDA, 1993-6, p. 432, para. 166.

FN3 Wisconsin International Law Journal, 243 (1996).

FN4 UN Doc. E/CN.4/Sub.2/1985/6, p. 16, para. 29.

94. It is also the view of the Chamber that although a specific plan to destroy does not constitute an element of genocide, it would appear that it is not easy to carry out a genocide without such a plan, or organisation. Morris and Scharf note that "it is virtually impossible for the crime of genocide to be committed without some or indirect involvement on the part of the State given the magnitude of this crime." [FN5] They suggested that "it is unnecessary for an individual to have knowledge of all details of the genocidal plan or policy." The Chamber concurs with this view.

FN5 Morris & Scharf, supra, p.168.

Destruction of a Group

95. The perpetrator must intend to destroy a group in whole or in part. This begs the question of what constitutes the "destruction of a group." The Prosecution suggests that the term should be broadly interpreted and encompass acts that are undertaken not only with the intent to cause death but also includes acts which may fall short of causing death. [FN6] In the Akayesu Judgement, acts of sexual violence, which occurred in Taba Commune were found to form an integral part of the process of destruction, specifically, targeting Tutsi women and contributing to their destruction and the destruction of the Tutsi as a group. [FN7] The Trial

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

Chamber concurs with this view and that of the International Law Commission (ILC) which stated that "it is not necessary to intend to achieve the complete annihilation of a group from every corner of the globe." [FN8]

FN6 Prosecutor's Brief, 9 Oct. 1998, p. 30

FN7 Akayesu Judgement, para. 731.

FN8 ILC Draft Code of Crimes, p. 42, para.8.[Throughout the text, page citations to the International Law Commission (ILC) Report 1996 may refer to the Internet version at http://www.un.org/law/ilc/reports/196/chap02.htm]

Whole or in Part

96. Another aspect for consideration is that the intent to destroy the group must be "in whole or in part." The ILC stated that "the crime of Genocide by its very nature requires the intention to destroy at least a substantial part of a particular group." [FN9] In the Report of the Sub-Commission on Genocide, the Special Rapporteur stated that "in part" would seem to imply a reasonably significant number, relative to the total of the group as a whole, or else a significant section of a group such as its leadership. Hence, both proportionate scale and total number are relevant. [FN10]

FN9 Ibid.

FN10 Mr. Whitaker, in UN Doc. E/CN.4/Sub.2/1985/6, p. 16, para. 29.

97. The Trial Chamber opines, therefore, that "in part" requires the intention to destroy a considerable number of individuals who are part of the group. Individuals must be targeted due to their membership of the group to satisfy this definition.

A National, Ethnical, Racial or Religious Group

98. The intent must exist to "destroy a national, ethnical, racial or religious group, as such." Thus, the acts must be directed towards a specific group on these discriminatory grounds. An ethnic group is one whose members share a common language and culture; or, a group which distinguishes itself, as such (self identification); or, a group identified as such by others, including perpetrators of the crimes (identification by others). A racial group is based on hereditary physical traits often identified with geography. A religious group includes denomination or mode of worship or a group sharing common beliefs.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

Destroying in whole or in part a National, Ethnical, Racial or Religious Group as Such

99. This phrase speaks to specific intent (the requisite mens rea). The "destroying" has to be directed at the group as such, that is, qua group, as stipulated in Article 2(2) of the Statute.

4.1.2 Actus Reus

100. Article 2(2)(a) to (e) of the ICTR Statute and Article II (a) to (e) of the Genocide Convention lists acts which, if committed with the specific intent, amount to genocide.

Killing Members of the Group

101. Article 2(2)(a) of the Statute, in the English language version, states that genocide means the act of "killing" committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. The French language version refers to meurtre, a term that requires the additional mental element of intent.

102. The Parties in their closing remarks addressed the differences between the English and French versions. The Prosecutor submitted that the term meurtre has a legal meaning in French law, that is, a deliberate homicide, whereas the term "killing" is merely the act of causing the death to another. [FN11] The Prosecutor contended that the language used in the English version is more flexible and would permit, if the need arises, a broadening of the meaning or interpretation. [FN12] The Defence teams submitted that "meurtre'' should be applied, as it was in the Akayesu Judgement. The Defence submitted that where doubt exists then, as a general principle of criminal law, that doubt should be interpreted in favour of the accused.

FN11 Trans., 21 Oct. 1998, p. 91.

FN12 Ibid.

103. The Trial Chamber agrees that if a doubt exists, for a matter of statutory interpretation, that doubt must be interpreted in favour of the accused. Therefore, the relevant act under Article 2(2)(a) is "meurtre,'' that is, unlawful and intentional killing. The Trial Chamber notes, however, that all the enumerated acts must be committed with intent to destroy a group in whole or in part. As stated by the ILC the enumerated acts "are by their very nature conscious, intentional or volitional acts which an individual could not usually commit without knowing that certain consequences were likely to result. They are not the type of acts that would normally occur by accident or even as a result of mere

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

negligence ... the definition of this crime requires a particular state of mind or a specific intent with respect to the overall consequences of the prohibited act." [FN13] Hence, there is virtually no difference between the two as the term "killing" is linked to the intent to destroy in whole or in part.

FN13 ILC Draft Code of Crimes, p. 42, (commenting upon sub-paragraph (a) to (e) of Article 17).

104. The Chamber observes that the Akayesu Judgement does not fully define the term "killing." [FN14] It is the opinion of the Trial Chamber that there is virtually no difference between the term "killing" in the English version and "meurtre'' in the French version of Article 2 (2)(a) of the Statute within the context of genocidal intent. Hence "killing" or "meurtre" should be considered along with the specific intent of genocide, that is, the intent to destroy in whole or in part, a national, ethnical, racial or religious group as such.

FN14 Paras. 500-501, p. 206.

Causing Serious Bodily or Mental Harm to Members of the Group

105. Pursuant to Article 2(2)(b) of the Statute states "causing serious bodily or mental harm to members of the group."

106. This phrase, which is not defined by the Statute, was the subject of contention during the closing submissions of the Parties. The Prosecution submitted that "causing a bodily or a mental harm" means: to undertake an action that might cause injury to the physical and mental fullness, the total being of a person; that a human being is to be considered as a whole with structures and elements functioning in concert and harmony; that the term "serious" is applicable to both the bodily and the mental part of a person and is dependant upon the extent to which the physical body or mental well being is injured.

107. The Prosecution submitted that serious harm may include impact on one or more elements of the human structure, which disables the organs of the body and prevents them from functioning as normal. To this end, the harm caused need not bring about death but causes handicap such that the individual will be unable to be a socially useful unit or a socially existent unit of the group. The Prosecution submitted that blows and wounds inflicted would constitute serious harm when they are so violent or have such intensity that they immediately cause the malfunctioning of one or many essential mechanisms of the human body. The Prosecution also submits that non-physical aggressions such as the infliction of strong fear or strong terror, intimidation or threat are also serious mental harm. [FN15]

FN15 Rahetlah, submission, 21 October 1998, pp. 114 to 121.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

Serious Bodily Harm

108. The phrase serious bodily harm should be determined on a case-by-case basis, using a common sense approach. In the Akayesu Judgement, it was held that serious bodily harm does not necessarily mean harm that is permanent or irremediable. [FN16] The Akayesu Judgement further held that acts of sexual violence, rape, mutilations and interrogations combined with beatings, and/or threats of death, were all acts that amount to serious bodily harm. [FN17] The Trial Chamber concurs with these determinations.

FN16 Akayesu Judgement, para 502.

FN17 Akayesu Judgement, paras 706-07 and 711-12.

109. It is the view of the Trial Chamber that, to large extent, "causing serious bodily harm" is self-explanatory. This phrase could be construed to mean harm that seriously injures the health, causes disfigurement or causes any serious injury to the external, internal organs or senses.

Serious Mental Harm

110. The phrase "serious mental harm" should also be determined on a case-by-case. The Prosecution submits that there is no prerequisite that mental suffering should be the result of physical harm. The Prosecution relies upon the commentary offered in the Preparatory Committee's Definition of Crimes that suggests that serious mental harm should include "more than minor or temporary impairment on mental faculties." [FN18] The Prosecution suggested that the inflicting of strong fear or terror, intimidation or threat may amount to serious mental harm.

FN18 Prosecutor's Closing Brief, 9 Oct. 1998, p. 26.

111. The Defence teams submitted that the serious bodily and mental harm alleged by the Prosecution was merely a consequence of attempts to kill and did not amount to genocidal offences in themselves. It argued that the Prosecution witnesses who had been wounded did not demonstrate that the perpetrators had intention to cause serious bodily or mental harm. The Defence contends therefore, that there was intention to cause murder and not to cause serious bodily or mental harm.

112. The Chamber considers that an accused may be held liable under these circumstances only where, at the time of the act, the accused had the intention to inflict serious mental harm in pursuit of the specific intention to destroy a group in whole or in part.

113. The Chamber opines that "causing serious mental harm" should be interpreted

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

on a case-by-case basis in light of the relevant jurisprudence.

Deliberately Inflicting on the Group Conditions of Life Calculated to Bring About its Physical Destruction in Whole or in Part

114. Article 2(2)(c) of the Statute covers the act of "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part." The Prosecution submits that Article 2(2)(c) applies to situations likely to cause death regardless of whether death actually occurs and allows for the punishment of the perpetrator for the infliction of substandard conditions of life which, if left to run their coarse, could bring about the physical destruction of the group. [FN19]

FN19 Prosecutor's Closing Brief, 9 October 1998, p.28.

115. The Trial Chamber concurs with the explanation within the Draft Convention, prepared by the U.N. Secretariat which interpreted this concept to include circumstances which will lead to a slow death, for example, lack of proper housing, clothing, hygiene and medical care or excessive work or physical exertion. [FN20]

FN20 Nehemiah Robinson, the Genocide Convention: A Commentary (1960), p. 123.

116. It is the view of the Trial Chamber that "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part," includes methods of destruction which do not immediately lead to the death of members of the group. The Chamber adopts the above interpretation. [FN21] Therefore the conditions of life envisaged include rape, the starving of a group of people, reducing required medical services below a minimum, and withholding sufficient living accommodation for a reasonable period, provided the above would lead to the destruction of the group in whole or in part.

FN21 Robinson, supra, pp. 63-64.

Imposing Measures Intended to Prevent Births Within the Group

117. Article 2(2)(d) of the Statute covers the act of imposing measures intended to prevent births within the group. The Trial Chamber concurs with the explanation provided in the Akayesu Judgement.

Forcibly Transferring Children of the Group to Another

118. Article 2(2)(e) of the Statute covers the act of forcibly transferring

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

children of the group to another. The Trial Chamber concurs with the explanation provided in the Akayesu Judgement.

4.2 CRIMES AGAINST HUMANITY

119. Article 3 of the ICTR Statute states:

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds:

a) Murder;

b) Extermination;

c) Enslavement;

d) Deportation;

e) Imprisonment;

f) Torture;

g) Rape;

h) Prosecutions;

i) Other inhumane acts.

120. Crimes against humanity were prosecuted at the Nuremberg trials. The Charter of the International Military Tribunal of Nuremberg [FN22] in its Article 6(c) (Annex to the Agreement for the Prosecution and Punishment of Major War Criminals of the European Axis (London Agreement)), describes the crimes against humanity as follows:

FN22 Law No. 10 of the Control Council for Germany.

... namely murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian populations, before or during the war; or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

121. Crimes against humanity were also applied under Article II of Law No. 10 of the Control Council Law [FN23] and went through a gradual evolution in the domestic cases of Eichmann, [FN24] Barbie, [FN25] and Touvier. More recently, crimes against humanity have been applied in the International Criminal Tribunals for both Rwanda and the Former Yugoslavia.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

FN23 International Law Reports (ILR), vol.36, p. 31.

FN24 36 ILR.

FN25 125 ILR.

4.2.1 The Attack

122. The enumerated crimes must be committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds. The attack is the event in which the enumerated crimes must form part. Indeed, within a single attack, there may exist a combination of the enumerated crimes, for example murder, rape and deportation. The elements of the attack effectively exclude from crimes against humanity, acts carried out for purely personal motives and those outside of a broader policy or plan; a position which was adopted by the Defence.

Widespread or Systematic

123. The attack must contain one of the alternative conditions of being widespread or systematic. [FN26] A widespread attack is one that is directed against a multiplicity of victims. [FN27] A systematic attack means an attack carried out pursuant to a preconceived policy or plan. Either of these conditions will serve to exclude isolated or random inhumane acts committed for purely personal reasons. [FN28]

FN26 Despite the French text containing the conjunctive 'and' instead of the disjunctive 'or' between the terms widespread or systematic, the Trial Chamber is in no doubt that the correct interpretation is the disjunctive. The matter has already been settled in the Akayesu Judgement and needs no further debate here.

FN27 The ILC Draft Code of Crimes explained "large scale" (the term used in place of 'widespread') to mean acts that are "directed against a multiplicity of victims." Article 18, para 4 of commentary.

FN28 The ILC Draft Code of Crimes defines systematic as "meaning pursuant to a preconceived plan or policy. The implementation of this plan or policy could result in the repeated or continuous commission of inhumane acts. The thrust of this requirement is to exclude random acts that were not committed as part of a broader plan or policy." Article 18, para 3 of commentary.

The Policy Element

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

124. For an act of mass victimisation to be a crime against humanity, it must include a policy element. Either of the requirements of widespread or systematic are enough to exclude acts not committed as part of a broader policy or plan. Additionally, the requirement that the attack must be committed against a "civilian population" inevitably demands some kind of plan and, the discriminatory element of the attack is, by its very nature, only possible as a consequence of a policy.

125. Who or what must instigate the policy? Arguably, customary international law requires a showing that crimes against humanity are committed pursuant to an action or policy of a State. However, it is clear that the ICTR Statute does not demand the involvement of a State. Guidance on this issue may be gained from the ILC who, in the Draft Code of Crimes, stated that crimes against humanity are inhumane acts "instigated or directed by a Government or by any organisation or group." [FN29] The ILC explains that this requirement was, intended to exclude the situation in which an individual commits an inhumane act whilst acting on his own initiative pursuant to his own criminal plan in the absence of any encouragement or direction from either a Government or a group or an organisation ... The instigation or direction of a Government or any group, which may or may not be affiliated with a Government, gives the act its great dimension and makes it a crime against humanity imputable to private persons or agents of the State. [FN30]

FN29 ILC Draft Code of Crimes Article 18.

FN30 ILC Draft Code of Crimes Art. 18 para 5 of commentary.

126. The Trial Chamber concurs with the above view and finds that the Tribunal's jurisdiction covers both State and non-State actors. As Prefect, Kayishema was a State actor. As a businessman Ruzindana was a non-State actor. To have jurisdiction over either of the accused, the Chamber must be satisfied that their actions were instigated or directed by a Government or by any organisation or group.

Civilian Population

127. Traditionally, legal definitions of 'civilian' or 'civilian population' have been discussed within the context of armed conflict. However, under the Statute, crimes against humanity may be committed inside or outside the context of an armed conflict. Therefore, the term civilian must be understood within the context of war as well as relative peace. The Trial Chamber considers that a wide definition of civilian is applicable and, in the context of the situation of Kibuye Prefecture where there was no armed conflict, includes all persons except those who have the duty to maintain public order and have the legitimate means to exercise force. Non-civilians would include, for example, members of the FAR, the RPF, the police and the Gendarmerie Nationale.

128. With regard to the targeting of any civilian population, the Trial Chamber

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

concurs with the finding in the Tadic decision that the targeted population must be predominantly civilian in nature but the presence of certain non- civilians in their midst does not change the character of that population. [FN31]

FN31 TadicJudgement, at para 638.

129. In any event, the Defence teams did not challenge the assertion that the victims of the alleged attacks were civilians. And, the Prosecution submitted that the victims in the four massacre sites were farmers, teachers and those seeking refuge from the attacks.

Discriminatory Grounds

130. The Statute contains a requirement additional to both the Nuremberg Charter and the ICTY Statute; that the attack be committed on national, political, ethnic, racial or religious grounds. The Prosecution submits that the discrimination at issue was based on ethnic or, alternatively, political grounds. [FN32] The Prosecution asserted that the discrimination was on ethnic grounds because the victims were Tutsis and political grounds because the Tutsis were accomplices or supporters of the RPF. The Defence did not contest that the Tutsis were considered an ethnic group. [FN33] Political grounds include party political beliefs and political ideology.

FN32 Prosecutor's Closing Brief, p. 42.

FN33 For detailed discussion regarding ethnicity see the Historical Context Part of the Judgement.

131. The Prosecution submit that it is the intent of the perpetrator to discriminate against a group that is important rather than whether the victim was, in fact, a member of that targeted group. In this regard there are two issues for the Chamber to address. Firstly, in a scenario where the perpetrator's intention is to exterminate the Tutsi group and, in furtherance of this intent, he kills a Belgium Priest who is protecting the Tutsi, the Trial Chamber opines that such an act would be based on discrimination against the Tutsi group.

132. The second relevant scenario is where the perpetrator attacks people on the grounds and in the belief that they are members of a group but, in fact, they are not, for example, where the perpetrator believes that a group of Tutsi are supporters of the RPF and therefore accomplices. In the scenario, the Trial Chamber opines that the Prosecution must show that the perpetrator's belief was objectively reasonable - based upon real facts - rather than being mere speculation or perverted deduction.

The Mental Element

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

133. The perpetrator must knowingly commit crimes against humanity in the sense that he must understand the overall context of his act. The Defence for Ruzindana submitted that to be guilty of crimes against humanity the perpetrator must know that there is an attack on a civilian population and that his act is part of the attack. [FN34] This issue has been addressed by the ICTY where it was stated that the accused must have acted with knowledge of the broader context of the attack; [FN35] a view which conforms to the wording of the Statute of the International Criminal Court (ICC) Article 7.

FN34 Closing Arguments at p. 26.

FN35 Tadic Judgement, at para. 656, "therefore in addition to the intent to commit the underlying offence the perpetrator must know of the broader context in which his acts occur."

134. The Trial Chamber agrees with the Defence. Part of what transforms an individual's act (s) into a crime against humanity is the inclusion of the act within a greater dimension of criminal conduct; therefore an accused should be aware of this greater dimension in order to be culpable thereof. Accordingly, actual or constructive knowledge of the broader context of the attack, meaning that the accused must know that his act(s) is part of a widespread or systematic attack on a civilian population and pursuant to some kind of policy or plan, is necessary to satisfy the requisite mens rea element of the accused. This requirement further compliments the exclusion from crimes against humanity of isolated acts carried out for purely personal reasons.

4.2.2 The Crimes

135. Article 3 entitles the International Criminal Tribunal for Rwanda to prosecute persons responsible for crimes enumerated within the Statute. The crimes must be committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds. The crimes themselves need not contain the three elements of the attack (i.e. widespread or systematic, against any civilian population, on discriminatory grounds), but must form part of such an attack. Indeed, the individual crimes contain their own specific elements. For an accused to be found guilty under crimes against humanity the Prosecution must prove that the accused is responsible for one of the crimes charged pursuant to Article 6(1) and/or 6(3) of the Statute. The following crimes are charged in the Indictment: murder, extermination and other inhumane acts.

Murder

136. The Prosecution charges Kayishema with crimes against humanity for murder in Counts 2, 8, 14 and 20 of the Indictment, and Ruzindana with crimes against humanity for murder in Count 20 of the Indictment.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

137. Article 3(a) of the English version of the Statute uses the term "murder," whilst the French version of the Statute uses the term "assassinat.'' [FN36] The use of these terms has been the subject of some debate because the mens rea for murder, as it is defined in most common law jurisdictions, includes but does not require premeditation; whereas, in most civil law systems, premeditation is always required for assassinat. [FN37] The Akayesu Judgement, which is the only case to have addressed the issue, stated that customary international law dictates that it is the act of murder that constitutes a crime against humanity and not assassinat. In Akayesu, the Chamber held that there were sufficient reasons to assume that the French version of the Statute suffers from an error in translation. [FN38] The Defence argued, inter alia, that the Akayesu solution of an error in translation was too simple and not convincing as both the French and the English versions of the Statute are originals. According to the Defence, murder was meant to be the equivalent of assassinat. However, the Prosecution argued that premeditation was not a necessary element and suggested that the "unlawful killing of a human being as the result of the perpetrator engaging in conduct which was in reckless disregard for human life" is enough.

FN36 Indeed, the Statute, Article 2(2)(a)(Genocide) refers to "killing" -- "meurtre'' in French, while Article 4(a) refers to "murder" -- "meurtre'' in French.

FN37 Nouveau Code PJnal, Article 221-3 "Le meurtre commis avec prJmeditation constitute un assassinat. Il est puni de la rJclusion criminelle < perpetuitJ. [...]"

FN38 Akayesu Judgement, at para. 588.

138. The Trial Chamber agrees with the Defence. When interpreting a term from one language to another, one may find that there is no equivalent term that corresponds to all the subtleties and nuances. This is particularly true with legal terms that represent jurisprudential concepts. Here, the mens rea for murder in common law overlaps with both meurtre and assassinat (that is, a meurtre aggravé) in civil systems. [FN39] The drafters chose to use the term assassinat rather than meurtre. As a matter of interpretation, the intention of the drafters should be followed so far as possible and a statute should be given its plain meaning. [FN40] Since the concepts of murder and assassinat can correspond to one another, in the opinion of this Trial Chamber, there is no need to change the wording of the Statute. Although it may be argued that, under customary international law, it is murder rather than assassinat that constitutes the crime against humanity (a position asserted by the Chamber in the Akayesu Judgement), this court is bound by the wording of the ICTR Statute in particular. It is the ICTR Statute that reflects the intention of the international community for the purposes of trying those charged with violations of international law in Rwanda. Furthermore, the ICTR and ICTY Statutes did not reflect customary international law at the time of drafting. This is evident by the inclusion of the need for an armed conflict in the ICTY Statute and the inclusion of the requirement that the crimes be committed with discriminatory intent in the ICTR Statute. Accordingly, it may be presumed that the drafters intended to use assassinat alongside murder. Indeed, by using assassinat in French, the drafters may have intended that only

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

the higher standards of mens rea for murder will suffice. [FN41]

FN39 For example, at the high end of murder the mens rea corresponds to the mens rea of assassinat, i.e., unlawful killing with premeditation. Conversely, at the low end of murder where mere intention or recklessness is sufficient and premeditation is not required, the mens rea of murder corresponds to the mens rea of meurtre.

FN40 Notably the text was drafted in English and French, both being original and authentic. The Statute was then translated into the four remaining official UN languages. Therefore, between English and French there was no translation. Accordingly, there can be no 'error in translation' as such; there can only be a mistake in the drafting of an original text. Notably, the term used in the ICTY Statute is also assassinat (ICTY Statute Article 5(a)).

FN41 Of course, in common law, there is no crime of unlawful killing that provides for a higher standard of mens rea than that of murder. Therefore, even if the drafters intended that only the standard of mens rea for assassinat would suffice, the drafters would still need to use the term murder in English.

139. If in doubt, a matter of interpretation should be decided in favour of the accused; in this case, the inclusion of premeditation is favourable to the accused. The Chamber finds, therefore, that murder and assassinat should be considered together in order to ascertain the standard of mens rea intended by the drafters and demanded by the ICTR Statute. When murder is considered along with assassinat the Chamber finds that the standard of mens rea required is intentional and premeditated killing. The result is premeditated when the actor formulated his intent to kill after a cool moment of reflection. [FN42] The result is intended when it is the actor's purpose, or the actor is aware that it will occur in the ordinary course of events.

FN42 This explanation conforms to the French jurisprudence of the criminal court and to the United States Supreme Court case law.

140. The accused is guilty of murder if the accused, engaging in conduct which is unlawful:

1. causes the death of another;

2. by a premeditated act or omission;

3. intending to kill any person or,

4. intending to cause grievous bodily harm to any person.

Thus, a premeditated murder that forms part of a widespread or systematic attack, against civilians, on discriminatory grounds will be a crime against humanity. Also included will be extrajudicial killings, that is "unlawful and deliberate

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

killings carried out with the order of a Government or with its complicity or acquiescence." [FN43]

FN43 See Amnesty International's 14 Point Program for the Prevention of Extrajudicial Executions.

Extermination

141. The Prosecution charges Kayishema with crimes against humanity for extermination in Counts 3, 9, 15 and 21 of the Indictment, and Ruzindana with crimes against humanity for extermination in Count 21 of the Indictment.

142. The crime of extermination was not specifically defined in the Statute or the Nuremberg Charter. Indeed, there is very little jurisprudence relating to the essential elements of extermination. In the Akayesu Judgement, Chamber I considered that extermination is a crime that by its very nature is directed against a group of individuals and differs from murder in that it requires an element of mass destruction that is not required for murder. [FN44] The Prosecution asserted that there is no need for a defined number of people to die for the killing to rise to an act of extermination; it is determined on a case-by-case basis even though there is the need for a numerical requirement. [FN45] Notably, Akayesu was found guilty of extermination for ordering the killing of sixteen people. [FN46] The Chamber agrees that the difference between murder and extermination is the scale; extermination can be said to be murder on a massive scale. The Defence did not address the numerical question but argues that "the essence of extermination lies in the fact that it is an indiscriminate elimination." [FN47]

FN44 Akayesu Judgement, at para. 591.

FN45 Prosecutor's Closing Brief, at p. 36.

FN46 Akayesu Judgement. at para 735-744.

FN47 Ruzindana Closing Argument, at p. 8.

143. Cherif Bassiouni states that extermination is murder on a massive scale and may include unintentional killing:

Extermination implies intentional and unintentional killing. The reason for the latter is that mass killing of a group of people involves planning and implementation by a number of persons who, though knowing and wanting the intended result, may not necessarily know their victims. Furthermore, such persons may not perform the actus reus that produced the deaths, nor have specific intent toward a particular victim. [FN48]

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

FN48 Cherif Bassiouni, Crimes Against Humanity in International Law (Martinus Nijhoff Publishers 1992).

The ICC Statute (Article 7(2)(b)), offers an illustrative rather than definitive statement regarding extermination: "Extermination includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population."

144. Having considered the above, the Chamber defines the requisite elements of extermination:

The actor participates in the mass killing of others or in the creation of conditions of life that lead to the mass killing of others, through his act(s) or omission(s); having intended the killing, or being reckless, or grossly negligent as to whether the killing would result and; being aware that his act(s) or omission(s) forms part of a mass killing event; where, his act(s) or omission(s) forms part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds.

145. The term "mass", which may be understood to mean 'large scale,' does not command a numerical imperative but may be determined on a case-by-case basis using a common sense approach. The actor need not act with a specific individual(s) in mind.

146. The act(s) or omission(s) may be done with intention, recklessness, or gross negligence. The 'creation of conditions of life that lead to mass killing' is the institution of circumstances that ultimately causes the mass death of others. For example: Imprisoning a large number of people and withholding the necessities of life which results in mass death; introducing a deadly virus into a population and preventing medical care which results in mass death. Extermination includes not only the implementation of mass killing or the creation of conditions of life that leads to mass killing, but also the planning thereof. In this event, the Prosecutor must prove a nexus between the planning and the actual killing.

147. An actor may be guilty of extermination if he kills, or creates the conditions of life that kills, a single person providing the actor is aware that his act(s) or omission(s) forms part of a mass killing event. [FN49] For a single killing to form part of extermination, the killing must actually form part of a mass killing event. An 'event' exists when the (mass) killings have close proximity in time and place.

FN49 For example, if ten FAR officers fire into a crowd of 200 Tutsis, killing them all. FAR officer X is a poor shot and kills only a single person, whereas officer Y kills 16. Because both X and Y participated in the mass killing and were both aware that their actions formed part of the mass killing event, they will both be guilty of extermination.

Other Inhumane Acts

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

148. The Prosecution charges Kayishema with crimes against humanity for other inhumane acts in Counts 4, 10, 16 and 22 of the Indictment, and Ruzindana with crimes against humanity for other inhumane acts in Count 22 of the Indictment.

149. Since the Nuremberg Charter, the category 'other inhumane acts' has been maintained as a useful category for acts not specifically stated but which are of comparable gravity. The importance in maintaining such a category was elucidated by the ICRC when commenting on inhumane treatment contained in Article 3 of the Geneva Conventions,

It is always dangerous to try to go into too much detail -- especially in this domain. However much care were taken in establishing a list of all the various forms of infliction, one would never be able to catch up with the imagination of future torturers who wished to satisfy their bestial instincts; and the more specific and complete a list tries to be, the more restrictive it becomes. The form of wording adopted is flexible and, at the same time, precise. [FN50]

FN50 ICRC COMMENTARY ON THE GENEVA CONVENTIONS p. 54.

150. Other inhumane acts include those crimes against humanity that are not otherwise specified in Article 3 of the Statute, but are of comparable seriousness. The ICC Statute (Article 7(k)), provides greater detail than the ICTR Statute to the meaning of other inhumane acts: "other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health." The ILC commenting on Article 18 of its Draft Code of Crimes states

The Commission recognized that it was impossible to establish an exhaustive list of the inhumane acts which may constitute crimes against humanity. First, this category of acts is intended to include only additional acts that are similar in gravity to those listed in the preceding subparagraphs. Second, the act must in fact cause injury to a human being in terms of physical or mental integrity, health or human dignity.

151. The Chamber notes the International Law Commission's commentary. In relation to the Statute, other inhumane acts include acts that are of similar gravity and seriousness to the enumerated acts of murder, extermination, enslavement, deportation, imprisonment, torture, rape, or persecution on political, racial and religious grounds. These will be acts or omissions that deliberately cause serious mental or physical suffering or injury or constitute a serious attack on human dignity. The Prosecution must prove a nexus between the inhumane act and the great suffering or serious injury to mental or physical health of the victim. The Chamber agrees with the Prosecution submission that the acts that rise to the level of inhumane acts should be determined on a case-by-case basis. [FN51]

FN51 Prosecutor's Closing Brief, p. 37.

152. The Defence asserts that for an accused to be found guilty of mental harm,

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

there must be a direct relation between the assailant and the victim. [FN52] The Prosecution on the other hand suggests that victims have suffered mental harm amounting to other inhumane acts due to them having witnessed atrocities for which the accused is responsible. For example, in relation to Count 4 the Prosecution submits,

FN52 See, Ruzindana's Closing Arguments,pp. 38-41.

[w]ith respect to serious mental harm, six survivors testified (and the survivors of all the other massacres testified) that they witnessed family members and friends being killed. As established by the evidence, Tutsi civilians were placed in an environment of fear and desperation and were forced to witness the killing and the severe injuring of friends, family and other Tutsi civilians. The killings were brutal in manner. The people saw carnage and heard the people singing exterminate them, exterminate them. ... The Prosecutor submits that such an environment inherently causes serious mental harm. [FN53]

FN53 Prosecutor's Closing Brief, p. 80. See also pp. 93, 101, 105 and 134.

153. The Chamber is in no doubt that a third party could suffer serious mental harm by witnessing acts committed against others, particularly against family or friends. However, to find an accused responsible for such harm under crimes against humanity, it is incumbent on the Prosecution to prove the mens rea on the part of the accused. Indeed, as stated above, inhumane acts are, inter alia, those which deliberately cause serious mental suffering. The Chamber considers that an accused may be held liable under these circumstances only where, at the time of the act, the accused had the intention to inflict serious mental suffering on the third party, or where the accused knew that his act was likely to cause serious mental suffering and was reckless as to whether such suffering would result. Accordingly, if at the time of the act, the accused was unaware of the third party bearing witness to his act, then he cannot be held responsible for the mental suffering of the third party.

154. In summary, for an accused to be found guilty of crimes against humanity for other inhumane acts, he must commit an act of similar gravity and seriousness to the other enumerated crimes, with the intention to cause the other inhumane act, and with knowledge that the act is perpetrated within the overall context of the attack.

4.3 VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS AND ADDITIONAL PROTOCOL II, THERETO

155. Pursuant to Article 4 of the Statute, the Trial Chamber shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 3 Common to the Four Geneva Conventions of 1949 (Common Article 3) for the protection of War Victims, and Additional Protocol II thereto of 1977 (Protocol II).

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

4.3.1 Customary Law

156. The Trial Chamber is cognisant of the ongoing discussions, in other forums, about whether the above-mentioned instruments should be considered customary international law that imposes criminal liability for their serious breaches. In the present case, such an analysis seems superfluous because the situation is rather clear. Rwanda became a party to the Conventions of 1949 on 5 May 1964 and to Protocol II on 19 November 1984. These instruments, therefore, were in force in the territory of Rwanda at the time when the tragic events took place within its borders.

157. Moreover, all the offences enumerated in Article 4 of the Statute, also constituted crimes under the laws of Rwanda. The other Party to the conflict, the RPF, also had stated to the International Committee of the Red Cross (ICRC) that it was bound by the rules of international humanitarian law. Therefore, there is no doubt that persons responsible for the breaches of these international instruments during the events in the Rwandan territories in 1994 could be subject to prosecution.

158. Thus, the question before the Trial Chamber is not about the applicability of these instruments in a general sense, but to what extent they are applicable in the instant case. In order to answer this question, a more detailed legal analysis of these instruments as well as the historical background to their adoption is necessary.

4.3.2 Historical Background of Common Article 3

159. The Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, convened by the Swiss Federal Council, was held in Geneva from 21 April to 12 August 1949 (the Conference). The Conference was seized by the working documents that passed through the many preparatory stages. After four months of continuous debate, the Conference established the first, second, third and fourth Geneva Conventions. [FN54]

FN54 ''First Convention," "second Convention," "third Convention" and "fourth Convention" mean, respectively, the Geneva Convention for the Amelioration of the Conditions of the Wounded and Sick in Armed Forces in the Field of 12 August 1949: the Geneva Convention for the Amelioration of the Conditions of the Wounded, Sick and Shipwrecked members of Armed Forces at Sea of 12 August 1949; the Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949; the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

160. From the very beginning, it was understood that these four Conventions could be applicable only in international armed conflicts. However, the ICRC proposed at the Conference to apply these Conventions to non-international armed conflicts as well. The proposal of the ICRC was rejected as a result of almost universal

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

opposition by the states.

161. During the debate on this issue, special attention was focused on the fourth Geneva Convention. For a long period, it was considered evident that civilians would remain outside hostilities. The ICRC recognised that "when the Second World War broke out, civilians were not provided with effective protection under any convention or treaty." [FN55]

FN55 The Geneva Convention of 12 August 1949, Commentary, IV Geneva Convention, p. 3. (ICRC Pub., 1958), Hereafter, "Commentary on IV Geneva Convention, ICRC".

162. It was emphasised by the ICRC that the Fourth Convention represented "an important step forward in written international law in the humanitarian field." [FN56] Therefore, in the opinion of the ICRC, it was necessary to apply it to internal armed conflicts as well. However, from the point of view of the delegations such an application could entail not only political but also technical difficulties.

FN56 Ibid., p. 9.

163. Thus, the situation at the Conference was rather complicated. On the one hand, the idea of the ICRC to apply the four Geneva Conventions to internal armed conflicts had been treated by many delegations as unfriendly attempts to interfere in the internal affairs of the states and to protect all forms of insurrections, rebellion, anarchy and the break-up of states and even plain brigandage. On the other hand, there was an understanding of the necessity to aid the victims of internal conflicts, the horrors of which sometimes surpass the horrors of international wars by reason of the fratricidal hatred they engender. [FN57]

FN57 ICRC comments on Additional Protocol II. See the ICRC website, (visited 6 May, 1999) <http://www.icrc.org>.

164. The Conference rejected a considerable number of the alternative drafts on this issue and, as a result of lengthy and tremendous efforts, succeeded in approving Common Article 3 as it appears now in the four Geneva Conventions. Pursuant to this Article, each Party to a non-international conflict is bound to apply certain provisions as a minimum. The words "as a minimum" must be understood in the sense that the applicable provisions represent a compulsory minimum. At the same time, the Parties were encouraged not to limit themselves to the provided minimum. They were invited, in accordance with Common Article 3, "to endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention."

165. On this occasion, the ICRC pointed out: "To borrow the phrase of one of the delegates, Article 3 is like a 'Convention in miniature.' It applies to non-international conflicts only and will be the only Article applicable to them

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

2812

until such time as a special agreement between the Parties has brought into force between them all or part of the other provisions of the Convention." [FN58]

FN58 Commentary on IV Geneva Convention, p. 34.

4.3.3 Historical Background of Additional Protocol II

166. After the Conference in 1949, the idea to improve the situation with the protection of the victims of internal conflicts remained on the agenda. As a result of compromise, Common Article 3 was not drafted in a very clear way and there were practical difficulties with its application. Moreover, in light of the number and scale of armed conflicts that occurred in different parts of the world the need to improve the protection of the civilian population during armed conflicts became more urgent. In this respect, the ICRC found it necessary to emphasise that "the development of arms and the increased radius of action given to armed forces by modern inventions have made it apparent that, notwithstanding the ruling theory, civilians were certainly 'in the war', and exposed to the same dangers as the combatants -- and sometimes worse." [FN59]

FN59 Preliminary remarks of the ICRC to the Geneva Conventions of August 12, 1949, p. 17.

167. In light of such circumstances, the ICRC began to prepare a new conference, which took place in 1977. One of the main purposes of this conference was to improve the protection of the civilian population during arrived conflicts. Two Protocols additional to the Geneva Conventions of 1949 were adopted as a result of this conference. Protocol I deals with international armed conflict and Protocol II with non-international armed conflict. Commenting recently on the general problems in implementing the fourth Geneva Convention, the ICRC noted that this Convention "contains no detailed provisions for the protection of the civilian population against the dangers caused by military operations such as aerial bombardments and shelling. This gap was later filled by Protocol I Additional to the Geneva Conventions." [FN60] Similarly, Protocol II had to supplement Common Article 3 in order to improve the protection of civilians in internal armed conflicts.

FN60 Report by ICRC Meeting of Experts, Geneva, 27-29 October 1998, p. 2. See the ICRC website (visited 29 Dec. 1998) <http://www.icrc.org>.

168. One of the very important supplements of Protocol II to Common Article 3 is Part IV entitled "Civilian Population." In this Part the Protocol provides not only for the protection of "individual civilians," but directly addresses the issue of the protection of the "civilian population." Article 13 of Additional Protocol II states, "the civilian population and individual civilians shall enjoy general protection against dangers arising from military operations." This part contains six detailed Articles providing for the protection of objects indispensable to the survival of the civilian population, protection of works and

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

installations containing dangerous forces, protection of cultural objects and places of worship, prohibition of forced movement of civilians, activities of relief societies et cetera.

4.3.4 The Test of Applicability of Common Article 3 and Additional Protocol II

Introduction

169. The Trial Chamber is of the opinion that in order for an act to breach Common Article 3 and Protocol II, a number of elements must be shown. It must be established that the armed conflict in Rwanda in this period of time was of a non-international character. There must also be a link between the accused and the armed forces. Further, the crimes must be committed ratione loci and ratione personae. Finally, there must be a nexus between the crime and the armed conflict.

The Trial Chamber shall, therefore, consider each of these elements in turn.

The Nature of the Armed Conflict

170. Both international instruments, Common Article 3 and Protocol II, were in force in 1994 in Rwanda. Therefore, it is proper to consider them together taking into account that Protocol II "develops and supplements Common Article 3 without modifying its existing conditions of application." [FN61] The general criteria in Protocol II for determining whether armed conflict is of a non- international character was one of the important supplements. An armed conflict which takes place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organised armed groups, in accordance with Protocol II, should be considered as a non-international armed conflict. This requirement reflects the essential distinction between an international armed conflict, conducted by two or more States, and non- international armed conflict conducted by a State and another armed force which does not qualify as a State.

FN61 See Art. 1 of Additional Protocol II.

171. Certain types of internal conflicts, which fall below a minimum threshold, are not recognised by Article 1(2) of Protocol II as non-international armed conflict, namely, "situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature." The remaining criteria define the necessary characteristics of the dissident armed forces or other organised armed groups, which must:

1. be under responsible command;

2. exercise control over part of the territory of the State;

3. carry out sustained and concerted military operations, and

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

4. be able to implement the Protocol.

172. Thus, in the present case, all material requirements existed to consider the situation in Rwanda, during April, May, June and July 1994, as an armed conflict, not of an international character. This conflict took place in the territory of Rwanda between governmental armed forces (Forces Armées Rwandaises -- the FAR) and the dissident armed forces (Rwandese Patriotic Front -- the RPF). These dissidents, under the responsible command of General Kagame, exercised control over part of the territory of Rwanda and were able to carry out sustained and concerted military operations as well as to implement Common Article 3 and Protocol II.

A Link Between the Accused and the Armed Forces

173. In accordance with Article 6 of the ICTR Statute, a person who "planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in Articles 2 to 4 of the present Statute, shall be individually responsible for the crime." Article 4 of the Statute especially provides for prosecuting persons for serious violations of Common Article 3 and Protocol II. Therefore, the question is whether the accused falls within the class of persons who may be held responsible for serious violations of these international instruments.

174. Violations of Common Article 3 and Protocol II could be committed during, or as a result of, military operations. This means that the Parties to an armed conflict should be responsible for such breaches. In the instant case, this would constitute the FAR and the RPF. The ability of the RPF as a dissident armed force to implement legally binding international instruments is considered in Protocol II as a fundamental criteria in order to recognise the non-international character of the armed conflict. The ability of the governmental armed forces to comply with the provisions of such instruments is axiomatic. In the instant case, the two armies were well organised and participated in the military operations under responsible military command. Therefore, based on Article 6(1) of the ICTR Statute, it could be concluded that the appropriate members of the FAR and RPF shall be responsible individually for violations of Common Article 3 and Protocol II, if factually proven.

175. Thus, individuals of all ranks belonging to the armed forces under the military command of either of the belligerent Parties fall within the class of perpetrators. If individuals do not belong to the armed forces, they could bear the criminal responsibility only when there is a link between them and the armed forces. It cannot be disregarded that the governmental armed forces are under the permanent supervision of public officials representing the government who had to support the war efforts and fulfil a certain mandate. On this issue, in the Akayesu Judgement, Trial Chamber I was correct to include in the class of perpetrators, "individuals who were legitimately mandated and expected as public officials or agents or persons otherwise holding public authority or de facto representing the Government to support or fulfil the war efforts." [FN62]

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

FN62 Akayesu Judgement, para. 631.

176. Thus, the Trial Chamber is of the opinion that the laws of war apply not only to the members of the armed forces but, in certain cases, to civilians as well, if so established factually. In this case, the accused persons could fall within the class of individuals who may be held responsible for serious violations of Common Article 3 and Protocol II. Violations of these international instruments could be committed outside the theatre of combat. For example, the captured members of the RPF may be brought to any location within the territory of Rwanda and could be under the control or in the hands of persons who are not members of the armed forces. Therefore, every crime should be considered on a case-by-case basis taking into account the material evidence presented by the Prosecution. In other words, the evidence needs to show, beyond a reasonable doubt, that there was a link between the accused and the armed forces.

Ratione Personae

177. Two distinct issues arise with respect to personal jurisdiction over serious violations of Common Article 3 and Protocol II. In addition to the class of perpetrators, which has been considered above, the issue of the class of victims should be addressed.

178. It is delineated in paragraph 1 of the Indictment that, "thousands of men, women, and children were killed and numerous people injured" at the four sites in the Prefecture of Kibuye between about 10 April and 30 June 1994. It was added in paragraphs 25, 32, 39 and 45 of the Indictment that "these men, women and children were unarmed and were predominantly Tutsis."

179. On the basis of the definition of the civilian population contained in Article 50 of Additional Protocol I, the conclusion could be made that the victims of the massacres which occurred at the four sites, referred to in the Indictment, qualify as the civilian population. This definition stipulates, "the civilian population comprises all persons who are civilians." The first paragraph of the same Article indicates that, "a civilian is any person who does not belong to one of the categories of persons referred to in Article 4(A)(1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol." Each of these Articles enumerates the various types of combatants. Therefore, in accordance with this definition, for the purpose of protection of victims of armed conflict, all persons who are not combatants might be considered civilians.

180. On this basis, the ICRC comes to the following conclusion: "Thus the Protocol adopted the only satisfactory solution, which is that of a negative definition, namely, that the civilian population is made up of persons who are not members of the armed forces." [FN63] It should be noted that there is a certain distinction between the terms "civilians" and "civilian population." There are civilians who accompany the armed forces or are attached to them. Civilians could even be among combatants who take a direct part in the hostilities. There is clear confirmation of this fact in Protocol II which stipulates that, "civilians shall enjoy the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

protection afforded by this part unless and for such time as they take a direct part in the hostilities." [FN64] However, the civilian population as such does not participate in the armed conflict. Article 50 of Protocol I emphasises, "the presence within the civilian population of individuals who do not come within the definition of civilian does not deprive the population of its civilian character." [FN65]

FN63 COMMENTARY ON THE ADDITIONAL PROTOCOLS (Jean Pictet, ed.) (ICRC, Mantinus Nijhoff Publishers, Geneva, 1987), p. 610, section 1913.

FN64 Additional Protocol II, Art. 13(3).

FN65 Additional Protocol I, Article 50(3).

181. It is generally known that the civilian population is unarmed and is not in any way drawn into the armed conflict. The Chamber also takes into account the fact that the Defence did not challenge the civilian status of the victims. Whether there is a material averrment for charges involving Article 4 of the Statute is a question of findings which is addressed in Part VI of the Judgement.

Ratione Loci

182. In spite of the fact that there is no clear provision on applicability ratione loci either in Common Article 3 or Protocol II, the juridical situation is rather clear. The Chamber has to recall that two Parties in the armed conflict were legally bound by the provisions of these international instruments. Therefore, in accordance with requirements of international public law, these instruments should be applicable in the whole territory of Rwanda. Moreover, in Article 4 of Protocol II, which in principle reproduces Common Article 3, there is a clear indication that the enumerated criminal acts "shall remain prohibited at any time and in any place whatsoever." Therefore, it is unnecessary that serious violations of Common Article 3 and Protocol II occur in the actual theatre of operations. Captured persons, for example, could be brought to other locations of the territory, but despite this relocation, they should be treated humanely. The expression "at any time whatsoever" means that the temporal factor does not assume a narrow interpretation. This approach was confirmed by the ICTY Appeal Chamber in its decision on jurisdiction in the Tadic Judgement wherein it was held that,

... the geographical and temporal frame of reference for internal armed conflicts is similarly broad. This conception is reflected in the fact that beneficiaries of Common Article 3 of the Geneva Conventions are those taking no active part (or no longer taking an active part) in the hostilities. This indicates that the rules contained in Article 3 also apply outside the narrow geographical context of the actual theatre of combat operations. [FN66]

FN66 ICTY Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction of 2 October 1995, para. 69.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

183. The Appeal Chamber also remarked in this paragraph that "like Common Article 3, it explicitly protects all persons who do not take a direct part or who have ceased to take part in the hostilities...Article 2(1) [of Protocol II] provides 'this Protocol shall be applied [...] to all persons affected by an armed conflict as defined in Article 1'." After quoting Article 2(2) of Protocol II about persons who have been deprived of their liberty the Appeals Chamber noted that "under this last provision the temporal scope of the applicable rules clearly reaches beyond the actual hostilities...The nexus required is only a relationship between the conflict and the deprivation of liberty, not that the deprivation occurred in the midst of battle."[Emphasis added]. On the basis of the foregoing, the Appeal Chambers came to the conclusion that in case of internal conflict, until a peaceful settlement is achieved, international humanitarian law continues to apply in the whole territory under the control of a Party, whether or not actual combat takes place there and the crimes committed in these circumstances should be considered as crimes "in the context of an armed conflict." [FN67] Thus, the Appeals Chamber found that the alleged crimes should not be considered in the narrow geographical and temporal framework and should be understood as crimes committed in the context of an armed conflict if there is a relationship between this conflict and the offence.

FN67 Ibid. para. 70.

Serious Violations

184. The competence of the Chamber is limited to serious violations of Common Article 3 and Protocol II. Article 4 of the ICTR Statute states that the persons committing or ordering to be committed serious violations of Common Article 3 and Protocol II should be prosecuted. The Chamber finds that this is a qualitative limitation of its competence and the phrase "serious violations" should be interpreted as breaches involving grave consequences. The list of prohibited acts, which is provided in Article 4 of the ICTR Statute, as well as in Common Article 3 and in Article 4 of Protocol II, undeniably should be recognised as serious violations entailing individual criminal responsibility.

Nexus Requirement Between the Armed Conflict and the Crime

185. It is important to establish whether all the crimes committed during the non-international armed conflict should be considered as crimes connected with serious violations of Common Article 3 and Protocol II. The Chamber is of the opinion that only offences, which have a nexus with the armed conflict, fall within this category. If there is not a direct link between the offences and the armed conflict there is no ground for the conclusion that Common Article 3 and Protocol II are violated.

186. The jurisprudence in this area of the law requires such a link between the armed conflict and the offence. The ICTY Trial Chamber in the Judgement of Prosecutor v. Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo (Celebic¥ Judgement) stated that "there must be an obvious link between the criminal act and

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

the armed conflict." [FN68] The same point of view is reflected in the Tadic Judgement. In Tadic, the Trial Chamber remarked that "the only question to be determined in the circumstances of each individual case was whether the offences were closely related to the armed conflict as a whole." [FN69] In the Akayesu Judgement, the Trial Chamber found that "...it has not been proved beyond reasonable doubt that the acts perpetrated by Akayesu ...were committed in conjunction with the armed conflict." Such a conclusion means that, in the opinion of that Chamber, such a connection is necessary.

FN68 Prosecutor v. Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo, Case No. IT-96-21-T, 16 Nov. 1998, para. 193.

FN69 Tadic Judgement, para. 573.

187. This issue was discussed recently at the first session of the Preparatory Commission for the International Criminal Court (16 to 26 February 1999). From the point of view of the participants, war crimes would occur if the criminal conduct took place in the context of and was associated with the armed conflict. [FN70]

FN70 The Second Discussion Paper (PCNICC/1999/WGE/RT.2).

188. Thus the term "nexus" should not be understood as something vague and indefinite. A direct connection between the alleged crimes, referred to in the Indictment, and the armed conflict should be established factually. No test, therefore, can be defined in abstracto. It is for the Trial Chamber, on a case-by-case basis, to adjudge on the facts submitted as to whether a nexus existed. It is incumbent upon the Prosecution to present those facts and to prove, beyond a reasonable doubt, that such a nexus exists.

189. The nexus requirement between the offence and the armed conflict is of crucial significance, taking into account that Common Article 3 and Protocol II are designed to protect the victims of the armed conflict. War crimes are inevitably connected with violations of Common Article 3 and Protocol II. Whether there is a nexus between the alleged crimes and the armed conflict in the instant case is an issue of legal findings which will be addressed in Part VI of the Judgement. At this stage it should be highlighted that the consideration of the applicability of the provisions of Common Article 3 and Protocol II would be proper if such a nexus is established.

Conclusion

190. It remains for the Chamber to make a finding in the context of the events alleged in the Indictment with regard to the culpability of the accused under Article 4 of the ICTR Statute. This will be addressed in the Legal Findings Part of the Judgement.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

4.4 CRIMINAL RESPONSIBILITY, ARTICLES 6(1) AND 6(3)

4.4.1 Individual Responsibility - Article 6(1)

191. The Indictment sets out in its General Allegations (paragraph 21) that both Kayishema and Ruzindana, pursuant to Article 6(1) of the Tribunal's Statute, are individually responsible for the execution of crimes referred to in Articles 2 to 4 of the same Statute. Whilst the Chamber will examine the specific charges raised in the Indictment below, it must first address the inherent requirement that the accused be individually responsible for the commission of these crimes. In this respect the Statute adopts a wide scope of inclusion. Article 6(1) states

A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation and execution of the crime referred to in Articles 2 to 4 of the present Statute, shall be individually responsible for the crime.

192. The Parties addressed the Chamber with regard to the interpretation and application of this paragraph to the events in question. Accordingly, it is necessary to consider the degree of participation required in the crimes delineated in Articles 2 to 4 of the Statute. Only then, and in light of the factual findings set out below, is it possible to identify whether either Ruzindana or Kayishema are individually criminally responsible pursuant to Article 6(1).

193. Before addressing the requisite elements necessary to find individual criminal responsibility under Article 6(1), the Trial Chamber will first examine the issue of statutory construction raised by Counsel for Ruzindana.

194. The Defence focused upon a very specific interpretation of Article 6(1). They contended that the modes of participation, "planning, instigation, ordering, committing", should be read cumulatively, but separately from, "aiding and abetting". [FN71] Only such a position, it was submitted, would give full weight to the drafters use of "or" within the Article. Furthermore, because "abetting" and "instigating" have the same meaning, to avoid concurrence it was posited that "aiding and abetting" should also be read cumulatively despite the ruling in the Akayesu Judgement.

FN71 Defence closing arguments, read from written brief submitted by Mr. Van der Griend on behalf of Ruzindana, on 28 October 1998 ("Closing Brief for Ruzindana"), p. 45. In the Closing Brief for Ruzindana, counsel at once urged this cumulative reading, and then endorsed its disjunctive formulation adopted by the Akayesu Judgement, p. 45. The Chamber enunciates its view here for the purpose of clarity.

195. The Trial Chamber is of the opinion that the interpretation submitted by the Defence would not only offend common sense, but would also be contrary to the findings of the Chamber in the Celebici Judgement, where it stated categorically,

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

1999 WL 33288417 (UN ICT (Rwa))

... that individuals may be held criminally responsible for their participation in the commission of offences in any of the several capacities is in clear conformity with general principles of criminal law. As concluded by the Trial Chamber II in the Tadic Judgement, there can be no doubt that this corresponds to the position under customary international law. [FN72] [emphasis added]

FN72 Celebici Judgement, para 321. See also the cases and conventions cited therein.

196. Similar reasoning is found in the Akayesu Judgement where the Chamber remarked, "Article 6(1) covers various stages of the commission of a crime." [FN73] [emphasis added]. Trial Chamber I in the Akayesu Judgement also held that, "aiding and abetting" were not synonymous, thus could separately give rise to individual responsibility. After stating these principles the Chamber in Akayesu proceeded to find the accused guilty of nine counts pursuant to one or more of the modes of participation expressed in Article 6(1).

FN73 Akayesu Judgement, para. 473. See also para. 484 where Trial Chamber I reads "aiding and abetting" disjunctively.

197. The Trial Chamber can see no reason to depart from these logical and well-founded expressions of international law. Therefore, if any of the modes of participation delineated in Article 6(1) can be shown, and the necessary actus reus and mens rea are evidenced, then that would suffice to adduce criminal responsibility under this Article.

198. The Trial Chamber is of the opinion that, as was submitted by the Prosecution, there is a further two stage test which must be satisfied in order to establish individual criminal responsibility under Article 6(1). This test required the demonstration of (i) participation, that is that the accused's conduct contributed to the commission of an illegal act, and (ii) knowledge or intent, that is awareness by the actor of his participation in a crime. [FN74]

FN74 Prosecution Closing Brief, p. 17. This test was drawn from the Tadic Judgement applying identical provisions in Article 7(1) of the ICTY Statute.

199. The first point of this test, the actus reus of participation, was considered in great detail by Trial Chamber I in the Akayesu Judgement and by the ICTY in the Tadic Judgement. [FN75] It is now firmly established that for the accused to be criminally culpable his conduct must have been proved, beyond a reasonable doubt, to have contributed to, or have had an effect on, the commission of the crime. [FN76] What constitutes the actus reus and the requisite contribution inevitably varies with each mode of participation set out in Article 6(1). [FN77] What is clear is that the contribution to the undertaking be a substantial one, and this is a question of fact for the Trial Chamber to consider.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN75 See, respectively, paras. 480-484, and paras. 673-674 and 688-692.

FN76 See Tadic Judgement, para. 673-674; Celebici Judgement, para. 326; Akayesu Judgement, para. 473-475; Furundzija Judgement, para. 235; and the authorities cited therein.

FN77 See Akayesu Judgement, paras. 480-485.

200. It is not presupposed that the accused must be present at the scene of the crime, nor that his contribution be a direct one. That is to say, in light of the decision rendered in the Furundzjia Judgement and the jurisprudence set out therein, the role of the individual in the commission of the offence need not always be a tangible one. This is particularly pertinent where the accused is charged with the "aiding" or "abetting" of a crime. In Furundzija it was held, "... an approving spectator who is held in such respect by the other perpetrators that his presence encourages them in their conduct, may be guilty of complicity in a crime against humanity." [FN78]

FN78 Furundzija Judgement, para 207.

201. This Chamber concurs. The presence of such a spectator need not be a conditio sine qua non for the principal. Therefore, subject to the caveat that the accused knew the effect that his presence would have, he may be found responsible under Article 6(1) for such a contribution to the commission of any of the offences specified in the Tribunal's Statute.

202. This jurisprudence extends naturally to give rise to responsibility when the accused failed to act in breach of a clear duty to act. The question of responsibility arising from a duty to act, and any corresponding failure to execute such a duty is a question that is inextricably linked with the issue of command responsibility. This is because under Article 6(3) a clear duty is imposed upon those in authority, with the requisite means at their disposal, to prevent or punish the commission of a crime. However, individual responsibility pursuant to Article 6(1) is based, in this instance, not on the duty to act, but from the encouragement and support that might be afforded to the principals of the crime from such an omission. [FN79]

FN79 See the Akayesu Judgement where the accused's failure to oppose the killings, in light of his authoritative position, was found to constitute a form of tacit encouragement, para. 705.

203. In view of such a broad scope of participation that may give rise to responsibility under Article 6(1), there must be a clear awareness that this participation will lead to the commission of a crime. [FN80] The Trial Chamber has set out, in Chapter 5.1 of this Judgement, that the clear objective of the atrocities occurring throughout Rwanda and the Kibuye Prefecture, in 1994, was to

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

destroy the Tutsi population. The perpetrators of these crimes, therefore, were united in this common intention. On this point, the Chamber in the Celebici Judgement declared that where, 2822

FN80 What constitutes a crime is defined by the Tribunal's Statute. Therefore, only the actual commission of a crime will suffice, except for that of genocide where it is specifically stated that an 'attempt' to commit genocide will give rise to criminal responsibility, Article 2(3)(d) of the Statute.

... a plan exists, or where there otherwise is evidence that members of a group are acting with a common criminal purpose, all those who knowingly participate in, and directly and substantially contribute to, the realisation of this purpose may be held criminally responsible. . and ...[d]epending upon the facts of a given situation, the culpable individual may, under such circumstances, be held criminally responsible either as a direct perpetrator of, or as an aider and abettor to, the crime in question. [FN81]

FN81 Celebici Judgement, para. 328.

204. The Trial Chamber concludes, therefore, that the members of such a group would be responsible for the result of any acts done in furtherance of the common design where such furtherance would be probable from those acts.

205. Thus, the accused need not necessarily have the same mens rea as the principal offender. Whilst knowledge or intention will give rise to individual responsibility under Article 6(1), the distinction is only of importance in distinguishing whether the accused aids or abets a crime or is a co- perpetrator. [FN82]

FN82 See Furundzija Judgement, paras. 250-257.

206. Such a requirement of mens rea refutes the contention by Counsel for Kayishema that the burden of proof is reversed when the actus reus for responsibility, under this Article, arises through the failure to perform an act. The Prosecution must prove that the accused was aware that his failure to act would contribute to the commission of a crime.

207. In short, therefore, the Chamber finds that each of the modes of participation may, independently, give rise to criminal responsibility. The Prosecution must prove that through his mode of participation, whether it be by act(s) or omission(s), the accused contributed substantially to the commission of a crime and that, depending on the mode of participation in question, he was at least aware that his conduct would so contribute to the crime.

4.4.2 Command Responsibility -- Article 6(3)

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

208. The Indictment further alleges that Kayishema was, "also or alternatively individually responsible for the criminal acts of his subordinates". In this respect, Article 6(3) is pertinent. It states,

The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew, or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. [FN83]

FN83 Hereafter, responsibility arising under this Article shall be referred to as "command responsibility", or "superior responsibility". The terms will be used interchangeably.

Ruzindana is not charged under Article 6(3).

209. The principle of command responsibility is firmly established in international law, and its position as a principle of customary international law has recently been delineated by the ICTY in the Celebici Judgement. [FN84] The clear recognition of this doctrine is now reflected in Article 28 of the Rome Statute of the ICC.

FN84 Celebici Judgement, paras. 333-343, in reference to the respective Article in the ICTY Statute.

210. The finding of responsibility under Article 6(1) of the Statute does not prevent the Chamber from finding responsibility additionally, or in the alternative, under Article 6(3). The two forms of responsibility are not mutually exclusive. The Chamber must, therefore, consider both forms of responsibility charged in order to fully reflect the culpability of the accused in light of the facts.

211. There were no submissions made by the Defence with regard to the legal underpinning of Article 6(3). As such, the Trial Chamber will consider the position advanced by the Prosecution concomitantly with its examination of the various elements that must be satisfied in order to establish criminal liability under the doctrine of command responsibility.

212. It is essential to consider first whether Kayishema, in his role as Prefect, is subject to the notion of command responsibility set out in Article 6(3). Secondly, it is incumbent upon the Chamber to consider who constitutes the subordinates over whom Kayishema would exercise command. In this respect it would also be necessary to clarify whether those subordinates must be under his de jure command, or if de facto subordination would suffice. Thirdly, the requisite degree of knowledge of the subordinate's actions required to establish command responsibility must also be considered. Finally, the Chamber must address the question of when an individual becomes responsible under this doctrine for failing

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

to prevent a crime or punish the perpetration thereof.

Responsibility of a Non-Military Commander

213. The Prosecution submitted that the principle of superior responsibility applies not only to military commanders, but also extends to civilians in positions of authority. [FN85] The Chamber finds that the application of criminal responsibility to those civilians who wield the requisite authority is not a contentious one. There are a number of reasons for this.

FN85 Closing Brief, p. 20.

214. The construction of the Statute itself is clear. It makes no limited reference to the responsibility to be incurred by military commanders alone. [FN86] Rather, the more generic term of "superior" is used. The Chamber concurs with the observation in the Celebici Judgement that this generic term, coupled with its juxtaposition to the individual criminal responsibility of "Head[s] of State or Government" or "responsible Government officials" in Article 6(2), clearly reflects the intention of the drafters to extend this provision of superior responsibility beyond military commanders, to also "encompass political leaders and other civilian superiors in positions of authority." [FN87]

FN86 C.f. the specification of the responsibility of "military commanders" in Article 87 of Protocol I Additional to the Geneva Conventions 1949, (Jean Pictet ed.).

FN87 Celebici Judgement, para. 356.

215. The jurisprudence also supports this interpretation. Before Trial Chamber I of this Tribunal, the former Prime Minister, Jean Kambanda, pleaded guilty to crimes against humanity and genocide by virtue, inter alia, of Article 6(3). [FN88] Similarly, Omar Serushago, a prominent local civilian and leader of the members of the Interahamwe in Gisenyi Prefecture, also pleaded guilty to crimes against humanity and genocide and acknowledged responsibility for these crimes pursuant to Article 6(3). [FN89] In addition, the Celebici Judgement, which addressed this issue in great detail, highlighted the practice of the Military Tribunal for the Far East (Tokyo Tribunal), and the Superior Military Government Court of the French Occupation Zone in Germany, where senior politicians and even leading industrialists were charged with the commission of war crimes committed by their subordinates. [FN90]

FN88 Prosecutor v. Jean Kambanda, Judgement and Sentence, Case No.: ICTR 97- 23-S (Eng.).

FN89 Prosecutor v. Omar Serushago, Judgement and Sentence, Case No.: ICTR 98-

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN90 Ibid, paras. 356-362.

216. The crucial question in those cases was not the civilian status of the accused, but of the degree of authority he exercised over his subordinates. [FN91] Accordingly the Chamber accepts the submission made by the Prosecution that a civilian in a position of authority may be liable under the doctrine of command responsibility. The Chamber will turn, therefore, to consider in what instances a civilian can be considered a superior for the purposes of Article 6(3), and the requisite "degree of authority" necessary to establish individual criminal culpability pursuant to this doctrine of superior responsibility.

FN91 See the opinion of Judge Röling in the "Rape of Nanking" case, and the Akayesu Judgement, para. 491.

Concept of Superior: de Jure and de Facto Control

217. This superior-subordinate relationship lies at the heart of the concept of command responsibility. The basis under which he assumes responsibility is that, if he knew or had reason to know that a crime may or had been committed, then he must take all measures necessary to prevent the crime or punish the perpetrators. If he does not take such actions that are within his power then, accordingly, he is culpable for those crimes committed. The Trial Chamber in Celebici set out the guiding principle in this respect, when it stated that, "[T]he doctrine of command responsibility is ultimately predicated upon the power of the superior to control the acts of his subordinates". [FN92] The Chamber then elaborated upon this principle by warning that, "[We] must at all times be alive to the realities of any given situation and be prepared to pierce such veils of formalism that may shield those individuals carrying the greatest responsibility for heinous acts." [FN93]

FN92 Celebici Judgement, para. 376.

FN93 Ibid., para. 377.

218. In order to 'pierce the veils of formalism' therefore, the Chamber must be prepared to look beyond the de jure powers enjoyed by the accused and consider the de facto authority he exercised within Kibuye during April to July 1994. The position expounded by the ILC that an individual should only be responsible for those crimes that were within his legitimate legal powers to prevent, [FN94] does not assist the Trial Chamber in tackling the, 'realities of any given situation'. Therefore, in view of the chaotic situation that which prevailed in Rwanda in these pivotal months of 1994, the Chamber must be free to consider whether Kayishema had the requisite control over those committing the atrocities to establish individual criminal liability under Article 6(3), whether by de jure or

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

2826

de facto command.

FN94 ILC Draft Code of Crimes.

219. A concentration upon the de jure powers of the prefect would assist neither Party. For example, focussing upon the de jure power of the prefect under the 1991 Constitution would be to prevent proper consideration of the Defence's case that the climate in Rwanda and the practical realities at that time were such that the prefect not only had no control over certain de jure subordinates, but also that he had no means to effectively prevent the atrocities that were occurring. Equally, a restricted view of the concept of superior to those exercising de jure control would not enable the Chamber to adequately consider the arguments of the Prosecution. She submitted that Kayishema exercised both legal command over those committing the massacres and de facto authority over these and other assailants such as the members of the Interahamwe.

220. This approach is also congruent with the Celebici case and the authorities cited therein. [FN95] For example, having examined the Hostage and High Command cases the Chamber in Celebici concluded that they authoritatively asserted the principle that, "powers of influence not amounting to formal powers of command provide a sufficient basis for the imposition of command responsibility." This Trial Chamber concurs.

FN95 Celebici Judgement, paras. 364-378.

221. Moreover, the Rome Statute for the ICC, having delineated the circumstances in which a military commander would incur responsibility as a superior, stipulates in Article 28(2) that all other superiors shall be criminally responsible for acts, "committed by subordinates under his or her effective control." [emphasis added].

222. Article 6 of this Tribunal's Statute is formulated in a broad manner. By including responsibility of all government officials, all superiors and all those acting pursuant to orders, it is clearly designed to ensure that those who are culpable for the commission of a crime under Articles 2 to 4 of the Statute cannot escape responsibility through legalistic formalities. Therefore, the Chamber is under a duty, pursuant to Article 6(3), to consider the responsibility of all individuals who exercised effective control, whether that control be de jure or de facto.

223. Where it can be shown that the accused was the de jure or de facto superior and that pursuant to his orders the atrocities were committed, then the Chamber considers that this must suffice to found command responsibility. The Chamber need only consider whether he knew or had reason to know and failed to prevent or punish the commission of the crimes if he did not in fact order them. If the Chamber is satisfied beyond a reasonable doubt that the accused ordered the alleged atrocities then it becomes unnecessary to consider whether he tried to

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

prevent; and irrelevant whether he tried to punish.

224. However, in all other circumstances, the Chamber must give full consideration to the elements of 'knowledge' and 'failure to prevent and punish' that are set out in Article 6(3) of the Statute.

Knowledge of Subordinates' Actions

225. The mens rea in Article 6(3) requires that for a superior to be held criminally responsible for the conduct of his subordinates he must have known, or had reason to know, of their criminal activities. If it can be proven beyond a reasonable doubt that the superior knew of the crimes that were being committed by those over whom he exercised control then the requisite mens rea is clearly established.

226. However, when we consider that individual responsibility arises when the superior "had reason to know" that a crime had or was about to be committed, the requisite mens rea is not so clear. The expansive approach to apportioning command responsibility in the cases following the Second World War was observed by the Trial Chamber in the Celebici Judgement. These cases first imposed a duty for the commander to know everything that occurred within his ambit of jurisdiction, and then imposed responsibility upon the commander for failure to fulfil that duty. [FN96] The Chamber in the Celebici case did not follow this reasoning. Instead it preferred it be proven that some information be available that would put the accused on notice of an offence and require further investigation by him.

FN96 See Celebici Judgement, para. 389, and the cases cited therein, particularly the Hostage case, the Toyoda case, and the Pohl case.

227. On this issue, the Chamber finds the distinction between military commanders and other superiors embodied in the Rome Statute an instructive one. [FN97] In the case of the former it imposes a more active duty upon the superior to inform himself of the activities of his subordinates when he, "knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes." This is juxtaposed with the mens rea element demanded of all other superiors who must have, "[known], or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes."

FN97 Article 28(1)(a), and 28(2)(a).

228. The Trial Chamber agrees with this view insofar that it does not demand a prima facie duty upon a non-military commander to be seized of every activity of all persons under his or her control. In light of the objective of Article 6(3) which is to ascertain the individual criminal responsibility for crimes as serious as genocide, crimes against humanity and violations of Common Article 3 to the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Geneva Conventions and Additional Protocol II thereto, the Chamber finds that the Prosecution must prove that the accused in this case either knew, or consciously disregarded information which clearly indicated or put him on notice that his subordinates had committed, or were about to commit acts in breach of Articles 2 to 4 of this Tribunal's Statute.

Effective Control: Failure to Prevent or Punish a Crime

229. The principle of command responsibility must only apply to those superiors who exercise effective control over their subordinates. This material ability to control the actions of subordinates is the touchstone of individual responsibility under Article 6(3). The International Law Commission in its Draft Code went so far as to suggest that for a superior to incur criminal responsibility, he must have, "the legal competence to take measures to prevent or repress the crime and the material possibility to take such measures." [FN98] [emphasis added].

FN98 ILC Draft Code of Crimes, pp. 38-39.

230. However, as the Chamber highlighted above, to give such prominence to the de jure power bestowed upon an individual is to provide justice to neither Party. There is a need to shed this legalistic formalism and to focus upon the situation which prevails in the given fact situation. Therefore, the Chamber prefers the position as set out in the Celebici Judgement where it was held that,

... the superior have effective control over the persons committing the underlying violations of humanitarian law, in the sense of having the material ability to prevent and punish the commission of these offences. With the caveat that such authority can have a de facto as well as a de jure character... [FN99]

FN99 Celebici Judgement, para. 378.

231. Accordingly, the ability to prevent and punish a crime is a question that is inherently linked with the given factual situation. Thus, only in light of the findings which follow and an examination of the overall conditions in which Kayishema had to operate as Prefect, can the Chamber consider who were the subordinates to Kayishema from April to July 1994 and whether he exercised the requisite degree of control over them in order to conclude whether he is individually criminally responsible for the atrocities committed by them.

V. FACTUAL FINDINGS 5.1 Alibi

5.2 Did Genocide Occur in Rwanda and Kibuye in 1994?

5.3 An Introduction: The Massacres at the Catholic Church and Home St. Jean Complex, Stadium in Kibuye Town and the Church in Mubuga

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

2829

5.4 The Massacres in the Area of Bisesero

5.1 Alibi

232. Both Kayishema and Ruzindana raised the defence of alibi to the charges levied against them. Both accused assert that they were not at the sites when any of the massacres occurred. The Trial Chamber shall consider the arguments advanced by Kayishema and Ruzindana below. Before examining the specifics of the alibi defences, however, it is first necessary to consider the procedural concerns that have accompanied their invocation.

5.1.1 Alibi Defence and Rule 67 of the Rules

The salient provisions of Rule 67 of the Rules state that,

(A) As early as reasonably possible and in any event prior to the commencement of the trial:

(ii) the defence shall notify the Prosecutor of its intent to enter:

(a) the defence of alibi; in which case the notification shall specify the place or places at which the accused claims to have been present at the time of the alleged crime and the names and addresses of witnesses and any other evidence upon which the accused intends to rely to establish the alibi

(B) Failure of the defence to provide such notice under this Rule shall not limit the right of the accused to rely on any of the above defences.

233. The requirement upon the Defence to disclose its intention to rely upon the defence of alibi reflects the well-established practice in the common law jurisdictions around the world. [FN1] It is a requirement necessary in many jurisdictions, and in the jurisdiction of this Tribunal, in order to allow the Prosecution to adequately prepare its case. Once the accused has raised the defence of alibi, the burden to prove this defence may or may not rest upon him depending upon the jurisdiction concerned. In some jurisdictions such as India, the burden of proof rests upon individuals, who plead the defence of alibi. [FN2] In several other jurisdictions as for example in South Africa, the burden of proof rests upon the Prosecution. [FN3]

FN1 In this respect see Criminal Justice Act 1967 s.11 of England which specifically legislates to require disclosure of alibi prior to trial. Similar legislation exists in Canada, as well as certain states of the United States and Australia.

FN2 Section 103 of the Indian Evidence Act. Refer to Sakar on Evidence, vol. 2 (1993), 14th Ed. p. 1341.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN3 R v. Biya. (1952) 4 SA 514 (Appellate Division); Woolmington v. D.P.P. (1935) A.C. 462 (H.L.) and R v. Wood, Cr. App. R. 74, at 78 (1968) (English Law); Sekitoleko v. Uganda [1967] E.A. 531 (U) (Ugandan Law).

234. In the instant case, the Trial Chamber holds that the burden of proof rests upon the Prosecution to prove its case beyond a reasonable doubt in all aspects notwithstanding that the Defence raised alibi. After all, the accused is presumed innocent until the Prosecution has proved his guilt under Article 20(3) of the Statute. The accused is only required to raise the defence of alibi and fulfil the specific requirements of Rule 67(A)(ii) of the Rules, which stipulates the necessary information required about the defence of alibi.

235. Under Rule 67 aforementioned, the Defence is required to notify the Prosecution about their intent to rely upon the defence of alibi. However, Counsel for Kayishema made absolutely no indication prior to the commencement of the trial of his intention to rely upon the defence of alibi, and Counsel for Ruzindana only submitted limited information with regard to the witnesses that he intended to call. The Prosecution filed a formal complaint by Motion in which it requested the Trial Chamber to order compliance with Rule 67(A)(ii) of the Rules. [FN4]

FN4 In, Prosecutor v. Kayishema and Ruzindana, in the Decision on the Prosecution motion for a ruling on the Defence continued non compliance with Rule 67(A)(ii) and with the written and oral orders of the Trial Chamber, 3 Sept. 1998, Case No. International Criminal Tribunal for Rwanda-95-1-T.

236. During the hearing, Kayishema was asked why, in light of the evidence he had heard against him, he had not raised his defence of alibi at an earlier stage. He stated that as far as the Office of the Prosecutor was concerned, the question was never asked of him. Furthermore, he raised the issue at the first opportunity with his Defence Counsel on 31 May 1996.

237. The Trial Chamber has considered the failure of both Defence Counsels to act in accordance with Rule 67(A)(ii). In its Decision on the above Prosecution Motion, the Chamber ruled,

... that where good cause is not shown, for the application of Rule 67(B), the Trial Chamber is entitled to take into account this failure when weighing the credibility of the defence of alibi and/or any special defences presented. [FN5]

FN5 Decision on non-compliance, Ibid.

238. The Trial Chamber notes that the Defence had ample time to prepare their client's defence and takes this on board in consideration of the timeliness of Counsel's notification of the Prosecution in accordance with Rule 67(A)(ii) of the Rules. This approach is congruent with those jurisdictions [FN6] facing similar difficulties in balancing the needs of the Prosecution with the Defendant's right to testify and present a defence. [FN7]

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN6 For example, see Canada, R v. Dunbar and Logan, 68 C.C.C. (2d) 13 at pp. 62-3 (1982); R v. Cleghorn 3 S.C.R. 175 (1995), and Australia, Petty and Maiden v. R, 173 CLR (1991) where although no inference could be taken from the Defendant's prior silence, where a differing explanation had been given then inferences could be drawn.

FN7 Article 20 of the Statute.

239. Counsel for the Defence constantly advanced the argument that the Prosecution's concern over the continued violations of this rule was unjustified in light of the Prosecution's late disclosure of witness lists. [FN8] However, all Parties to the proceedings had the opportunity to raise such lack of disclosure in the appropriate manner before this Chamber. Therefore, the Defence's failure to follow the Rules of Procedure and Evidence is unacceptable and serves neither the interests of the accused nor of justice. Furthermore, the Defence's observation that under Rule 85 the Prosecution may bring evidence to rebut the alibi, does not mitigate the aforementioned duty upon the Defence under Rule 67. [FN9] Moreover, the mere fact that the Prosecutor did not utilise Rule 85 to bring evidence in rebuttal will not have any bearing upon the Trial Chamber's assessment of the evidence presented. Thus, this Chamber will accord no extra weight to the accused's defence of alibi merely because the Prosecution did not call witnesses in rebuttal. Considering the Decision on the above Motion, in which the Trial Chamber ordered the compliance with Rules 67(A)(ii) and 67(B) and in light of the considerations discussed above, the Trial Chamber will, despite the non-compliance with its order and the defiance of the Defence Counsel, consider the defence of alibi advanced by both Kayishema and Ruzindana without prejudice to the accused.

FN8 This was reiterated once again even in Mr. Ferran's rejoinder, Trans., 17 Nov. 1998, pp. 133-139.

FN9 Rule 85(A)(iii) of the Rules.

5.1.2 Kayishema's Alibi Defence

240. The essence of Kayishema's alibi is that he was in hiding from the morning of Saturday 16 April 1994, to the morning of Wednesday 20 April 1994. These dates purportedly removed him from the scene of the massacres at Catholic Church, Home St. Jean Complex and the Stadium that occurred on 16, 17, 18, 19 April. It would also remove him from Mubuga Church on the 16 April, the date that the Trial Chamber has found the major attack at this site occurred. It would not, however, account for his whereabouts in the days that preceded this attack. Kayishema also denies ever being present at any of the massacre sites in the Bisesero area during the period set out in the Indictment, but provides no specific alibi.

241. Kayishema testified before this Trial Chamber that in the early hours of Saturday 16 April, upon the departure of the commanding officer Major Jabo, the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Tutsi gendarmes were mutinying and were looking for him with harmful intention. Upon receipt of this information he, with his wife and children, went into hiding. Kayishema stated in his testimony that between 9 and 10 a.m. he and his family left the prefectorial house and went into hiding. They sought refuge in the houses of white people in Kibuye because they had already been looted and no one was likely to return to them. The first house was that of Mr. Soufflet which lay along from the Prefectorial residence on Lake Kivu, approximately three kilometres from Home St. Jean and the Catholic Church. Kayishema stated that they remained there for the nights of 16 and 17 April. He and his family then moved next door, to the last house in that direction, for the remaining two nights. This was owned by a Swiss technical assistant who was working in the forestry department. Kayishema contended that he was absent from his family only when he would investigate a noise outside or when his informant visited their hiding place. This absence was never in excess of 30 minutes.

242. In an earlier account, Kayishema had volunteered details of this Prosecution period to the investigators, as shown in exhibit 350C, a transcript of the interview with investigators. On 6 November 1996, during the interview with investigators, Kayishema stated that he was in his own home during the period of the massacres at Home St. Jean, the Catholic Church, and the Stadium. Although at this time he could not remember the dates, or the days of the week that he was confined to his house, Kayishema identified individuals with whom he had hidden, namely Emmanuel Dusabimana, Alphonse Kayiranga, the wife of Lieutenant Charles Twagirayezu and the Tutsi wife of a Hutu named Francois. He did not, however, call any of these people to testify on his behalf. In this statement he also asserted that he would spend his nights, in the bush, hiding. During his cross-examination Kayishema explained the difference between his oral testimony and his statement to the investigators. He stated that his position in both was that he had been in hiding during the period of the massacres at the aforementioned sites and, therefore, could not have perpetrated the atrocities alleged.

243. In his testimony, Kayishema went on to describe his activities after he came out of hiding. He talked of travelling around the Prefecture, burying bodies and taking wounded or malnourished children to the hospital, around 22 April. He met with the interim Prime Minister, Jean Kambanda, on 3 May and attended a public meeting with him. Kayishema also talked of going to Gitarama on 9 May in order to meet with the interim government that was based there at that time. His diary, [FN10] the personal diary of the Prefect, details meetings on 10, 11, and 13 May with his sous prefects. Kayishema referred to these meetings, as well as those on the 14 May with his prefectorial council and on 16 May with the interim president, in his testimony to the Trial Chamber. He also confirmed that he had gone into the Bisesero area throughout May, but only to conduct his prefectorial duties and to investigate the disparities between the information he had received and the actual situation in the area. Kayishema submitted, therefore, that Defence witness DU, who testified that the defendant had not left his prefectorial office in this period, had been mistaken. Kayishema maintained, however, that he never visited any of the massacre sites in the Bisesero area during the months of April, May and June 1994 as charged in the Indictment. Moreover, when questioned in cross-examination about eye-witnesses who had identified him in the Bisesero area at specific sites such as Muyira Hill, and the Cave, Kayishema maintained that he did not know where such sites were even located. He asserted that those witnesses who identified him at various massacre sites either between 16 to 20 April, or in the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Bisesero area during the massacres in April, May and June had erred.

FN10 Def. exh. 58.

Defence Witnesses in Support of Kayishema

244. In support of his alibi defence, the defendant called a number of witnesses, including his wife. In her first statement to investigators Mrs. Kayishema had stated that she, her husband and their children had gone into hiding in mid April. She also stated that on 13 May, the date of one of the major attacks in the Bisesero area, her husband had driven her to work in the morning and after dropping her at her work place, he went directly to his office. She arrived at work that Friday morning at 8 a.m., and returned home with her husband at 11 a.m.

245. In her testimony before the Chamber, however, Mrs. Kayishema, who holds a degree in education science and has served as a school inspector, clarified and elaborated upon her first statement. She contended that they had gone into hiding between 16 and 20 April 1994, following the departure of the commanding officer of the gendarmerie nationale in Kibuye Prefecture on 15 April. The corporal who remained was an RPF sympathiser and, she asserted, they had been informed that he had made various threats against the prefect. Although in her testimony Mrs. Kayishema referred to just female and sick gendarmes who had remained behind after the meeting on 15 April, she maintained that she and her husband had gone into hiding on 16 April for fear of their lives. They hid in the houses of those people who had been building the roads, staying in several houses and changing frequently. No more details about the houses were given. However, when questioned about her initial statement to investigators where she claimed to have gone into hiding in the bush for three days, she was able to clarify to this Chamber that she and her children had been hiding in the houses, and that her husband had spent the nights in the bush.

246. In her testimony, Kayishema's wife further elaborated upon the events of Friday 13 May 1994. In addition to the activities in the morning, she recalled that she had attended a public meeting chaired by her husband. The meeting, which began at 2 p.m., was to present the new sous prefets. Mrs. Kayishema did not offer any further testimony regarding her husband's whereabouts over the ensuing weeks, but simply stated that he continued with his duties as Prefect until their departure to Zaire on 16 July 1994.

247. Most witnesses for Kayishema had either not seen him at all during the period in question, such as witness DAC, or had seen him for very short periods of time on isolated occasions. Witness DN, for example, had seen him at a meeting in late April, witness DK saw him at a meeting to inaugurate a school in mid May, and witness DM had seen him briefly sometime in May at the roundabout at the centre of Kibuye Town. Consequently, although all Defence witnesses testified to never having heard of the participation of their Prefect in these massacres, very little specific evidence was proffered as to the accused's whereabouts during their execution. Only two other witnesses were able to provide further detailed insight

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

into Kayishema's activities from 6 April 1994. With regard to the massacre at Mubuga Church, the only witness presented by the Defence was DV. The witness knew the accused by sight because he had seen him in Gitesi where he undertook his studies. He had not actually been present at the massacre and was unsure of the date it occurred. However, he lived only six to seven hundred meters from Mubuga Church and stated that he had not seen the defendant in the vicinity during the period of the massacres. In fact, witness DV testified that he did not see the defendant at all throughout April, May, June or July.

248. Witness DU testified as to Kayishema's whereabouts from 4 May to 16 July 1994. His testimony covered almost the entire period. He knew the defendant well and stayed in Kayishema's house upon returning to Kibuye on 4 May. DU also worked in a canteen, just fifteen meters from the entrance of the Prefecture offices. Although he could not see Kayishema's office, he had a clear view of the entrance of these offices. He testified that he saw Kayishema every day over those two months. He ate breakfast, lunch and evening meals with Kayishema and his family, and often travelled to and from work with him. In the opinion of DU, Kayishema could not have visited the Bisesero area at any time from 4 May to 16 July because the defendant was never absent for periods in excess of 30 minutes. The witness felt able to state this with some certainty because of the proximity of the canteen to the defendant's offices and the fact that the noise of Kayishema's vehicle as he arrived at or departed from the offices made his whereabouts very obvious. The one exception that the witness could recall to these minimal absences was when Kayishema led a meeting and was gone for six hours. Mrs. Kayishema informed witness DU that Kayishema was at a meeting. Like the many other witnesses called for the Defence, DU had never heard any reference to the participation in any massacres by his Prefect, Kayishema.

Examination of Kayishema's Alibi Defence

249. Having set out the defence propounded by Kayishema, the Trial Chamber has also given consideration to the various arguments raised by the Prosecution with regard to the issue of Kayishema's alibi. Particularly, the Chamber has taken note of the many contradictions in the defence raised by Kayishema. These are contradictions not only within his own testimony, but also contradictions between his testimony and the testimony of his wife and the other witnesses called on his behalf.

250. The Trial Chamber observes Kayishema's various statements to the investigators and to the Chamber do not correlate. For instance, in his first voluntary statement to investigators in July 1996 Kayishema made no reference to being in hiding or to the events which supposedly led to his being in hiding, namely the 'mutiny' of the gendarmerie nationale. A number of observations may be made in this regard. In the first instance, the Trial Chamber does not make a negative finding due solely to Kayishema's non- disclosure of his alibi during the initial interviews with investigators. However, in addition to this non-disclosure within his interviews, in Kayishema's diary there was no mention of him either being in hiding or of the gendarme mutiny. The diary, Kayishema confirmed, was the personal diary of the Prefect. Whilst this Chamber appreciates that it is not possible to note every event which occurred, it is surprising that no mention was

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

made of such major events, in particular those that precluded him from undertaking his official functions as Prefect.

251. The second statement given by Kayishema to investigators, on 6 November 1996, also differs in many respects from his testimony before this Chamber. In that interview, Kayishema did not remain silent, but gave specific details of his whereabouts during the massacres at the Home St. Jean complex, the Catholic Church and Gatwaro Stadium. He stated that he was in his home, the residence of the Prefect. When questioned specifically if he was in his home, for the whole time, Kayishema affirmed, "Home, in my house." Kayishema further provided the names of those individuals with whom he was hiding, as set out above. He also went on to describe how he would have to spend entire nights in the bush. Kayishema's statement that he was in his own home contradicts his testimony in court where he testified that he was in hiding in houses belonging to others. In his testimony, responding to a judicial question inquiring whether he was in his home or in hiding, Kayishema confirmed that he was hiding in the bush at night. This answer does not clear up the discrepancy. In his oral testimony Kayishema gave specific details of being in two houses for two nights each, moving from one to the other. Further, when questioned specifically as to why he had told investigators that he had been in his home, Kayishema referred to the need to protect the identity of those in whose houses he had occupied. Responding to another judicial question inquiring why, therefore, he had not told investigators that he had been in hiding could not reveal the identity of Kayishema simply asserted that he had not lied. Kayishema suggested that his response to investigators that he had been in his house had served its purpose, namely to protect the identity of those in the houses of whom he sought refuge.

252. One final point was raised with regard to Kayishema's presence at the sites of Home St. Jean, and the Stadium. In his statement to the investigators he was asked specifically if he had ever visited any of these sites between 7 April and the end of May. He answered emphatically, no. Yet in cross- examination before this Chamber, he stated that he had been at the Catholic Church and Home St. Jean sometime between 13 April and the massacres. When questioned on this discrepancy, he answered that he understood that the investigator was asking whether he had been to these sites on a daily basis. This explanation is not entirely convincing.

Contradictions Between Kayishema's Evidence and the Evidence of his Wife and Others

253. The contradictions within this defence extend beyond the statements and testimonies of Kayishema alone. Discrepancies exist, for example, between his account and that of his wife's. In her statement to the investigator's on 28 April 1998 Mrs. Kayishema maintained that she and her family were in hiding for three days in the bush, but she could not remember the days or dates. Almost two months later, before this Trial Chamber, she testified that they went into hiding on 15 April, and finally concluded under cross-examination that they had actually gone into hiding on 16 April. She made no mention of others being in their house prior to their departure. Whilst Mrs. Kayishema confirms that they were in hiding until 20 April, she talks of moving from house to house "frequently". [FN11] Her husband said that they were in just two houses. She testified that he spent the nights in the bush. He testified that for these four nights and days he did not leave her in

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

excess of 30 minutes.

FN11 Trans., 24 June 1998, p. 121.

254. With respect to those dates outside of 16 to 20 April, Mrs. Kayishema's testimony offers little further insight. She does not provide any information of her husband's whereabouts on 15 April, during the massacres at Mubuga Church. Similarly, she provides little information on his movements after they came out of hiding. She does confirm that he continued his activities as Prefect and she also testified as to his activities on Friday 13 May 1994. It was on this date that one of the major attacks in the Bisesero area occurred. It was her testimony, however, that during that day Kayishema had driven her to work at around 8 a.m. They then returned home at approximately 11 a.m. that same morning where they stayed until she and her husband attended a public meeting where the defendant presented the new sous préfets at 2 p.m. that afternoon. When asked why Mrs. Kayishema had not mentioned this meeting in the afternoon when speaking to investigators two months prior to her testimony she claimed that she had simply not remembered it. This meeting was entered in Kayishema's diary. However, whereas two previous meetings with regard to the new sous prefects had been written in French, this meeting was noted in another ink and written in Kinyarwanda. Furthermore, this note states that it was a meeting with all staff members to present the new sous prefects. [FN12] There is no mention of the meeting being a public one as Mrs. Kayishema had claimed. The Trial Chamber has some doubt whether the entry regarding this meeting was in fact entered at the time of events.

FN12 Def. exh. 58.

255. Beyond these specific days, and a few other notable days of interest such as when the Cardinal visited the region, the Mrs. Kayishema does not offer any further testimony as to her husband's actions during the remaining period when massacres were occurring in the Bisesero area. However, Witness DU, a friend of Kayishema who claims to have been resident in his house from 4 May, offers this alibi. He testified that apart from one day when the defendant was attending a meeting all morning, Kayishema never left his offices for more than half an hour. It is a testimony that is discredited initially by its improbability, especially in light of Kayishema's position as Prefect that demanded his presence over the whole Prefecture. It is also a testimony that is discredited by its contradictions with Mrs. Kayishema's and the defendant's own testimony before this Chamber. Kayishema gave detailed evidence of his continuing activities as Prefect throughout April, May and June. He specifically confirmed, contrary to the opinion of DU, that he had been to the Bisesero area. The testimony of witness DU, therefore, adds little weight to Kayishema's alibi defence for the massacres that occurred in the Bisesero region.

Kayishema's Elaboration

256. A further phenomenon highlighted by the Prosecution was the Kayishema's ability to recall exact dates, days and even times that he was in hiding during

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

his testimony. It is a matter of concern to this Trial Chamber because it is in sharp contrast to his interview, almost two years prior. In that interview in November 1996 Kayishema could not provide any dates or even days that he was in hiding. Kayishema was asked in cross-examination before this Trial Chamber why he had given the response to the investigators that he did not remember what days he was in hiding. His considered response was that, in the first place, he did not know what were going to be the key issues for his defence. Secondly, he asserted that he had the right to remain silent. However, this Chamber notes that he did not remain silent. Rather, he specifically said that he did not remember. [FN13] The Chamber also notes that Kayishema could not have an answer what had aided his memory, in light of the absence of any entry in his diary, since that last interview. Although not conclusive in itself, the Trial Chamber has taken such elaboration into consideration. [FN14]

FN13 Pros. exh. 350CA.

FN14 Similar elaboration by the accused, central to the defence of alibi, were observed by the Trial Chamber in the Tadic Judgement, para. 502.

Finding

257. In light of these contradictions, this Chamber does not find any merit in the defence advanced by Kayishema. Whilst the burden of proof rests upon the Prosecution to prove the case against Kayishema, the defence of alibi that has been raised on his behalf has not been sufficient to levy any doubt against that Prosecution case which is set out and considered below.

5.1.3 Ruzindana's Alibi Defence

258. In total, 21 witnesses appeared on behalf of Ruzindana alone and gave testimony pertinent to his defence of alibi. Most of these witnesses did not give a comprehensive account of Ruzindana's whereabouts during the period when massacres were known to have occurred in the Bisesero region. Nevertheless, a picture was built by the Defence of a man continuing his business in the town of Mugonero.

259. After the death of President Habyarimana, on 6 April 1994, Ruzindana and his family left Remera, a neighbourhood of Kigali, where they had been living. They returned to Mugonero where Ruzindana's father continued to run a shop. Ruzindana was a businessman and a well-known figure in the area. A number of witnesses testified to having seen Ruzindana for varying periods of time between April and July 1994. Witnesses testified to having seen Ruzindana serving customers in his father's shop, others observed Ruzindana at the local market which was held every Wednesday, or noticed him on the roads between Kibuye, Cyangugu and Gisenyi.

260. Specifically, witnesses such as DD testified to frequenting the store of Ruzindana's father "almost everyday" where, on most occasions, Ruzindana had served him. [FN15] Witness DD, a friend of Ruzindana's was not more specific but witness DAA apparently corroborated his account. Like DD, witness DAA worked in a store opposite the Ruzindana family shop and confirmed that Ruzindana was never away from

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Mugonero for more than a week. However, like all other witness who testified for the accused, he never accompanied Ruzindana on these business trips. Moreover, the only exact dates to which he could confirm that Ruzindana was present at Mugonero were the 12 to 14 April.

FN15 Trans., 20 May 1998, p.105.

261. Ruzindana was also seen regularly in the Mugonero market, which was held every Wednesday. Witnesses DB, DE, DF, DN, DQ, DS and DY identified Ruzindana in the market on numerous occasions throughout April, May and June. However, no exact dates were ever given by these witnesses. Witness DB, for example, saw the accused one Wednesday in early May; witness DF recollected seeing him four times in these three months; witness DQ saw him once in April and twice in May. Thus, it is possible to see that these sightings, which would last only a few minutes, are utilised by the Defence to reflect the activities of an individual continuing his normal course of business. They are not, and cannot, be offered as a comprehensive alibi for his whereabouts during the massacres in the Bisesero area.

262. Similarly, the Defence offered a number of examples where witnesses had seen Ruzindana on the roads in the conduct of his business. Other witnesses referred to Ruzindana driving one of his four trucks in the course of his trading, transporting beer or coffee to and from Mugonero. Witness DQ, for example, testified that Ruzindana passed by on the road to Kibuye on at least nine occasions in this period; witness DS saw him with empty beer bottles on the way to Kibuye; witness DD, who worked opposite the Ruzindana shop, talked of the accused leaving with empty beer bottles and returning, a few hours later, with full ones; and witness DR, who owned a kiosk near the roadside, testified that Ruzindana would often drive past with his driver in his green Toyota pick-up truck -- leaving at approximately 8 a.m. with empty beer bottles and returning around 4 p.m. with full ones. Although none of these witnesses were able to give the Trial Chamber any specific dates as to when they saw Ruzindana undertaking these trips, they were able to further elaborate upon the impression of an individual continuing his daily business activities. To this end, witnesses DB and DA also testified that Ruzindana was in the areas of Cyangugu and Gisenyi for business purposes. Once again, their information is very imprecise and relate his whereabouts for only very limited periods of time. For example, witness DB described how he met Ruzindana in Mugonero approximately one week after the President's death, in Cyangugu Prefecture on a Tuesday one month after that, and then in Mugonero on Wednesday of the next week.

263. The Chamber is cognisant of the difficulties often encountered by witnesses in recalling such details and we have, accordingly, set out our approach elsewhere. [FN16] However, the Trial Chamber observes that virtually none of the witnesses presented on behalf of the accused were able to give any substantial idea of his whereabouts in their testimony before this Tribunal. Beyond those already stipulated, only witness DH was able to verify a certain date that Ruzindana was in Mugonero. He described how the accused was present when he arrived in Mugonero on the morning of Saturday 16 April. Witness DH, a relative of the accused, remained there until 3 p.m. and described how Ruzindana had also stayed in the town for the duration of his visit. Beyond that, like those witnesses set out above, witness DH simply describes how he had met Ruzindana one day in mid May on the road to Kibuye, about twenty kilometres from Mugonero, and that Ruzindana had just bought supplies of beer.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN16 Chapter 3.3

264. Ruzindana's wife was one of the few who is able to give a more comprehensive picture of his movements during this period. She testified that whilst he went to work, she would remain in the house during the day. However, because they shared a midday meal every day she could be certain that Ruzindana was within the vicinity of Mugonero on most days. Mrs. Ruzindana testified that the Ruzindana had only left for prolonged periods of time on four or five occasions. These periods could be either one or two days if Ruzindana had gone to Cyangugu or Gisenyi on business. Employees working in Ruzindana's house supported this testimony. The houseboy, DC, testified that Ruzindana would leave very early some mornings and would not return for up to two days. Although he had no personal knowledge of why Ruzindana was away, DC testified that on such occasions Ruzindana had instructed him to inform his family that he had gone for supplies. No clear indication of the days or dates that the accused would spend away from the home were offered. This is in common with those other witnesses set out above who corroborated the fact that Ruzindana would go away for either day trips or prolonged periods of time, but could also offer no certainty as to when those occasions were. Accordingly, as with sightings at the market and on the road, the Trial Chamber is unable to assess whether the sightings and trips away that have been alluded to were congruent or separate.

265. Each witness further testified that at no time did they see Ruzindana in the company of the militia or the armed forces or in the possession of any form of weapon during the period set out in the Indictment.

Examination of Ruzindana's Alibi Defence

266. The Prosecution questioned the reliability, credibility and relevance of various Defence witnesses. They raised the issue of reliability vis-à-vis the testimony of various witnesses who had close relationships with Ruzindana. Not only was there Ruzindana's wife who testified, but also two other relations, a number of close friends, and two employees of Ruzindana. The Prosecution also raised the issue of credibility of a number of these witnesses. For example, witness DB states that he saw Ruzindana in Cyangugu on 26 June as Ruzindana headed for Zaire. The Prosecution noted, however, that DC also testified before the Chamber that Ruzindana was at home the entire day on 26 June.

267. The final point raised by the Prosecution is the pertinence of the testimony of many Defence witnesses. The majority of the witnesses were close relatives or former employees, who are likely to benefit from shielding Ruzindana from any criminal responsibility. Many individuals testified to having seen him on market day for various lengths of time between five minutes and one hour. Several more testified to having seen him on the road to Kibuye, even those who did not know Ruzindana nevertheless remembered his frequent journeys. However, even those who spent a great deal of time with Ruzindana: his wife, his sister, and his brother-in-law, as well as his servants, all testify that they did not travel with him on the frequent business trips that he supposedly made. They, like all of the other witnesses for the Defence, were not in a position to corroborate Ruzindana's location when he left on his 'business trips.'

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

284c

268. These witnesses cannot account for the activities of Ruzindana even on a day-to-day basis, let alone 24-hours-a-day. His wife, after all, confirmed that Ruzindana was gone for two-day periods on a number of occasions. Furthermore, in cross-examination his wife conceded that the Defendant made many more daylong journeys to Kibuye although he did not spend the night. [FN17] The many witnesses who had seen him on the road to Kibuye confirmed these apparent trips. However, in cross-examination these witnesses also stated that this same road from Mugonero to Kibuye divided, branching off into the direction of Gishyita and the area of Bisesero.

FN17 This is a point corroborated by Defence witness DAA, who owned a shop opposite the Ruzindana family shop. See Trans., 18 and 19 Aug. 1998.

269. Bisesero lies approximately twenty kilometres from Mugonero. Given the proximity, therefore, these day trips would have more than sufficed to enable Ruzindana to reach the massacre sites and then return home. Accordingly, it is not sufficient for the purposes of his alibi defence, for witnesses to state that Ruzindana was the road from Mugonero or for Ruzindana's sister to state that whenever he was not on a business trip, that the accused would enjoy the family meal with them.

270. Furthermore, the Prosecution does not deny that Ruzindana continued trading throughout April, May and June, or that he made several other trips to locations such as Cyangugu. Rather, this supports the contention of Prosecution witnesses, X, FF and II who had not only heard reference to their attackers coming from Gisenyi, Gikongoro and Cyangugu, but had also noticed the accents peculiar to these regions.

Finding

271. The Chamber is cognisant of the difficulties raised in advancing this defence due to the time period covered in the Indictment. The legal issues that this gives rise to have already been considered. [FN18] At this juncture it is sufficient to note that, on a factual basis, many witnesses for the Defence were unable to provide specific dates as to when they had seen Ruzindana in Mugonero.

FN18 See, chapter 3.4

272. The burden of proof is, of course, on the Prosecution to prove their case beyond a reasonable doubt. In the opinion of the Trial Chamber, however, the alibi defence provided by Ruzindana does not diminish the Prosecution case. Even if the evidence proffered by the Defence in support of alibi is accepted in its entirety, it remains insufficient to raise doubt in relation to Ruzindana's presence in Bisesero at the times of the massacres. Accordingly, the Trial Chamber rejects the defence of alibi advanced by Ruzindana and has set out its factual findings below.

5.2 DID GENOCIDE OCCUR IN RWANDA AND KIBUYE IN 1994?

273. A question of general importance to this case is whether genocide took place

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

in Rwanda in 1994, as the Prosecution has alleged. Considering the plethora of official reports, including United Nations documents, [FN19] which confirm that genocide occurred in Rwanda and the absence of any Defence argument to the contrary, one could consider this point, settled. Nevertheless, the question is so fundamental to the case against the accused that the Trial Chamber feels obliged to make a finding of fact on this issue. The Trial Chamber underscores that a finding that genocide took place in Rwanda is not dispositive of the question of the accused's innocence or guilt. It is the task of this Chamber to make findings of fact based on the Indictment against the accused and assess the evidence to make a finding of the possible responsibility of each person under the law only.

FN19 See Pros. exh. 328-331.

274. According to Article 2 of the Tribunal's Statute, genocide means various enumerated acts committed with intent to destroy in whole or in part, a national, ethnic, racial or religious group as such. The enumerated acts include, inter alia, killing members of a group and causing serious bodily or mental harm to members of the group. The purpose of this Chapter is not to decide whether specific acts by particular individuals amounted to genocidal acts, that is, acts committed with the special intent to destroy the Tutsi group in whole or in part. Rather, this Chapter assesses whether the events in Rwanda as a whole, reveal the existence of the elements of the crime of genocide. Such a finding allows for a better understanding of the context within which perpetrators may have committed the crimes alleged in the Indictment. Additionally, because the Indictment concerns events that took place in Kibuye, this Chapter of the Judgment includes a general examination of the events in that prefecture.

275. The Trial Chamber heard testimony from the United Nations Special Rapporteur of the Commission on Human Rights, Dr. René Degni-Segui, whose credentials qualified him as an expert and whose testimony was convincing. The Trial Chamber is seized of his reports to the Security Council on the situation of human rights in Rwanda in 1994, which he submitted after conducting investigations throughout Cyangugu, Butare and Kibuye prefectures. Inter alia, Degni-Segui proffered evidence [FN20] before the Trial Chamber that perpetrators planned the genocide of the Tutsi population prior to 7 April 1994, and produced reports concerning the massacres, which occurred during hostilities. He testified that although to date no one has found any official written document outlining the genocidal plan, there exist sufficient indicators that a plan was in place prior to the crash of the President's plane on 7 April 1994. These indicators include (1) execution lists, which targeted the Tutsi elite, government ministers, leading businessmen, professors and high profile Hutus, who may have favoured the implementation of the Arusha Accords; (2) the spreading of extremist ideology through the Rwandan media which facilitated the campaign of incitement to exterminate the Tutsi population; (3) the use of the civil defence programme and the distribution of weapons to the civilian population; and, (4) the "screening" carried out at many roadblocks which were erected with great speed after the downing of the President's plane. [FN21] The outcome of the implementation of these indicators was the massacres carried out throughout the country.

FN20 The witness produced seven reports for the Security Council. He relied most heavily on one Report, Pros. exh. 331, during his testimony before this Chamber (U.N. Doc. E/CN4/1995/71 1995).

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN21 See Pros. exh. 330B and 331 B, p. 5.

276. It is the opinion of the Trial Chamber that the existence of such a plan would be strong evidence of the specific intent requirement for the crime of genocide. To make a finding on whether this plan existed, the Trial Chamber examines evidence presented regarding the more important indicators of the plan.

Background to the Events of 1994

277. The time was ripe in early 1994 for certain so-called Hutu extremists in power in Rwanda who opposed the Arusha Accords, to avoid having to share decision-making positions with opposition groups. After attending a meeting on the implementation of the Arusha Peace Accords, in Tanzania, President Juvénal Habyarimana was en route to Rwanda when his plane was shot down over Kigali airport and crashed on 6 April 1994. Witness O testified that he on 8 April heard a broadcast on Radio France International (RFI) that the Rwandan People's Army (RPA or FAR) had announced the end of the cease-fire. The state of fear that ensued, caused by the rumours about the intentions of the RPF to exterminate the Hutus and the terror and insecurity that prevailed in Rwanda, served as a pretext for the execution of the genocidal plan and consequently the retention of power by the extremist Hutus. Based on eyewitness and expert testimony and reports, immediately after the plane crash, on 7 April 1994, massacres began throughout Rwanda.

278. A radio announcement on the morning of 7 April, concerning the death of the President, ordered people to remain at home. This announcement was made in order to facilitate the movement of the soldiers and gendarmes from house to house to arrest and execute real and perceived enemies of the Hutu extremists, specifically those named on execution lists. Witnesses, including Degni-Segui and Prosecution witness RR, confirmed this fact.

The Effects of Extremist Ideology Disseminated Through the Mass Media

279. Military and civilian official perpetuated ethnic tensions prior to 1994. Kangura newspaper, established after the 1990 RPF invasion, Radio Television Mille Colline (RTLM) and other print and electronic media took an active part in the incitement of the Hutu population against the Tutsis. Kangura had published the "Ten Commandments" for the Hutus in 1991, which stated that the Tutsis were the enemy. In addition, according to witnesses, in 1991 ten military commanders produced a full report that answered the question how to defeat the enemy in the military, media and political domains. These witnesses also testified that in September 1992 the military issued a memorandum, based on the 1991 report, which also defined the "enemy" as the Tutsi population, thereby transferring the hostile intentions of the RPF to all Tutsis. According to one report, prior to 6 April, the public authorities did not openly engage in inciting the Hutus to perpetrate massacres. On 19 April however, the President of the Interim Government, told the people of Butare to "get to work" in the Rwandan sense of the term by using their machetes and axes.

280. Several witnesses stated that during the atrocities "the Rwandese carried a

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

radio set in one hand and a machete in the other." [FN22] This demonstrates that the radio was a powerful tool for the dissemination of ethnic hatred. Radio National and RTLM freely and regularly broadcasted ethnic hatred against the Tutsis. For example, a UNICEF report refers to an RTLM broadcast stating that "for babies who were still suckling ... they [the assailants] had to cut the legs so that they would not be able to walk." [FN23] In 1992 Leon Mugesera, a professor turned propagandist for the MRND, declared in a public meeting "nous ne commettrons pas l' erreur de '59 ou nous avons fait échoppé des plus jeunes'' (we will not make the 1959 mistake where we let the younger ones [Tutsis] escape.) [FN24] Mugusera also incited the Hutus by explaining that "... we must remove the entrails but there is shorter way, let us throw them into the river so they can go out of the country that way." [FN25] These speeches and reports became widely diffused through repetition in public meetings and through the mass media.

FN22 Trans., 9 Mar. 1998, p. 47.

FN23 Trans., 5 Mar. 1998, at 112; Prosecution exh. 331B.

FN24 Trans., 5 Mar. 1998, p. 98.

FN25 Ibid. p. 85.

281. The dissemination and acceptance of such ideas was confirmed by a Hutu policeman to Prosecution witness Patrick de Saint-Exupery, a journalist reporting for the French newspaper Le Figaro. De Saint-Exupery remarked that the policeman had told him how they killed Tutsis "because they were the accomplices of the RPF" and that no Tutsis should be left alive. [FN26] (emphasis added.) This witness, who went to the Bisesero region late June 1994, described how "the hill was scattered, literally scattered with bodies, in small holes, in small ditches, on the foliage, along the ditches, there were bodies and there were many bodies." [FN27]

FN26 Trans., 18 Nov. 1997, p. 136.

FN27 Trans., 18 Nov. 1997, p. 153.

282. As a result of the diffusion of the anti-Tutsi propaganda, the killings "started off like a little spark and then spread." [FN28] Degni-Segui stated that many communities were involved. Butare was an exception as there was resistance to carrying out the killings because the prefect was a Tutsi. The killings did not start in Butare until 19 April, after the Interim Government sacked the prefect and after a visit and an inciting speech by the Interim President. The speech urged the inhabitants of Butare to engage in a murderous manhunt by appealing to the populace that "the enemies are among you, get rid of them." [FN29]

FN28 Trans., 5 Mar. 1998, p. 110.

FN29 Pros. exh. 330B, p. 6.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

2844

The Civil Defence Program and the Militias

283. In 1994, Rwandan officials controlled the militias and civil defence forces. The militias trained in military camps. During times of unrest or emergency states call such groups into duty to supplement its armed forces. The evidence before the Trial Chamber moreover reveals that both the militias and the civil defence forces programme became an integral part of the machinery carrying out the genocidal plan in 1994.

284. One of the means by which an ordinary Rwandan became involved in the genocide was through the civil defence programme. Initially both Hutus and Tutsis were involved in the civil defence programme. Authorities established the civil defence programme in 1990 for the security of the civilian population, whereby they could arm persons at all administrative levels, from the top of the prefecture, down to the cellule. Degni Segui confirmed this scheme during a conversation with Bisimungu, the Chief of Staff of the Armed Forces, the chief of the police and the Commander of the Gendarmerie, during one of his visits to Rwanda. Unfortunately, the civil defence programme was used in 1994 to distribute weapons quickly and ultimately transformed into a mechanism to exterminate Tutsis. Numerous eyewitnesses such as Witnesses C and F confirmed this fact. They testified that they witnessed the distribution of machetes to civilians by the Prefectoral and Communal authorities in early April 1994. Other evidence before this Chamber shows that 50,000 machetes were ordered and distributed through this programme shortly before the commencement of the 1994 massacres, to the militias of the MRND (members of the Interahamwe) and CDR (members of the Impuzamugambi), and the Hutu civilian population. Degni-Segui concluded that in the end this "system served to kill innocent people, namely Tutsis." [FN30]

FN30 Trans., 9 Mar. 1998, p. 101-102.

285. Prosecution evidence, including letters from Rwandan authorities confirmed that "the population must remain watchful in order to unmask the enemy and his accomplices and hand them over to the authorities." [FN31] Witness R who was familiar with the administrative structure of Rwanda in 1994, affirmed that the people were told to "protect themselves within the Cellules and the Sectors," by organising patrols and erecting roadblocks. [FN32]

FN31 Pros. exh. 52, p. 4.

FN32 Trans., 2 Oct. 1997, p. 51.

286. Other eyewitnesses recounted their versions of the occurrences at the massacre sites and almost all affirmed the presence of members of the Interahamwe and other armed civilians. In fact, several witnesses averred that the majority of the attackers were members of the militias and other civilians who were singing songs of extermination as they approached their victims. Several witnesses further stated that most of these attackers carried machetes and other traditional agricultural tools, as opposed to the gendarmes or police who were armed with guns and grenades.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Roadblocks and Identification Cards

287. The perpetrators of the genocide often employed roadblocks to identify their victims. Both Prosecution and Defence witnesses testified to this fact. Degni-Segui testified that within hours of the President's death, the military personnel, soldiers, the members of the Interahamwe and armed civilians erected and manned roadblocks. In fact, some roadblocks were erected within thirty to forty-five minutes after the crash of President's plane and remained throughout Rwanda for at least the following three months. According to this witness "what they had to do was to use identity cards to separate the Tutsis from the Hutus. The Tutsis were arrested and thereafter executed, at times, on the spot." [FN33]

FN33 Trans., 5 Mar. 1998, p. 105.

288. De Saint-Exupery confirmed the existence of roadblocks in Rwanda during the time in question. He testified that from Goma to Kibuye on 25 June 1994, "at the approach ... to each locality, there was a roadblock." [FN34] Witness Sister Julianne Farrington stated that in May 1994 as she travelled from Butare to Kibuye, she went through 45 roadblocks. She further stated that at some roadblocks military personnel monitored movements, while others were manned by young Hutus in civilian dress. Other witnesses, including witnesses G, T, and Defence witness DA and DM, who travelled through various parts of Rwanda during the genocide, confirmed these facts before this Trial Chamber. The Trial Chamber notes that those who produced identity cards bearing the indication Hutu and those with travel documents were able to pass through these roadblocks without serious difficulties. Conversely, those identified as Tutsis were either arrested or killed. The Trial Chamber recognises that the erection of roadblocks is a natural phenomenon during times of war. However, the roadblocks in Rwanda were unrelated to the military operations. Sadly, they were used to identify the Tutsi victims of the genocide.

FN34 Trans., 18 Nov. 1997, p. 118.

Conclusion

289. In summary, the Trial Chamber finds that the massacres of the Tutsi population indeed were "meticulously planned and systematically co-ordinated" by top level Hutu extremists in the former Rwandan government at the time in question. [FN35] The widespread nature of the attacks and the sheer number of those who perished within just three months is compelling evidence of this fact. This plan could not have been implemented without the participation of the militias and the Hutu population who had been convinced by these extremists that the Tutsi population, in fact, was the enemy and responsible for the downing of President Habyarimana's airplane.

FN35 Trans., 5 Mar. 1998, 84.

290. The cruelty with which the attackers killed, wounded and disfigured their

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

victims indicates that the propaganda unleashed on Rwanda had the desired effect, namely the destruction of the Tutsi population. The involvement of the peasant population in the massacres was facilitated also by their misplaced belief and confidence in their leadership, [FN36] and an understanding that the encouragement of the authorities to guaranteed them impunity to kill the Tutsis and loot their property.

FN36 See Part II, supra discussing the Historical Context of 1994 Events in Rwanda.

291. Final reports produced estimated the number of the victims of the genocide at approximately 800,000 to one million, nearly one-seventh of Rwanda's total population. [FN37] These facts combined prove the special intent requirement element of genocide. Moreover, there is ample evidence to find that the overwhelming majority of the victims of this tragedy were Tutsi civilians which leaves this Chamber satisfied that the targets of the massacres were "members of a group," in this case an ethnic group. In light of this evidence, the Trial Chamber finds a plan of genocide existed and perpetrators executed this plan in Rwanda between April and June 1994.

FN37 Pros. exh. 331B, p. 5.

5.2.1 Genocide in Kibuye

292. Having determined that perpetrators carried out a genocidal plan in Rwanda in 1994, this Chamber now turns to assess the situation in Kibuye Prefecture. After the death of the President on 6 April 1994, the relatively calm co- existence of the Hutus and Tutsis came to a halt in Kibuye. According to the Prosecutor, Kibuye was among the first of the prefectures "to enter into this dance of death." [FN38] In Kibuye, the first incidents took place on 8 and 9 April 1994 in various communes. The Chamber heard testimony and received documentary evidence that the perpetrators of the genocide in Kibuye acted with requisite intent to destroy the Tutsi population in whole or in part and that they in fact succeeded in achieving this goal. In this Chapter, this Chamber examines briefly the occurrences in Kibuye Prefecture from April to June 1994.

FN38 Trans., 11 Apr. 1997, at 34.

Background

293. The Chamber finds that events in Kibuye unfolded as follows. After the crash of the President's plane, the atmosphere quickly began to change. The Hutu population began openly to use accusatory or pejorative terms, such as Inkotanyi (Kinyarwanda for RPF accomplice/enemy) [FN39] and Inyenzi (Kinyarwanda for cockroach) when referring to the Tutsis. The members of the Interahamwe and other armed militant Hutus began a campaign of persecution against the Tutsis based on the victims' education and social prominence. Simultaneously, the Tutsi population, as a whole, suffered indiscriminate attacks in their homes. Perpetrators set on fire their houses and looted and killed their herds of cattle. Witness A testified that on the morning of 7 April 1994 his Hutu neighbours began to engage in looting,

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

attacking Tutsi- owned houses and slaughter Tutsi-owned livestock. Witnesses C, F, OO and E, corroborated these occurrences.

FN39 See the testimonies of Witnesses G, U and Z explaining that Inkotanyi meant "all the Tutsis" or the "enemy".

294. On their way to the gathering places many witnesses saw roadblocks where the perpetrators separated Tutsis from the Hutus. Once the Tutsis reached these places they were injured, mutilated and some of the women were raped. In the end the Tutsis were massacred by Hutu assailants who sang songs whose lyrics exhorted extermination during the attacks. These attackers were armed and led by local government officials and other public figures. The fact that these massacres occurred is not in dispute. In fact, Kayishema testified that he and others engaged in a clean-up operation after the massacres.

295. To illustrate implementation of the genocidal plan, the Trial Chamber now turns to examine the occurrences in the commune in Kibuye, immediately following the death of President Habyarimana, and other related issues which serve as further proof, such as meetings and documentary evidence, of the genocidal events in Kibuye.

Initial Attacks at the Residences of the Tutsis

296. There is sufficient evidence to find that in communes such as Gishyita Gitesi Mabanza and Rutsiro the initial persecution of the Tutsis and individual attacks on their houses began almost immediately after the death of the President. The fact that killings took place throughout Kibuye is corroborated by a diary entry [FN40] which was tendered by Witness O. Witness O testified that initially after the President's death, in Gitesi Commune, there was relative calm. He also stated, however, that on 7 April "he saw wounded people everywhere, by the roadside, bushes and very close to the administrative headquarters of the Prefecture.'' [FN41] Witness O, under cross-examination, told the Trial Chamber that the first people to be killed were in Kigali and they were alleged to be RPF collaborators. Witness O testified there was a cause-and-effect relationship correlation between the 8 April radio announcement of the purported resumption of the war and the first deaths in Rwanda and, in particular, in Kibuye Prefecture.

FN40 Prosecution Exhibit 76E, as shown in the Trans., of 13 October 1997.

FN41 Trans., of 13 October 1997, p. 149

297. Witness F's testimony is illustrative of many other witnesses and of the situation as a whole. A resident of Gitesi commune, Witness F testified that he heard the news of the crash at 10 a.m. on 7 April and that as a result, the mood of the people changed to one of panic in his neighbourhood. On 7 or 8 April, a meeting took place at Mutekano Bar, situated some 400-500 meters from the Kibuye prison, along the road heading to the Kibuye Prefecture Office. Witness F testified during that period, he interacted with one Mathew, who was participating in the said meeting. Witness F observed the meeting, the topic of which was security -

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

addressing the "Tutsi problem" -- from the roadside for about twenty minutes. Many local officials participated in the meeting.

298. Witness F testified that after the meeting of 8 April, he witnessed machetes being distributed by Ndida, the Commune Secretary. The machetes had been transported into the commune by Prefectoral trucks and the Secretary of Gitesi Commune supervised the unloading. They were taken towards the Petrol Rwanda fuel Station. About twenty persons received a machete each including, Eriel Ndida, Rusigera, Siriaki, Emmanuel, the Headmaster and many others. On 9 April, the local officials departed to other commune after the distribution of machetes. That evening around his neighbourhood in Gitesi, Witness F noticed that the situation had changed and that militant Hutus openly were attacking the Tutsi. The proximity of the distribution of weapons to the massacres of Tutsi civilians is evidence of the genocidal plan. He noticed that militant Hutu had begun throwing rocks at Tutsis and throwing some persons into Lake Kivu. He also observed similar acts of violence in Gishyita commune. He stated that some persons from Gishyita crossed Lake Kivu to take refuge in the commune of Gitesi. [FN42]

FN42 Trans., 22 April 1997, p.36.

299. On 12 April, the first person in Witness F's neighbourhood was killed. Munazi who was with other militant Hutu and members of the Interahamwe killed Nyirakagando, an elderly Tutsi. Witness F and others saw her dead body in the morning of 13 April, as they were fleeing their homes. Witness F stated that "the Hutus killed her because she was Tutsi." [FN43] Militant Hutus started by chasing Tutsi men. Witness F stated that "when the Tutsi realised that they were being pursued by the Hutus, they started to flee through the bushes." [FN44] Witness F's wife was gang-raped by the Hutus before her children's eyes on 13 April. Witness F's mother "was killed with the use of a spear to her neck" during the same attack. [FN45] Witness F left his wife who was no longer able to walk and first hid in the bush, within sight of his house and on 13 April fled to a Pentecostal church at Bukataye.

FN43 Trans., 22 Apr. 1997, p. 46.

FN44 Trans., 22 Apr. 1997, p. 47.

FN45 Trans., 22 Apr. 1997, p. 49.

300. Witness F spent the night at the church parish at Bukataye. During the night, there was an attack on the church parish, led by the Headmaster of the Pentecostal school. People carrying clubs and spears accompanied the Headmaster of the school. He said, "the Tutsi who were in the Church should come out so that they could be killed." [FN46] Those who were unable to flee the Church were separated. Tutsi women separated from the Hutu women. The latter remained and watched as the attackers killed the former. Witness F stated that the men, including him, then fled to the bushes.

FN46 Trans., 22 Apr. 1997, p. 51.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Mass Movement of the Tutsi Population

301. Witness B testified that, when the attacks began in her commune, she and others decided to flee, stating "we did not want to be killed in our homes, and the people were saying that if you go to the Church no one could be killed there." [FN47] Witness B along with her mother, young sister and brother as well as four other Tutsis, left their village in Kabongo, Bishura sector, Gitesi commune, for the Catholic Church in Kibuye. As they fled, there were armed Hutus around their home.

FN47 Trans., 17 Apr. 1997, p. 8.

302. Because the Tutsis were targets in their homes, they began to flee and seek refuge in traditional safety. Witness T, who worked at the Catholic Church and Home Saint Jean, (the Complex) testified that in the days following the President's death, a curfew was announced and people were told to stay at home. Tutsis, however, began to arrive on the peninsula, where the Complex is located, shortly thereafter. These Tutsis were from the hill of Bururga. Others came from Gitesi, Bishunda, Karongi and Kavi. They had converged at the communal office but they were not allowed to stay. Witness T stated that she helped lodge the thousands refugees, comprised of the elderly, women and children, in the dormitories at the Complex. Those seeking refuge were worried because their homes had been burnt. The first incidents of burning homes started between 7 and 10 April in Burunga, the hill to the left of the Home St. Jean, and other hills nearby. Witness T stated that she saw the home of a friend aflame.

303. Explaining a diary entry from 14 April 1994 to the Trial Chamber, Witness O stated that those seeking refuge from Gitesi Commune, who were on their way to the Stadium, told him that they were fleeing massacres which had begun in their area. Witness O observed many massacres during that time and aided Tutsi survivors to reach Kibuye Hospital.

304. Witness C testified that two days after the President's death people in Burunga, Mabanza commune started fleeing. She testified that attackers were attacking the Tutsi for being Tutsi and burning their houses. She explained that there was no apparent reason for these attacks besides these persons' ethnicity. Regarding the militant Hutu, she stated that "they themselves really could not find a reason for this because they would share everything on a day- to-day basis." [FN48] She saw people fleeing from Mabanza, including a member of her extended family, and the family of Nyaribirangwe. Her relative had been dealt a machete blow to his head.

FN48 Trans., 17 Apr. 1997, p. 116.

305. Witness B testified that they fled to the Catholic Church "because people like my father who had lived through other periods of unrest as in 1959, when there was an attack against the Tutsi, at that time people took refuge at the Church." [FN49] Witness T had a similar reason for going to a place of refuge. She testified that

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

2850

since the 1959 revolutions, whenever people felt insecure, they would go to churches, parishes and would be protected and be "respected in these places." [FN50] Additionally, witness F testified, that they arrived at the Catholic Church on 15 April at about 4 a.m. and found scores of other Tutsis who had come from other commune such as Mabanza, Rutsiro, Kaivere and Gishyita as well as Gisenyi Prefecture.

FN49 Trans., 17 April 1997, p.11

FN50 Trans., 6 May 1997, p.24

306. Witness A testified that on 7 April, militant Hutu began to attack Tutsi-owned houses, slaughtered Tutsi-owned livestock. The Abakiga (Hutus from the northern region of Rwanda) joined their fellow Hutu: On 12 April 1994, militant Abakiga Hutu identified the Tutsi by identification cards and massacres started in Gatunda shopping area. Witness A went to the Catholic Church, arrived 13 April between 6 and 7 a.m., and found numerous refugees gathered there.

307. Almost all Prosecution and Defence witness, including Mrs. Kayishema, who travelled throughout Kibuye Prefecture, testified that they encountered roadblocks. At these roadblocks the attackers used identification cards to distinguish between and to separate Hutus from Tutsis.

Other Evidence of Intent to Commit Genocide

308. The record in the present case is replete with evidence that reveals the existence of a plan to destroy the Rwandan Tutsi population in 1994. The Trial Chamber explores briefly some of the more pertinent evidence relative to the acts demonstrating the intent to commit genocide that took place in Kibuye Prefecture.

309. Evidence presented to the Chamber shows that in Kibuye Prefecture the massacres were prearranged. For months before the commencement of the massacres, bourgmestres were communicating lists of suspected RPF members and supporters from their commune to the Prefect. [FN51] In addition, the Prosecutor produced a series of written communications between the Central Authorities, [FN52] Kayishema and the Communal Authorities that contain language regarding whether "work has begun" and whether more "workers" were needed in certain commune. [FN53] Another letter sent by Kayishema to the Minister of Defence requested military hardware and reinforcement to undertake clean-up efforts in Bisesero. [FN54]

FN51 Pros. exh. 55-58.

FN52 Pros. exh. 52, 54 and 296.

FN53 Pros. exh. 53. (Letter from Kayishema to all Bourgmestres in Kibuye.)

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

2851

FN54 Pros. exh. 296.

310. Some of the most brutal massacres occurred after meetings organized by the Prefectoral authorities and attended by the heads of the Rwandan interim government and/or ordinary citizens of the prefecture to discuss matters of "security." [FN55] During one of these meetings Kayishema was heard requesting reinforcement from the central authorities to deal with the security problem in Bisesero. Witness O testified that on 3 May 1994, Interim Governmental Prime Minister Jean Kambanda visited Kibuye prefecture with a number of other officials, including Ministers of Interior, Information, and Finance, the Prefect of Kibuye, and the General Secretary of MDR party. Witness O attended a meeting with these and other officials in his capacity as an official of Kibuye hospital and voiced his concern regarding seventy-two Tutsi children who survived the massacre at the Complex and were in poor physical condition at Kibuye hospital. Members of the Interahamwe had threatened these children, aged between 8 and 15 years. The Prime Minister did not personally respond to Witness O's concern, but asked the Minister of Information to do so. That minister rebuked Witness O, remarking that he should not protect people who don't want to be protected. He also declared that Witness O obviously did not approve of the politics of the Interim Government, and could not recognize the enemy. The Minister of Information gave the impression that the Interim Government recognized these infirm children as enemies. Later, these children were forcibly taken from the hospital and killed.

FN55 Meetings attended by Prime Minister Kambanda and/or his Ministers included that on 3 May 1994.

311. Sister Farrington testified to having witnessed the discriminatory attitude of various Kibuye authorities towards all Tutsis. During the occurrences Sister Farrington went to Kibuye Prefectoral offices to inquire about obtaining a laissez-passer that would allow some of the nuns from her convent to leave Rwanda. Over a period of three days she spoke with the Sous- prefect, Gashangore as well as Kayishema. Gashangore used hostile language when referring to Tutsis and accused specific people in the Prefecture of being "central to the activities of the Inkontany.'' During another attempt to obtain help, Sister Farrington spoke with Kayishema in his office where he spoke to her in an agitated and aggressive tone. Kayishema told her that there was a war prepared by the Inkotanyi, and the Tutsi people were collaborators of the enemy. As proof he showed her a list of names of people, maps and other documents allegedly preparing Tutsis to become revolutionaries.

Conclusion

312. Considering this evidence, the Trial Chamber finds that, in Kibuye Prefecture, the plan of genocide was implemented by the public officials. Persons in positions of authority used hate speech and mobilised their subordinates, such as the gendarmes the communal police, and the militias, who in turn assisted in the mobilisation of the Hutu population to the massacre sites where the killings took place. Tutsis were killed, based on their ethnicity, first in their homes and when they attempted to flee to perceived safe havens they were stopped at roadblocks and some were killed on the spot. Those who arrived at churches and stadiums were attacked and as a result tens of thousands perished.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

313. Having examined the reasons why Tutsis gathered at the four massacre sites, the Trial Chamber now examines the evidence specific to these sites and the role, if any, of the accused Kayishema, and his subordinates, as well as that of Ruzindana in the alleged crimes.

5.3 AN INTRODUCTION: THE MASSACRES AT THE CATHOLIC CHURCH AND HOME SAINT-JEAN COMPLEX, STADIUM IN KIBUYE TOWN AND THE CHURCH IN MUBUGA

314. This Chapter addresses the occurences common to the first three massacre sites in the Indictment namely, the Catholic Church and Home Saint-Jean Complex (Complex), located in Kibuye, the Stadium in Kibuye (Stadium), and the Church in Mubuga (Mubuga Church), in Gishyita commune. This introduction does not include the fourth massacre site, Bisesero area, because the masscres in that area followed a slightly different pattern and took place over a much longer period of time than the first three sites. Additionally, under this Indictment, the Bisesro charges include both accused persons where as the first three sites concern Kayishema only. A summary of the witness testimonies for the first three sites paints the following picture.

315. In mid-April 1994, Tutsi seeking refuge from various communes converged on the three sites in order to escape atrocities perpetrated by the Hutus against the Tutsis. Throughout Kibuye Prefecture, Tutsis were being attacked, their houses set ablaze and cattle looted or slaughtered. Historically, community centres such as the Churches and the Stadium were regarded as safe havens where people gathered for protection in times of unrest; this was the case in April 1994. Many witnesses testified that they went to these sites with the belief that the prefectorial authorities would protect them. By the time some Tutsi reached the churches they were overflowing and these people continued on to the Stadium, often under the instruction of the gendarmes and local officials. By all accounts, very large numbers of Tutsis amassed in each of the three sites. Estimates varied from 4,000 to over 5,500 at Mubuga, about 8,000 at the Complex and, 5,000 to 27,000 at the Stadium.

316. At all three sites, gendarmes guarded the entrances or completely surrounded the structure. The gendarmes controlled the congregation, maintaining order or preventing people from leaving. Witnesses testified that Tutsi who attempted to exit were killed by armed Hutu assailants. Conditions inside the massacre sites became desperate, particularly for the weak and wounded. The authorities did not provide food, water or medical aid and, when supplies were offered, the Gendarmes prevented them from reaching the Tutsis.

317. With thousands of internally displaced persons (hereinafter refugees) [FN56] effectively imprisoned at the three sites in Kibuye, five days of almost continuous massacres commenced. First, at Mubuga Church the major killing started on 15 April and continued on 16 April. On 15 and 16 April the Complex suffered preliminary attacks followed by a major slaughter on 17 April. On 18 April, the massacre at the Stadium began with the attackers returning on 19 April to complete the job. Evidence before the Trial Chamber suggests that thousands of Tutsi seeking refuge were killed during these few days.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN56 Because the parties referred to the internally displaced persons as "those seeking refuge" throughout the trial, the Trial Chamber will remain consistent with this usage, noting however, that this use of the term in this context is inaccurate.

318. Testimony reveals striking similarities in the assailants' methods both during the initial gathering of Tutsis and later during the execution of the massacres. Some of those seeking refuge assembled at the three sites had done so owing to encouragement by Hutu officials. Initially, the gendarmes appeared merely to be maintaining order and allowed people to leave the Churches or Stadium to find food or water. Soon thereafter, however, authorities cut off supplies and prevented those seeking refuge from leaving. Those who attempted to leave were either chased back inside the structure or were killed by the armed attackers while the gendarmes watched. At this stage gendarmes and/or the members of the Interahamwe surrounded the Churches and at the Stadium gendarmes guarded the entrances. These conditions of siege soon turned into massive attacks by Gendarmes, communal police, prison wardens, the members of the Interahamwe and other armed civilians. Having surrounded the site, they usually waited for the order from an authority figure to begin the assault. The massacres started with the assailants throwing grenades, tear gas, flaming tires into the structure, or simply shooting into the crowds. Those who tried to escape were killed with traditional weapons. Following these hours of slaughter, the attackers would enter the building or Stadium carrying crude traditional weapons and kill those remaining alive.

319. The above background facts for the most part, are not refuted and the Trial Chamber finds ample evidence to support this general picture of events. The real issue for the Trial Chamber is the role, if any, played by Kayishema and/or those under his command or control, at the three crime sites. The Prosecution alleges that Kayishema was present, participated and led others at all three massacre sites. Kayishema admitted that he visited the sites when Tutsi were congregated but prior to the massacres to assess the situation. Kayishema, however, denies his presence during the days of attack. Indeed, Kayishema's alibi states that he was in hiding during the times of the massacres [FN57] because his life was under threat. He claims to have been hiding from the morning of 16 April through 20 April, coming out on the morning of 20 April.

FN57 It should be noted that the massacre at Mubuga Church began on 15 April and that Kayishema's claim of alibi did not begin to until the morning of 16 April.

320. Evidence shows that others saw Kayishema at the three sites during the period of 14 to 18 April. On 14 April Kayishema stated that he visited Mubuga Church, but only to monitor the situation. Testimony, however, places Kayishema at Mubuga in the morning, of 15 April and at the Complex at 3 p.m. in the afternoon. The evidence suggests that the two churches are approximately 40 kilometres apart by road. Again, on 16 April, Kayishema was seen in the morning at Mubuga during the start of the attack and then at the Complex during the preliminary acts of violence. The following day, 17 April, witnesses testified that Kayishema was present at the Complex and played a pivotal role in the massive slaughter of that day. Lastly, Kayishema is said to have initiated the massacre at the Stadium on 18 April. The Trial Chamber now turns to separately assess the evidence for each of the four massacre sites enumerated in the Indictment.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

5.3.1 THE MASSACRE AT THE CATHOLIC CHURCH AND HOME ST. JEAN

Background

321. According to the Indictment, the massacre site at the Home St. Jean Catholic Church Complex (Complex) is located in Kibuye, Gitesi commune, on the peninsula surrounded by Lake Kivu. A road runs perpendicular to the entrance to the Complex. One can see the Catholic Church but not Home Saint Jean from the road. The Complex, according to Expert witness Sjouke Eekma, is accessible by either the road from the roundabout or from the Prefecture. There were several doors to the Catholic Church.

322. During the unrest occurring in the commune soon after the crash of the President's plane, thousands of people sought refuge in places of worship such as the Complex. For instance, witness F testified, that he arrived at the Catholic Church on 15 April and found many other Tutsis who had arrived from other communes such as Mabanza, Rutsiro, Kaivere and Gishiyita as well as Gisenyi Prefecture. Witness B testified that she fled to the Catholic Church "because people like my father who had lived through other unrest as in 1959, when there was an attack against the Tutsi, at that time people took refuge at the (Catholic) Church." [FN58] Witness T corroborates other witnesses' reason for seeking refuge at the Church. She testified that since the 1959 revolutions, whenever people felt insecure, they would go to churches, parishes and would be protected; that is, they would be "respected in these places." [FN59]

FN58 Trans., 17 April 1997, p. 11.

FN59 Trans., 6 May 1997, p. 24.

323. The conditions inside these places of shelter worsened. In the Catholic Church people were crowded. Witness A testified that when a census was made for purposes of food distribution, the number of those seeking refuge was found to be 8,000 people of Tutsi ethnicity. [FN60] The census is corroborated by Witnesses T and F. The Tutsis seeking refuge received no assistance whatsoever from the Prefectural Authorities.

FN60 Trans., 15 Apr. 1997, p. 31.

324. The major attack on the Complex took place on 17 April but prior to that attack, members of the Interahamwe and local officials launched several smaller attacks. Tutsi seeking refuge threw stones and repulsed the smaller attacks. From about 15 April, the gendarmerie nationale surrounded and prevented the Tutsi from leaving

325. Expert witnesses Dr. Haglund, a Forensic Anthropologist, and Dr. Peerwani a Pathologist, testified regarding the victims of the massacre. Both experts examined cadavers of thousands of people and described how they had been killed. Dr. Haglund testified that he had examined the large mass grave near the Catholic Church along with four additional areas that also contained human remains. Dr. Peerwani examined

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

122 cadavers during January and February 1996. Now part of the evidence, identification cards found on the victims indicated that they were all Tutsi.

326. Dr. Haglund's written report confirms that many people, men, women and children were killed at the Complex. Of the 493 dead examined by Dr. Haglund, only found one gunshot injury. He estimated that 36% of people in the grave had died from force trauma whereas 33% of the people died from an undetermined cause. Dr. Haglund selected an individual as an example who he identified as a fifty year old man. The man's fibula had been completely severed by some sharp object, [FN61] which "would have severed the achilles" tendon rendering this individual partially crippled. [FN62] On the neck region "all the soft tissue from the right side of the neck towards the back would have been cut through" [FN63] and "a sharp cut mark in the tibia body, and in the inferior border of the scapular shoulder blade, another trauma caused by a blow of a sharp object." [FN64] Dr. Haglund concluded that the fifty-year old man was trying to protect himself by presenting different body aspects to the armed assailant. Dr. Peerwani found stab wounds indicating the use of sharp force instruments and confirmed that many of the victims were young children and the old.

FN61 Trans., 26 Nov. 1997, p. 29

FN62 Trans., 26 Nov. 1997, p. 30

FN63 Trans., 26 Nov. 1997, p. 32

FN64 Trans., 26 Nov. 1997, p. 33

The Attacks

15, 16 April 1994

327. Several witnesses testified about the minor attacks that occurred on 15 and 16 April. Witnesses T and A testified that an attack on the Complex occurred on 15 April at 3:00 p.m. During that attack, Witnesses A and D saw Kayishema snatching a child from its mother. Witness F testified that local officials participated in an attack on the Complex on 16 April. The gendarmes simply watched, but those seeking refuge repulsed the attack. After this event, witness F saw Kayishema and Mugambira, a prosperous Kibuye businessman, transporting weapons in their vehicles. A military pick-up also assisted in transporting weapons to the nearby Petrol Rwanda fuel station. Witness F saw the accused, Kayishema, hold a meeting with other assailants near the Petrol Rwanda fuel station.

17 April 1994 on Catholic Church

328. On 17 April, between 9 and 10 a.m., a major attack occurred at the Catholic Church, where thousands of Tutsi men, women and children had taken refuge. The attackers arrived from three directions, namely from the roundabout, the Prefecture

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

2856

and Lake Kivu. Witness F, who was standing in front of the Catholic Church, vividly described the various attackers. Witness F and others testified that the attackers were Hutu civilians; Twa civilians; communal police officers; prison guards and local officials such as the Communal Accountant; Rusizera, the Assistant Bourgmestre, Gahima, the Headmaster of the Pentecostal school, Emmanuel Kayihura and Siriaka Bigisimana. Other witnesses identified and corroborated the presence of the local officials. Witness E recognised the conseillers of Gishura Sector and witness C named particular officials such as Conseiller Ndambizimana; Calixte, the Prison Warden; and the Bourgmestre of Gitesi Commune. The attackers carried assorted weapons including machetes, swords, spears, small axes, clubs with nails, the "impuzamugenzi'' and other agricultural tools. They were singing "let us exterminate them". Kayishema arrived with the attackers from the Prefecture Office in a white Toyota vehicle. Witnesses F, C, D, E and A clearly observed Kayishema's arrival. For example, witness F was sufficiently close to the accused to see that he was wearing a pair of white shorts. Witness A, D and F stated that Kayishema was carrying a sword.

329. Witness F saw Kayishema arrive, get out of his vehicle along with the gendarmes, and receive applause as he walked towards the group of attackers. Witnesses F, D and E testified respectively that Kayishema ordered the assailants to "begin working, get down to work" [FN65] "go to work," or "start working."

FN65 Trans., 22 Apr. 1997.

330. They were all positioned so that they could hear Kayishema utter these words. According to witnesses E and F, the phrase "go to work" in the Rwandan context means "to kill Tutsis." At that point, Witnesses E and F testified that after ordering attackers "to go to work," Kayishema climbed up the hill along the path near the Church, addressed the assembled attackers through a megaphone, informed them that he had received orders from Kigali to kill the Tutsis and commanded the gendarmes to shoot. Witness E said that Kayishema then fired three shots.

331. Three witnesses saw Kayishema speak and give orders for the attackers to go to work. Only Witness E, however, claims to have seen Kayishema fire three signal shots. Witness A testified that it was the gendarmes opposite the Church who fired the shots. At that point some attackers began to throw stones at those seeking refuge and the gendarmes opened fire. The gendarmes shot the Tutsis who were in front of the Church. Soon thereafter the gendarmes and other Hutu assailants started to attack Tutsis inside the Church. They fired grenades and tear gas canisters inside the Church through the doors, and proceeded to fire their guns. Witness F who escaped by climbing a tree nearby, stated that "I could see quite clearly the square or the area in front of the Church. I could see him [Kayishema] with my own eyes." [FN66] Witness F saw Kayishema walk to the threshold of the Church and send an attacker to bring a jerrican of petrol. The petrol was poured on tires and the doors of the Church, and then set ablaze. According to witness A, the main door of the Church was burnt down. Witness C saw the attackers throw a tire which was doused with petrol, inside the Church. Many witnesses, including Witness F, testified that people were burnt.

FN66 Ibid., p. 98.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

332. At some point, Kayishema led the attackers who entered the Church and began to kill the survivors. Witness A, who had hidden under dead bodies and had smeared himself with blood, observed that Kayishema entered the Church with a young man and took steps to ensure that there were no survivors. Witness A stated that he could see Kayishema clearly since at that point the only attackers inside the Church were Kayishema and the young man. Witness A saw Kayishema use his sword to cut a person called Rutabana and a baby who was lying on top of witness A. With regard to this scene, witness A stated that he knew that it was a baby on top of him as he could feel the child's legs kicking him about the chest level. [FN67] Kayishema with his sword cut witness A, injuring him near his right clavicle, the right hand and the left elbow. The Trial Chamber was shown the scars of these injuries.

FN67 Trans., 15 April 1997, p. 145.

333. Several witnesses, such as A, B, C, D and E managed to escape. Others, such as B, C, D fled to the Home St. Jean, whilst witness F fled to the Stadium.

17 April 1994 on Home St. Jean

334. The attacks progressed from Catholic Church to the Home St. Jean when assailants descended upon the scene around 1 or 2 p.m., singing the lyrics "let's exterminate them." The assailants threw grenades inside the building and as a result, people suffocated. When the gendarmes broke the lock of the door, the fleeing Tutsis were faced with members of the Interahamwe wielding machetes and spears. Witnesses B and C survived by denouncing their Tutsi ethnicity to the attackers. Attackers allowed them to join a group of 15 to 20 Hutu who were being escorted to safety by the gendarmes and walked away from the Church. On their way, the two and others met Kayishema who asked the accompanying gendarmes "where are you taking these Tutsi?" [FN68] Notwithstanding that members of the group replied that they were all Hutu, Kayishema struck witness B with his machete.

FN68 Trans., 17 Apr. 1997, p.29.

The Victims

335. The attackers left thousands dead and many injured. Witness D estimated the number of those seeking refuge at the Complex prior to the major attack to be around 8,000. Witness A heard the same figure from Leonard Surasi, a man who had estimated the number in order to supply them with food. Witnesses A, B, C, D and F saw substantial numbers of dead bodies after the attack. Witness O, a local Hutu who had recorded this massacre as an entry in his personal diary, testified that he had participated in burying the dead bodies. Witness E testified that one week after the massacre at the Church, he saw prisoners come to collect bodies for burial. They spent five days burying the dead. Witness G, a Hutu, who had assisted in burying the dead, testified that at the Catholic Church, there were bodies along the road from the Prefecture, in front of the main door to the Church, inside the Church, in front of the Father's residence and also inside the Priests' house. He also stated that people assisting in the burial of the Tutsis were being threatened by Ruberanziza and Bisenyamana among other people. [FN69]

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN69 Trans., 24 Apr. 1997, p.4.

336. At the Home St. Jean, in particular, Witness T, a person employed at Home St. Jean, testified that she lost nine staff members and their children. Witness G saw around 200 to 300 Tutsi corpses scattered in front, behind, in the cellar, on upper floors and around the Home St. Jean buildings. Further, many of the survivors were injured. Witness F observed about forty injured people, whose ankles had been cut.

Case for the Defence

337. The defence for Kayishema offered a defence of alibi on the dates of the massacre, which appears above in Chapter 5.1 on Alibi. In cross-examination, the Defence challenged witness A's ability to having seen Kayishema when he entered the Church. They further questioned witness A's ability to have found space and time to smear himself with blood. This Chamber finds that although witness A's testimony may have lacked certain details, his testimony regarding Kayishema's presence and participation, on the whole, is credible. Moreover, witness A's description of Kayishema's attire and the weapon he carried conforms to the testimony of other witnesses, such as B, C and D. Further, witness A's identification of Kayishema is strengthened because he knew Kayishema prior to the events. Witness A first saw Kayishema in 1993 at the Kibuye Hospital (a friend pointed out Kayishema saying, "there is the Prefect.'') This Chamber finds reliable witness A's deposition of Kayishema's presence and participation in the attacks of 17 April.

338. Witness B testified regarding the encounter with Kayishema when she and others were being escorted as 'Hutus' by gendarmes. Witness B affirmed that Kayishema wore white shorts and uttered "where are you taking these Tutsi?" [FN70] The gendarmes responded "these are not Tutsi but they are Hutus." [FN71] The Defence in their closing remarks did not deny the scene but claimed that Witness B was involuntarily wounded. The Defence suggested to the witness that the push was intended to put her back in line. The Trial Chamber finds witness B to be a credible witness who identified Kayishema during the attacks and heard him speak. Witness B met Kayishema in 1989 at the Kibuye hospital and thereafter had seen him from time to time. Witness C corroborated witness B's testimony regarding the attack. The Trial Chamber finds no material contradictions in witness B's story.

FN70 Trans., 17 Apr. 1997, p. 93.

FN71 Trans., 17 Apr. 1997, p.97.

339. Regarding witness C, the Trial Chamber notes that she knew Kayishema prior to the events. Witness C stated that she and the accused were from Bwishyura Sector and that she knew him and his father. She testified that she saw Kayishema cut the fingers of witness B with a machete. A list tendered into evidence by witness C shows the names of victims and attackers. The names of Kayishema and other local officials appear amongst the alleged attackers.

340. The defence cross-examined witness D on his ability to hear Kayishema utter

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

the words "go to work." Witness D stated that he heard Kayishema ordering the attackers to "go to work" from a distance of approximately ten to fifteen meters away, while standing between the road which leads to the roundabout and to the Prefecture. The Defence also challenged witness D's account of his hiding in the ceiling of Home St. Jean. Witness D explained that he left the Church at 1 p.m. and stayed in the ceiling in Home St. Jean with five others, until 4 a.m. Witness T corroborates his account although she did not specifically single out witness A as being one of those in the ceiling.

341. Witness D, identified Kayishema as one of the attackers. He knew Kayishema prior to the events because Kayishema attended meetings at the Home St. Jean in his capacity as the Prefect of Kibuye. Witness D saw Kayishema on 15 April in a white vehicle near the Home St. Jean. His account of Kayishema's arrival and description of the attack is corroborated by many witnesses including A, B, C and F. The Trial Chamber finds that witness D identified Kayishema and finds his account of Kayishema's participation credible.

342. Witness F testified that he was in front of the Church when Kayishema arrived and that there was little distance between him and the attackers. Witness F confirmed seeing Kayishema and stated that he wore "white shorts" and carried a sword. Witness F's account of how Kayishema spoke through a megaphone was corroborated by witness E. Witness F knew Kayishema prior to the events and gave a detailed account of Kayishema's participation during the events of the attack. The Trial Chamber has considered witness F's testimony and finds his account of the events of 17 April is reliable and conforms to that of other witnesses.

343. Witness E testified also that he heard Kayishema use a large megaphone to order attackers "to go to work." [FN72] According to this witness, Kayishema spoke using the megaphone to deliver a message from Kigali to exterminate the Tutsis, and fired gunshots. The Trial Chamber notes that witness E described Kayishema's arrival at the massacre site, identified Kayishema and described his participation. The Trial Chamber finds witness E's testimony regarding the events credible. Additionally, he knew Kayishema as the chief of Kibuye hospital prior to these events. His account of the occurrences was corroborated by other witnesses. However, witness E was the sole eyewitness to testify that Kayishema fired the shot signaling the start of the massacre. Hence there exists some doubt as to whether Kayishema actually fired the shots, that sparked off the attack. This uncertainty is not surprising in light of the circumstances. Given the confusion of multiple shooters and the prevailing terror, this Chamber cannot find that Kayishema fired the shots. Nevertheless, the Trial Chamber finds that the shooting began following Kayishema's order. The Trial Chamber finds, beyond a reasonable doubt, that Kayishema ordered and instigated the attack upon the Catholic Church.

FN72 Trans., 16 Apr., p. 156.

Conclusion

344. The Trial Chamber finds that the witnesses' testimonies proved, beyond a reasonable doubt, that Kayishema was present at and participated in the 17 April 1994 massacres at the Complex. Witnesses, such as witness T and witness G, constituted "independent" witnesses, in the sense that they were not survivors as

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

2860

such, because they were not the target of the massacres. Their testimonies corroborated the events as recounted by those who survived the massacre. All the witnesses claimed that they previously knew Kayishema and they identified him at the trial. Moreover, the events occurred in broad daylight. The Hutu attackers killed with impunity as the local officials present not only refrained from preventing the massacre, but encouraged them.

345. The defence failed to controvert the credibility of these witnesses or the reliability of the evidence on fundamental issues, in particular the identification of Kayishema during the attack. Minor discrepancies in testimony between witnesses did not raise a reasonable doubt as to the issue of Kayishema's participation.

Factual Findings

346. With regard to Kayishema's participation in the Complex massacre, the Trial Chamber accepts the evidence of witnesses A, B, C, D, E, F, G and T.

347. Paragraph 25 of the Indictment alleges that by 17 April thousands of unarmed and predominantly Tutsi had gathered at the Complex. The Trial Chamber is satisfied from the evidence presented that there were indeed thousands of men, women and children who had sought refuge at the Complex. Further, the Trial Chamber finds that they were unarmed and predominantly Tutsi.

348. Paragraph 26 of the Indictment alleges that some Tutsis went to the Complex because Kayishema ordered them to do so at a time when Kayishema knew that an attack was going to occur. The Prosecution did not prove that the Tutsis were ordered to go to the Complex or that Kayishema ordered them to go there. Most of the witnesses went there on their own volition. Others such as witness B went there because in the past their parents had gone to such places for safety. It was only witness D, who testified that Kayishema ordered him to go to the Church. [FN73] This testimony while credible, does not satisfy this Chamber of the facts alleged in paragraph 26. Consequently, the Trial Chamber finds, beyond a reasonable doubt, that the Tutsi men, women and children went to the Complex on their own volition or because their parents had in the past found refuge in such places.

FN73 Trans., 14 Apr. 1997, p. 12.

349. Paragraph 27 of the Indictment alleges that people under Kayishema's control, surrounded the Complex and prevented people from leaving at a time when Kayishema knew the attack was going to occur. This Chamber finds that the evidence of witnesses A, B, C, E and F shows that after those seeking refuge had gathered in the Complex it was surrounded by people under Kayishema's orders or control, including gendarmes and members of the Interahamwe. Witness D described how attackers in boats surrounded the peninsula on which the Complex is located. Witness B, described how the Complex was surrounded by members of the Interahamwe carrying machetes and spears. Witness C, testified that gendarmes prevented persons from leaving the Complex on 17 April 1994.

350. The Trial Chamber finds, beyond a reasonable doubt that Kayishema knew or must

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

have known that an attack was about to occur. This is because Kayishema stated that he had received orders from Kigali to kill Tutsis, he initiated the attack on 17 April, and he gave orders for the attack to begin. It follows, therefore, that Kayishema had the requisite knowledge. Kayishema was seen at the Complex twice before the attacks of 17 April and knew or must have known from the massive number of armed attackers that, in the circumstances of Kibuye Prefecture at the time, there was potential for a massacre to occur. Indeed, because smaller scale attacks had occurred there on the 15 and 16 April, Kayishema must have been aware of the potential for further attacks. Furthermore, as shown above in paragraph 28 of the Indictment, the Complex massacres followed the massacre at Mubuga Church where Kayishema had played a major role by initiating a systematic pattern of extermination within Kibuye. For these reasons, the Prosecution proved the allegations in paragraph 27.

351. Paragraph 28 of the Indictment alleges that on 17 April Kayishema went to the Complex, ordered the attackers to commence an attack and participated personally. Witnesses A, B, C, D, E and F testified that, notwithstanding the massive number of people seeking refuge at the Complex, they clearly saw Kayishema. The Trial Chamber finds the identification of Kayishema convincing. In making this finding the Trial Chamber is mindful that all the above- mentioned witnesses had known Kayishema prior to the events and successfully identified Kayishema at trial. In addition, the events occurred in broad daylight. The Trial Chamber finds, beyond a reasonable doubt, that on 15, 16 and 17 April, Kayishema went to the Complex, and that during the attacks it was not possible to leave the premises as those who attempted to flee were killed.

352. The Trial Chamber also finds, beyond a reasonable doubt that Kayishema participated in and played a leading role during the massacres at the Complex. Kayishema led the attackers from the Prefecture office to the massacre site at the Complex, he instigated and encouraged all the attackers by the message from Kigali to kill the Tutsis, which he delivered through the megaphone. Kayishema also orchestrated the burning of the Church. Further, he cut one Rutabana inside the Church after the major offensive subsided.

353. Paragraph 29 of the Indictment alleges that the Complex attacks left thousands dead or injured. The Trial Chamber finds, beyond a reasonable doubt, that the single day of the major scale attack, as well as the smaller-scale sporadic attacks upon the Complex, resulted in the death of thousands of Tutsis whilst numerous others suffered injuries. This Chamber bases this finding primarily on the testimony of Dr. Haglund and Dr. Nizam Peerwani, Prosecution expert witnesses. Thus, the Prosecution has proved the facts alleged in paragraph 29.

354. In relation to paragraph 30 of the Indictment: The accusations in this paragraph are addressed in Chapter 6.1 infra.

5.3.2 The Massacre at the Stadium in Kibuye

Background

355. The witnesses presented a horrific account of the Kibuye Stadium massacre that occurred in mid-April 1994. Hutu military, police and the members of the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Interahamwe conducted a massive, systematic, two-day slaughter of thousands of Tutsi civilians. Four witnesses were survivors of this massacre. Dr. Haglund, who visited the Stadium in September 1995, presented photographic slides. These slides depict a stadium with a field of grass about the size of a football pitch and additional side space for viewing; brick walls about eight foot high surround the Stadium on three sides and Gatwaro Hill flanks the fourth side. Spectator grandstands are located at one end. The road runs parallel to the side of the Stadium, facing Gatwaro Hill.

356. On Monday, 18 April 1994, at approximately 1 or 2 p.m., groups of gendarmes, communal police, prison wardens and members of the Interahamwe came from the direction of the roundabout in Kibuye town, surrounded the Stadium and started to massacre the Tutsi with tear gas, guns and grenades. The first attack of the massacre finished at approximately 6 p.m. The next day, after celebrating in the local bar, attackers returned to kill survivors. The fact that the massacre at the Stadium occurred does not appear to be in dispute; Kayishema himself testified that a major attack at the Stadium took place on 18 April 1994 [FN74] and witness DO estimated that about 4,000 of those seeking refuge were killed at the Stadium. Witness G, a local Hutu, who helped to bury bodies found in and near the Stadium, stated that dead bodies covered the entire ground of the Stadium and that bodies were buried using machinery over five days. Therefore, the issues for the Trial Chamber to consider here are whether Kayishema was present at the Stadium on 18 April 1994 and, if so, what was his role if any, and the role of anyone acting under Kayishema's orders or control.

FN74 Trans., 10 Sept 1998, p. 24.

The Role of Kayishema and His Subordinates

357. The Trial Chamber now assesses the evidence in relation to Kayishema's role at the Stadium massacre. In short, witnesses testified that Kayishema arrived in a white vehicle at the head of a column of attackers, ordered them to begin the killing and gave the signal by shooting a gun into a crowd of persons. The identification of Kayishema at the Stadium is strengthened by the witnesses' knowledge of the accused prior to the events in 1994. Witness I had known Kayishema since the accused was a child and had been the neighbour of Kayishema's parents. Indeed, Kayishema himself testified that witness I was a friend of his family. Witness K had known Kayishema before he was a Prefect and had seen him many times when he went for medical treatment. Witness M claimed to have known Kayishema all his life, but admitted that the accused did not know him well. Witness L had not known Kayishema before and testified that he only knew it was Kayishema at the Stadium because others had informed him so. With some variation in detail, witnesses I, K, L and M gave a similar account, both of the events and of Kayishema's role in particular. The testimony of witness I, the most lucid and complete is discussed thoroughly below, followed by the testimony of witnesses K, L, M, F, and NN.

Witnesses

Witness I

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

358. Witness I is an elderly carpenter. In mid-April, sometime between 15 and 20 April 1994, witness I and seventeen other family members left their home in search of refuge and protection from massacres occurring throughout the Prefecture of Kibuye. Witness I testified that his Conseiller had told him to go to the Stadium where Tutsi would be safe. He explained that they arrived at the Stadium and stayed there for three or four days. When he arrived at the stadium no one was guarding the entrances but soon thereafter gendarmes started to control who could exit and, confiscated weapons from those who entered. Witness I testified that those attempting to leave were killed by members of the Interahamwe and, that he saw this happen. In the Stadium there was no firewood, the water had been cut off, and the Tutsi seeking refuge ate raw meat from cows. Sick and wounded were amongst them and those who attempted to seek help from the local hospital just yards from the Stadium were beaten back or killed. Those seeking refuge barely had room to sit down and there was no protection from sun or rain. The authorities provided no assistance. Soon after arrival the Tutsi heard from others about the massacres at Mubuga Church and Home St. John.

359. Witness I testified, describing his feelings, "For me I thought that no one would be able to kill off 15,000 people, and I thought that any authority who would represent so many people would not dare to kill them off, because these people worked for those persons in authority. They paid taxes and they provide assistance and they repair roads. ... So I told myself that no one was going to be able to use firearms or machetes to kill us off. I said that no person in authority would be able to do such a thing." [FN75]

FN75 Trans., 28 April 1997, p. 49.

360. Witness I testified that at about 2 p.m. on 18 April armed civilians, soldiers, former soldiers and prison wardens armed with guns, clubs and machetes came from the direction of the roundabout in Kibuye. They divided into groups and surrounded the Stadium, taking position on the hills. From his viewpoint in the spectator grandstands witness I testified that he clearly observed Kayishema standing by the main entrance, near a house owned by the MRND. From this location, Kayishema could see into the Stadium. Witness I saw Kayishema ask for a gun, shoot it toward the masses inside the Stadium as if to signal the attack to commence, and then give the gun back to the gendarme. Kayishema's two shots struck two people. At that point the massacre began. The attackers threw tear gas and grenades and fired guns into the Stadium. Witness I described the scene, "some were dead already, others were wounded in a way that they could no longer lift themselves from the ground. There were children who were crying because of the blows they had received. Others were bleeding or looking for water." The massacre stopped at approximately 6:00 or 6.30 p.m. After the attack ceased, witness I heard the attackers gathered in the bar next to the Stadium, drinking and dancing. On that first day witness I did not see attackers enter the Stadium. Those who tried to flee were killed with sharpened bamboo sticks. Witness I discovered that his two wives and fifteen children who accompanied him to the stadium had been killed on that day. During the night of 18 April he managed to escape and fled towards Karongi.

361. The Defence asserted that witness I did not mention to investigators in an interview prior to his testimony that he had seen two people killed by Kayishema's opening shots. Witness I admitted that, although he had seen two people hit by Kayishema's shots, he did not know whether the victims had died. The Trial Chamber

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

accepts the evidence that Kayishema's shots struck two persons seeking refuge in the Stadium, an assertion that is corroborated by witness M.

Witnesses K, L, and M

362. Witnesses K, L and M are also Tutsis who had sought refuge inside the Stadium and survived the massacre of 18 April. Their testimony regarding the appalling conditions within the Stadium and the gendarmes preventing egress conforms to the evidence of witness I. In addition, the witnesses testified to an incident that occurred on the morning of 18 April; a white man started to count the people in the Stadium in order to bring aid but left when Kayishema, who arrived at the Stadium with gendarmes, threatened the same white man if he helped them. All three witnesses testified that they did not understand the conversation between the white man and Kayishema in French, but that others translated the gist of it from French to Kinyarwanda.

363. Like witness I, witnesses K, L and M testified that on 18 April at around 1 or 2 p.m., Kayishema came from the direction of the Kibuye roundabout accompanied by the members of the Interahamwe, gendarmes, communal police and prison wardens. The witnesses saw Kayishema walk to a position just outside the main gate, in front of the MRND building, and order the massacre to commence. Witnesses K and L added further that Kayishema was armed with a sword and that the attackers were singing a song in Kinyarwanda with the lyrics, "exterminate them, exterminate them." These witnesses also testified that the attackers surrounded the Stadium, used tear gas, grenades and guns to kill those inside the Stadium, but did not enter.

364. Witness M gave nearly the same account as witness I with regard to Kayishema firing gunshots into the Stadium. M testified that Kayishema had taken a gun from a gendarme, fired it into the Stadium twice, hitting two people, and then fired once into the air, at which point the massacre started. Witnesses K and L, however, testified that they did not see Kayishema fire into the Stadium but heard him order the gendarmes to "fire on these Tutsi dogs." This difference in testimony is understandable considering that witnesses I and M were observing events from half way up the grandstands whereas witnesses K and L were positioned just inside the Stadium close to the main entrance. When considered together, the witness testimony shows that Kayishema first ordered the gendarmes to fire on the Tutsis and then grabbed a gun and personally fired twice into the Stadium, apparently to lead and set an example to start the massacre. It is reasonable that witnesses K and L did not see Kayishema shoot because, having heard Kayishema's orders to fire, they already were fleeing. Indeed, witness K testified that when he heard Kayishema give the order to shoot he immediately ran further back into the Stadium; witness L testified that when he heard Kayishema's order he ran to find his family and did not see Kayishema again. Witnesses K, L and M testified that the massacre continued until 6 or 6.30 p.m. Witness O, a Hutu doctor, testified that he heard the massacre start with firing and grenades at around 3 p.m. and continue until dark.

365. There is less evidence relating to the massacres on the morning of 19 April. Witness K testified that at 6 a.m. he and others left the Stadium and fled up Gatwaro Hill when he saw the attackers returning to where they appeared to return in order to finish off any survivors with traditional weapons. As he fled, witness K saw the attackers going into the Stadium and heard shouts and screams. Their testimony did not place Kayishema at the Stadium on 19 April.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Witnesses F and NN

366. Witnesses F and NN observed events from hiding places outside the Stadium. The testimony of these witnesses conforms generally to that offered by witnesses I, K, L and M but also differs in some respects. Witness F testified that he survived the massacre at Catholic Church Home St. John and during the night of 17 April fled to Gatwaro Hill, from where he had a good view of the Stadium. He observed the events at the Stadium 18 April and Kayishema's participation, including the opening gunshots. Witness F, however, testified that Kayishema arrived with the attackers between 9.30 and 10 a.m. and estimated that they were there for approximately two hours before the massacre started. Contradicting the other witnesses, witness F testified that killers entered the Stadium on 18 April and began cutting up the Tutsis. The apparent confusion in witness F's account may be explained by the circumstances and the mental state in which he observed the events; responding to a question of what he did when the massacre started, witness F stated "I was astonished. I completely lost my head. I cannot even tell you what I witnessed as regards the massacres and this was because a lot of my family were inside the Stadium and they were being massacred." [FN76]

FN76 Trans., 22 April 1997 p. 133.

367. Witness NN testified that on 18 April he was hiding between two buildings about 40 metres from where Kayishema stopped by the Stadium's main entrance. Witness NN testified that, before shooting into the Stadium, Kayishema murdered a Tutsi child and its mother. He stated that Kayishema then took the child from its mother, held it upside down by one leg, extended the other leg to a soldier and sliced it vertically with a sword. According to NN, Kayishema shot the child's mother as she ran to the Stadium entrance. The Trial Chamber notes that NN observed the events from a different position, which could explain his divergent account. Furthermore, evidence suggests that Kayishema was surrounded by gendarme and members of the Interahamwe when he arrived at the main entrance and, therefore, the view of the other witnesses could have been obstructed at the time when Kayishema allegedly killed the child. However, the Stadium witnesses all testified that they had a clear view of Kayishema when he arrived and, that being so, it seems unlikely that they would omit an incident of such horror from their testimony. Furthermore, if Kayishema had first shot the child's mother before he moved to the main entrance from where he shot twice into the Stadium, the other witnesses likely would have observed this. According to their evidence, they did not. For all the above reasons, the Trial Chamber does not rely on the evidence proffered by witnesses F and NN pertaining to the Stadium massacre on 18 April 1994.

The Defence Case

368. In his defence, Kayishema testified that he was in hiding and did not go to the Stadium at the time of the massacres. However, Kayishema testified that he did visit the people seeking refuge at the Stadium sometime after 13 April but before they were killed; "Yes I went to the place but my CV is clear. I'm quite used to this sort of plague. When there are so many people I know how to gather them together, how to seek solution to the problems, how to subdivide them according to their needs. ...'' In other words, Kayishema testified that he went to the Stadium

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

in order to assess the situation. This, however, squarely contradicts his statement to Prosecution investigators. When asked by investigators if he ever went to the Stadium, Home St. John or Mubuga Church from 7 April 1994 until the end of the war, Kayishema gave a categorical "no". When questioned about this apparent contradiction during cross-examination Kayishema testified that he thought the investigator was asking him whether he had visited the sites everyday and therefore he answered in the negative. [FN77] With regard to gendarmes guarding the gates of the Stadium and controlling the movement of people in and out, Kayishema testified that this was "true and normal."

FN77 See Prosecution exhibit 350c(b).

369. The Defence raised further issues of detail. The Defence questioned why the huge number of Tutsis did not escape before the 18 April by overpowering the four or so gendarmes who were guarding the entrances. The witnesses were consistent in their responses, stating that the gendarmes were armed but those seeking refuge were powerless, therefore, those who tried to leave would have been killed. This fear seems reasonable particularly in light of the evidence that Tutsis had initially sought refuge in the Stadium as a means of escaping atrocities occurring throughout Kibuye Prefecture and that Tutsis had been killed when they attempted to leave.

370. The Defence further asserts that there is no direct evidence that Kayishema ordered the water supply in the Stadium to be turned off as suggested by some Prosecution witnesses. The Trial Chamber agrees with the Defence; although it is clear that the taps in the Stadium did not supply water, there is no direct evidence that Kayishema was responsible.

Factual Findings

371. With regard to Kayishema's participation in the Stadium massacre, the Trial Chamber accepts the evidence of witnesses I, K, L and M. In cross- examination all four witnesses remained fundamentally faithful to the evidence proffered in chief.

372. Paragraph 32 of the Indictment alleges that by April 18 thousands of unarmed and predominantly Tutsis had gathered in the Stadium. The Defence pointed out that Prosecution witnesses did not give a consistent figure with regard to the number of Tutsi whom had gathered in the Stadium. Witness estimates varied from 5,000 to 27,000. The Trial Chamber does not consider this variation fatal to the reliability of the witness evidence. Mindful that the Indictment merely states "thousands of men, women and children had sought refuge in the Stadium located in Kibuye town," the Trial Chamber is satisfied from the evidence that there were indeed thousands of men, women and children who had sought refuge at the Stadium. Further, the Trial Chamber finds that those seeking refuge were predominately Tutsi and, with the exception of a small number of machetes with which they slaughtered cows for food, they were unarmed.

373. Paragraph 33 of the Indictment alleges some refugees went to the Stadium because Kayishema ordered them to do at a time when Kayishema knew that an attack was going to occur. The Prosecution failed to prove this allegation. In fact,

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

almost all witnesses testified to the contrary.

374. Paragraph 34 of the Indictment alleges that people under Kayishema's control, surrounded the Stadium and prevented people from leaving at a time when Kayishema knew the attack was going to occur. The evidence of Prosecution witnesses I, K, L and M, discussed above, is sufficient to show that after those seeking refuge had gathered in the Stadium, it was surrounded by people under Kayishema's control, including gendarmes. Witnesses I, K, L, M and O, testified that gendarmes prevented persons from leaving the Stadium from about 16 April 1994. Kayishema himself accepted that gendarmes were controlling the movement of people in and out of the Stadium. Furthermore, the Stadium massacre followed the massacres at Mubuga Church and Catholic Church, Home St. John. Indeed, a systematic pattern of extermination existed which is a clear demonstration of the specific intent to destroy Tutsis within Kibuye Prefecture in whole or in part. The evidence shows that Kayishema played a major role within this system. For these reasons, the Trial Chamber finds that at the time when the Tutsi were prevented from leaving, Kayishema knew or had reason to know that an attack on the Stadium was going to occur.

375. Paragraph 35 of the Indictment alleges that on April 18 Kayishema went to the Stadium, initiated, ordered, and participated in the attack. It further alleges that during the night of April 18, attackers killed Tutsis if they tried to leave. Witnesses I, K, L and M notwithstanding the mass people, testified that they clearly saw and (in relation to K and L) heard Kayishema. The Trial Chamber finds the evidence of Kayishema's identification and participation convincing. In a scenario, such as the Stadium, it is not surprising that those inside would strain to see and hear what was happening outside when a group of attackers arrived en masse at the main gate. The photographic exhibits indicate that witnesses I and M, positioned on the spectator stands, would be able to see over the Stadium wall to the main entrance. Witnesses K and L, positioned just inside the Stadium close to the main entrance, explained how, despite many people being between them and Kayishema, they wanted to see who had arrived and succeeded in doing so. All of the identification occurred in broad daylight. In making this finding the Trial Chamber is mindful that witnesses I, K and M had known Kayishema prior to the events and successfully identified Kayishema at the trial. Witness L, however, had not known Kayishema prior to the Stadium massacre, but others informed him that it was Prefect Kayishema at the time of the events. Therefore, the Trial Chamber must treat the identification of Kayishema by witness L with extra vigilance. The account of witness L is so similar to the other Prosecution witnesses, particularly K, such that the Trial Chamber accepts that his testimony related to the same man. Accordingly, the Trial Chamber considers that the testimony of L further corroborates the evidence of witnesses I, K, and M with regard to Kayishema's participation in the Stadium massacre.

376. The Trial Chamber finds beyond a reasonable doubt that on 18 April 1994 Kayishema went to the Stadium and ordered members of the Gendarmerie Nationale, communal police and members of the Interahamwe to attack the Stadium. Further, Kayishema initiated the attack by firing a gun into the Tutsi who had assembled in the Stadium and his shots struck two of them. The evidence indicates that the attackers tear gas, guns and grenades were used on 18 April and that the massacre continued on 19 April. However, the evidence relating to the 19 April is not sufficient to show which assailants were attacking the Stadium, or to prove Kayishema's presence. The Trial Chamber is also satisfied that during the attacks some of the Tutsis who attempted to flee were killed.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

377. There is conflicting evidence pertaining to whether the Tutsis were prevented from leaving the Stadium during the night of April 18 and the morning of April 19. The Trial Chamber finds that the Prosecution has not proved their case on this issue.

378. Paragraph 36 of the Indictment alleges that the Stadium attacks left thousands dead or injured. The Trial Chamber is convinced by the evidence that the two days of attacks on the Stadium resulted in thousands of deaths and numerous injuries to Tutsi men, women and children. Predominantly Hutu assailants perpetrated these acts.

379. In relation to paragraph 37 of the Indictment: The accusations in this paragraph are dealt with below in Part VI.

5.3.3 THE MASSACRES AT THE CHURCH IN MUBUGA

Background

380. The Church in Mubuga, like other places of worship in Rwanda, was regarded historically as a safe haven in times of unrest. This was also the case in 1994. The Prosecution alleges that by about 14 April 1994 thousands of unarmed men, women and children, most of whom were Tutsi, had gathered at the Church in Mubuga to escape on-going and widespread violent attacks throughout Kibuye Prefecture. The Prosecution alleges that on 14 April the authorities of the Prefecture, including Kayishema and Bourgmestre Sikubwabo, came with gendarmes to the Church located in Gishyita Commune. According to one eyewitness, [FN78] Sikubwabo stated that he was going to exterminate the Tutsis. Over the next few days, attackers killed thousands of people. Only a handful of those who had sought refuge in the Church would survive this massacre, just one of many in Kibuye Prefecture.

FN78 Trans., 3 Mar. 1998, p. 28.

381. The allegation that this appalling event occurred at Mubuga Church is not in dispute. In fact, an assortment of witnesses, including various eyewitnesses, Sister Julie Ann Farrington, Defence witness DP, and Kayishema, confirmed that after the massacre, corpses and/or human remains were found inside and/or in the immediate vicinity of Mubuga Church. Witnesses who visited this site shortly after the massacre remarked that the decomposing bodies caused a strong stench in the area. In addition, Dr. Haglund, testified that he went to the Church grounds on 20 September 1995 to investigate two alleged graves sites there. He deposed that one grave had been exhumed previously and the bodies had been reburied nearby. In the second area he found a depression in the ground and there were indications that this area had been disturbed. Upon an attempt to probe the second mass grave he found that the ground was too hard and therefore he did not conduct further investigations there. Due to uncontested evidence showing a massacre near the Church in Mubuga, the questions that remain relate to the presence and the participation of Kayishema and those under his control in this massacre. [FN79] The Trial Chamber examines the role Kayishema and his subordinates played at this massacre site, in detail, below,

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

FN79 The Prosecutor presented witnesses who testified that Ruzindana was present and participated in the massacre at Mubuga Church. The Trial Chamber will not consider this evidence because the Indictment in question charges Clement Kayishema alone with crimes at this site.

Prosecution Case

382. Five Prosecution eyewitnesses, V, W, OO, PP and UU appeared before the Trial Chamber to recount the events of prior to and during the massacre in mid- April 1994 at Mubuga Church. [FN80] With slight variations, these five eyewitnesses recounted the events in the following manner. While thousands of Tutsis congregated at this site, between 9 and 14 April 1994, witnesses heard that the Prefect had met with the Hutu priest and that the distribution of food to those seeking refuge was forbidden. The same Hutu priest, who had replaced the Tutsi priest at Mubuga Church, refused water to those seeking refuge, and told them to "die, because your time has come." [FN81]

FN80 Witness OO deposed that the massacres continued on 17 April 1994. There will be an examination of this potential discrepancy in the Analysis and Findings Chapter on the massacres at Mubuga Church below.

FN81 Trans., 20 Nov. 1997, p. 16.

383. Paragraph 40 of the Indictment alleges that "[a]fter the men, women and children began to congregate in the Church, Clement Kayishema visited the Church on several occasions" and that on or about 10 April he brought gendarmes to this location who prevented those seeking refuge in the Church from leaving. All prosecution witnesses deposed that gendarmes had gathered on the Church grounds and patrolled the Church complex to ensure that those who had sought shelter there would not leave. Witness V stated that gendarmes accompanied Kayishema before and during the attacks and witness PP stated that he saw gendarmes near the Church on 13 April. Witness UU stated that on the 15 April Kayishema arrived with "soldiers." The other three eyewitnesses stated that gendarmes were present throughout the congregation of those seeking refuge and during the massacres. For example, witness V stated that the gendarmes arrived on either the 9 or 10 April.

384. Witnesses V, OO and PP all confirmed the allegation that, prior to the attacks, the Tutsis could not leave the Church due to a fear of the gendarmes and other armed individuals patrolling the Church complex. According to one witness, this fear was founded upon the murder of individuals who had attempted to leave the Church building, to find food.

385. Paragraph 41 of the Indictment asserts that individuals under Kayishema's control "directed members of the Gendarme [sic] Nationale, communal police of Gishyita commune, members of the Interahamwe and armed civilians to attack the Church," and that these individuals directly participated in the events. What follows is how the events unfolded as recounted by Prosecution eyewitnesses before the Trial Chamber.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

15 April 1994

386. A number of Prosecution eyewitnesses stated that after the Tutsis began to gather, the Church doors were kept locked from the inside in order to prevent the assailants, who previously had attempted to attack, from entering the Church. Therefore, on the morning of 15 April, the assailants began the attack by throwing tear gas grenades into the Church and shooting through the windows. Witnesses V, W and UU placed Kayishema and the local authorities at the Church on this day. According to witnesses OO and W, Bourgmestre Sikubwabo and Conseillers Mika Muhimana and Vincent Rutaganera led the attack. Witness V stated that he saw Kayishema arrive at the Church in the company of gendarmes on 15 April, while UU stated that he saw Kayishema in the company of "soldiers" on this day. Witness V was the only witness that claimed that Kayishema had a gun and opened fire.

387. According to UU, on this day, Kayishema came to the Church and went to the home of the Hutu priest behind the Church. Witness OO confirmed the cooperation of the priest with Kayishema when he deposed that the priest instructed him to conduct a head count of the Tutsis in the Church for the Prefect. In addition, the Prosecution eyewitnesses confirmed the presence and/or participation of the communal police and civilians, such as local businessman Rundikayo, on this date. Witnesses indicated that although some people died from the effects of the tear gas, the number of Tutsis killed was relatively low on this day. By all accounts, the attackers left the Church in the afternoon of 15 April.

16 April 1994

388. On the morning of 16 April 1994 the Church doors were finally forced opened and the assailants entered the Church. Witness PP recalled that "we were hoping to be killed by bullets and not by machetes." [FN82] The attackers again used tear gas grenades, along with other traditional weapons and, during the ensuing panic some Tutsis were trampled to death.

FN82 Trans., 3 Mar. 1998, p. 30.

389. Witness OO testified that, on the morning of 16 April, Kayishema came with soldiers of the National Army. Witness W was the other eyewitness who placed Kayishema at the Church on this date. It was claimed that in addition to Kayishema, local authorities such as Bourgmestre Sikubwabo and various conseillers were present at the Church on this date. Soldiers threw grenades and other armed attackers shot at and hacked with machetes the Tutsis inside the Church. After most people in the Church had been killed, witness OO, who hid under the corpses of fallen Tutsis, stated that he heard the Prefect telling the local authorities "to come and collect the Caterpillar [bulldozer] to bury the dead." [FN83]

FN83 Trans., p. 39, 20 Nov. 1997. The Trial Chamber notes that the witness claimed this conversation took place after the massacres, on 17 April, a date that was not corroborated by other witnesses.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

The Defence Case

390. The Defence conceded that Kayishema came to Mubuga Church on 14 April, but that he did so only to monitor the situation. In fact, during closing arguments, the Defence reminded the Trial Chamber that his visit to the Church is recorded in Kayishema's diary. [FN84] This was an obvious mistake as nothing is recorded in the said diary under this date.

FN84 Def. exh. 58.

391. The Defence also attempted to impeach Prosecution witnesses by stressing that some contradicted themselves, or each other, with regard to the exact hour of the commencement of the attacks or the varying dates of the end of the attacks. For example, the Chamber was asked to recall that witness OO deposed that the attacks did not end until 17 April while others claimed that the massacre, at this site, ended on 16 April. According to Kayishema's Defence Counsel the idea that "a witness can only identify Clement Kayishema if he knew him before" is incorrect. [FN85] In cross-examination issues of visibility were raised which will be analysed below.

FN85 Trans., 4 Nov. 1998, p. 148.

Factual Findings

392. The allegations in paragraph 39 of the Indictment, that by about 14 April 1994 thousands of Tutsis congregated in Mubuga Church and that they were taking refuge from attacks which had occurred throughout Kibuye, are not in dispute. In addition all five Prosecution witnesses and at least one Defence witness confirmed that many Tutsis had come to the Church for protection. The witnesses gave slightly differing numbers about the persons that were gathered at the Church. Witness V estimated that about 4,000 people, mostly women and children had assembled there by 12 April, while witness W remarked that the number of persons taking shelter at this location was between 4,000 to 5,000 by the time of the attacks. Witness OO stated that 5,565 were present at the Church according to a head count he conducted on the instructions of the Hutu priest, who had told OO that this information was needed by the Prefect for humanitarian purposes. The Trial Chamber accepts that between 4,000 to 5,000 persons had taken refuge at Mubuga Church.

393. Paragraph 40 of the Indictment charges Kayishema with having visited the Church on several occasions before the attacks and having brought gendarmes to this location on or about 10 April. The gendarmes allegedly prevented the Tutsis within the Church from leaving. As discussed above, all Prosecution eyewitnesses affirmed having seen gendarmes at the Church while they were assembling there and during the attacks. With regard to Kayishema having brought the gendarmes two witnesses testified that prior to the attack they saw him at the Church either arriving with or in the company of gendarmes. Therefore, we find that whether these gendarmes came to this location with Kayishema or arrived without him is irrelevant as Kayishema knew or should have known of their activities, especially given the state of security in his Prefecture. The issue is the presence of the gendarmes and not

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

whether they were physically transported to the crime site by Kayishema.

394. Whether the gendarmes prevented the Tutsis from leaving the Church is the second question raised in paragraph 40 of the Indictment. The Defence contended that the gendarmes were present for the protection of the Tutsis. The Prosecution witnesses painted another picture. They stated that while the gendarmes were present before the attacks, armed assailants, including the members of the Interahamwe, surrounded the Church and attacked Tutsis attempting to exit, with impunity. Witnesses W and OO both affirmed that Tutsis who initially attempted to leave the Church for food or water were either chased back into the building or beaten to death by the armed assailants outside the Church. Witness OO stated that those seeking refuge could not even leave the Church to use the toilet. One Prosecution eyewitness testified that approximately, twelve to fifteen gendarmes were present at the Church. If this number was accurate, coupled with the fact that gendarmes are usually armed, then it would be conceivable that the gendarmes could engage in the prevention of the departure of the Tutsi seeking refuge from this site. Moreover, during the attacks, the gendarmes were seen throwing grenades and shooting into the crowds of the unarmed civilians inside the Church. All these facts leave no doubt that the gendarmes were involved in the virtual imprisonment and later the massacre of the Tutsis in Mubuga Church until the attacks began inside the Church on the morning of 15 April.

395. Paragraph 41 of the Indictment, surprisingly, does not charge Kayishema with having been present during the attacks. It states "on or about 14 April 1994 individuals, including individuals under Clement Kayishema's control, directed members of the Gendarme [sic] Nationale, communal police of Gishyita commune, members of the Interahamwe and armed civilians to attack the Church." The Indictment goes on to allege that the attacks continued for several days as not all the persons within the Church could be killed at one time. As aforementioned, all five Prosecution eyewitnesses to the events at Mubuga Church were there on the 14 and 15 April. Two witnesses deposed that they had been there on the 16 April and only one on 17 April 1994. These witnesses stated that they closed the doors to the Church to avoid being attacked by assailants. The Trial Chamber finds that, with regard to the date, there were no material contradictions in the oral testimonies of these five witnesses, as claimed by the Defence. The Trial Chamber further finds that the attackers, who surrounded the Church, began their attempts to kill the Tutsis before 15 April, but that the dates on which the massacres were carried out inside the Church were in fact 15 and 16 April in the presence, and at the direction of, local authorities.

396. Because a number of eyewitnesses placed Kayishema at Mubuga Church during the attacks, at this juncture, it is appropriate to consider the identification of the accused at this location before and during the attacks. Preliminarily, we are cognizant of the fact that the events took place during the daytime, which renders visibility less problematic. Secondly, we note that because those seeking refuge were awaiting attacks, they must have been constantly seeking to know about the goings-on around the Church and were therefore, as mentioned by some witnesses, such as W, looking outside through the windows and doors.

397. Having observed the demeanor of the witnesses and listened closely to their oral testimony the Trial Chamber is satisfied that the eyewitnesses were credible and did not attempt to invent facts. This credibility was helpful in determining the reliability of the identification of the accused at the massacre site. Mubuga

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

Church has three doors and several windows [FN86] and according to the eyewitnesses' accounts, the assailants, including Kayishema and his subordinates came close to the Church building at some point during the time in question. During cross-examination, some concerns of obstructed visibility were raised also in the case of OO, because he had placed Kayishema at the site by stating that while he (witness OO) was lying under the corpses of slaughtered Tutsis, he heard Kayishema speaking with other local authorities. The question then becomes one of voice recognition and not of visibility, as the Defence contend. The Trial Chamber is satisfied that the witnesses' prior familiarity with the accused - he had seen the Prefect at the installation of Sikubwabo as Bourgmestre and at local rallies - and having heard his voice at other meetings prior to the massacres would enable OO to recognise Kayishema's voice and render the identification of the accused a trustworthy one.

FN86 Pros. ex's. 37, 39 and 40.

398. The Defence contested the identification of the accused by witness W by pointing to the unfavorable visibility conditions caused by the tear gas released into the Church. Since there is both oral and pictorial [FN87] evidence of grenades having been used the Trial Chamber notes that this factor could have made for poor visibility. However, Mubuga Church covers a sizeable amount of space, capable of holding 4,000 to 5,000 persons. Witness W stated that he was not near the part of the Church where the grenade landed and was therefore able to view the persons outside. At any rate, it remains unclear whether the witness saw Kayishema prior to the launching of the tear gas grenade or after. Therefore, the Trial Chamber accepts the testimony of witness W. [FN88]

FN87 Pros. exh. 47.

FN88 It should be noted that witness W deposed that he had known Kayishema well before the attacks.

399. Questions were also raised by the Defence regarding the reliability of witness UU's identification of the accused. UU testified that he was near the main entrance of Mubuga Church when Kayishema arrived in his vehicle. During cross-examination, however, he stated that he did not recognise Kayishema until he heard other people remark that the Prefect had arrived. The Trial Chamber observes that witness UU had met Kayishema on one occasion prior to April 1994, at Kayishema's grandfather's home, but may not have recognised him immediately upon his arrival at Mubuga Church on 15 April. However, the witness stated that after the declaration by others he did recall knowing Kayishema. The Trial Chamber finds this, in fact, to be the case.

400. Each one of these eyewitnesses, with the exception of PP, placed Kayishema at the site on at least one day either shortly before or during the attacks of 15 and 16 April. Witness PP's hearsay evidence also corroborated the accounts of other eyewitnesses. Additionally all eyewitnesses presented by the Prosecution for this site affirmed having seen at least one or more of the following outside the Church during the time in question: local authorities such as Bourgmestre Sikubwabo, Conseillers Muhimana and Rutagenera, Minister of Information Niyitegeka as well as gendarmes, members of the Interahamwe, communal police and other armed civilians.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

It is interesting to note that the Defence only contested the presence of local authorities during the cross- examination of Kayishema and not before. [FN89]

FN89 When asked by Ms. Thornton about whom lead the massacres in Kibuye Prefecture, Kayishema stated that none of the local authorities had taken part and that trials were conducted after he fled the country, in July 1994, to find the culprits.

401. Paragraph 42 of the Indictment maintains that as a result of the attacks thousands of deaths and numerous injuries to men, women and children perished and numerous others sustained injuries.

402. The Trial Chamber has made a finding with regard to the number of the Tutsis present at the Church. Therefore, in light of the testimony that most of the persons assembled at the Church were slaughtered, the Trial Chamber deems it unnecessary to focus on exact numbers. Suffices to say we find that thousands of persons were massacred at this site and therefore the Prosecution has met its burden beyond a reasonable doubt with regard to this allegation.

403. Paragraph 43 of the Indictment asserts the Kayishema did not attempt to prevent this massacre and failed to punish those responsible. This allegation is addressed in Chapter 6.1.

Conclusion

404. It is clear from the evidence presented to the Trial Chamber that of the thousands of Tutsis gathered at Mubuga Church, only a few survived this weekend massacre. The Trial Chamber is satisfied, beyond a reasonable doubt, that Kayishema and his subordinates, including local authorities, the gendarmes, the communal police and the members of the Interahamwe were present and participated at the attacks at Mubuga Church between 14 and 16 April. As aforementioned, Kayishema, is not charged with having been present during the attacks under paragraph 41 of the Indictment. In light of the testimony of the five witnesses the Chamber nevertheless finds that Kayishema was present during the actual attacks. We further find that his presence and the presence and the participation of other local authorities, encouraged the killings of the Tutsis who had assembled to seek refuge there.

5.4 THE MASSACRES IN THE AREA OF BISESERO

5.4.1 Introduction

405. The evidence before the Trial Chamber presents a picture of a massive, horrific assault on the Tutsis gathered in the Bisesero area by extremist Hutu military, communal police, members of the Interahamwe and armed civilians. These attacks continued throughout April, May and June 1994. The Bisesero area was home and area of refuge to many Tutsis during the genocide. Many Tutsis from other regions, hid in caves, scattered through woods and bushes, or gathered on the high hills in the area. Some Tutsis congregated in Bisesero because they had heard that

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

they would be protected. This was not the case. Relentlessly, they were pursued by Hutus bent on genocide, who shot or hacked all the Tutsis they found.

406. The most severe attacks occurred in the Bisesero area on 13 and 14 May 1994, after an apparent two-week lull in the attacks. Some evidence asserted that this two-week pause in the attacks resulted from a resistance by the Tutsis assembled in Bisesero and attackers used this pause to regroup. Witness G attended a meeting, held on 3 May by Prime Minister Jean Kambanda at Kayishema's offices, in which Kayishema reported there was serious insecurity caused by those gathered in Bisesero and requested reinforcement to resolve the problem. [FN90] Soon after in mid May, the assailants again pursued those seeking refuge from place to place. At times, Hutu operations were conducted on a huge, organised scale with hundreds of assailants transported in buses to areas where Tutsi civilians had gathered. At other times, minor military or Interahamwe patrols throughout the region attacked Tutsis whenever they were found. The ultimate aim of these assaults appeared to be the complete annihilation of the entire Tutsi population. In pursuit of this objective, attackers killed thousands of Tutsi civilians.

FN90 Witness G also testified that in the ensuing days he saw the members of the Interahamwe from Gisenyi Prefecture, armed with guns, going toward Bisesero.

General Allegations

407. Paragraph 45 of the Indictment alleges, that the Bisesero area spans two communes, Gishyita and Gisovu, in Kibuye Prefecture. The Prosecution alleges that from about 9 April until 30 June 1994, thousands of men, women and children sought refuge in the area of Bisesero. Most were Tutsis seeking refuge from attacks that had occurred throughout the Prefecture of Kibuye.

408. Bisesero's geography is not in dispute. The Trial Chamber is seized of Prosecution exhibits, including maps and photographic slides, which depict the area of Bisesero.

409. Furthermore, the Defence did not contest the allegation that from about 9 April until 30 June 1994, Tutsis sought refuge in Bisesero from Hutu attacks that had occurred in other parts of Rwanda and, in particularly, other areas of Kibuye Prefecture. Many eyewitnesses confirmed having been amongst thousands of Tutsis fleeing other attacks within Kibuye Prefecture [FN91] and other witnesses confirmed having seen many Tutsis fleeing various areas in Kibuye to Bisesero. Kayishema testified: "I can tell you that the, [sic] aggressors were Hutu and the attacked were the Tutsis, some who came from Bisesero and others who had gathered in the hills of Bisesero. On both sides -- on either side there were cases of mortality." [FN92] Numerous witnesses confirmed the mass murder of Tutsis in the Bisesero area. For instance, Chris McGreal, a journalist for the London-based Guardian newspaper, testified that he spoke to Tutsis seeking refuge on a hill in Bisesero in June 1994. While there, he saw evidence of mass killings in the area including human corpses. The Tutsis whom he interviewed told him that these bodies remained unburied because they (the Tutsis) feared attacks by the armed Hutus near the water. Patrick de Saint Exupery, a journalist for the Paris-based Le Figaro, visited Bisesero in June 1994. He confirmed that a "Bisesero Hill was scattered, literally scattered with bodies, in small holes, in small ditches, on the foliage,

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

along the ditches, there were bodies and there were many bodies." [FN93]

FN91 For example, witnesses OO, PP, W survived the massacres at Mubuga Church and took refuge in the Bisesero area.

FN92 Trans., 4 Sept. 1998, p.59.

FN93 Trans., 18 Nov. 1997, p. 137.

410. Paragraph 46 of the Indictment, alleges that "the area of Bisesero was regularly attacked on almost a daily basis, throughout the period of about 9 April 1994 through 30 June 1994. The attackers used guns, grenades, machetes, spears, pangas, cudgels and other weapons to kill the Tutsis in Bisesero. At various times the men, women and children seeking refuge in Bisesero attempted to defend themselves from these attacks with stones, sticks and other crude weapons."

411. The above allegations were not contested. Most Prosecution witnesses, including survivors of attacks, confirmed that attacks took place on a regular basis, during the time in question. Witness OO testified that "the attacks were every day in Bisesero, but most frequent in Muyira and Gitwa. The attacks began at about 6 a.m. and would continue until about 4 to 5 p.m." Kayishema himself testified that "major attack" [FN94] and "massacres" [FN95] took place in Bisesero. There is sufficient evidence to show that attacks occurred at approximately twelve sites in the Bisesero area. [FN96] Dr. Haglund observed the aftermath of the massacres in September 1995 at various sites at Bisesero. Testifying about his visit to a hill on the border of Gishyita and Gisovu Commune, Dr. Haglund stated "[a]nd if one looks through field glasses or a magnifying instrument across ... this hillside there were many white spots -- it looks almost like strange mushrooms growing here and they represented skeletons, the heads of human bodies that were littered on this landscape ...'' [FN97] and "in a brief walk around I observed a minimum of 40 to 50 individual skeletons lying about on the hill. These were skeletons on the surface. They represented men, women, children and adults." [FN98]

FN94 Trans., 9 Sep. 1998, p. 37.

FN95 Trans., 8 Sep. 1998, p. 117.

FN96 The Trial Chamber notes that some witnesses used specific names of neighbourhoods when testifying about specific attacks. For the purpose of clarity however, we have grouped neighbouring localities together and described the attacks by date.

FN97 Trans., 25 Nov. 1997, p. 65.

FN98 Trans., 24 Nov. 1997, p. 82.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

412. All types of weapons were used by the attackers, witness JJ confirmed that attackers were carrying "clubs, machetes and grenades." Witness HH also reported that the assailants were armed with guns, machetes, swords and spears. The forensic evidence presented by Dr. Haglund confirmed that the victims were killed with such weapons during the massacres. Tutsis, who had gathered at Bisesero, also attempted to defend themselves with crude weapons. Witness X, along with other witnesses, confirmed this fact. Witness EE stated that the Tutsis threw rocks at the assailants to thwart attacks and escape.

5.4.2 Massacres Where Kayishema and Ruzindana Acted in Concert

413. The Prosecution alleges that at various massacre sites in Bisesero, Kayishema and Ruzindana often in concert, brought and directed groups of armed attackers. Moreover, the Prosecution accuses both of personally attacking and killing persons seeking refuge in Bisesero area. Evidence shows that assailants attacked the Tutsis seeking refuge over a vast area. For clarity, the Chamber discusses the evidence chronologically and site by site, with emphasis on the most severe attacks.

Bisesero Hill

414. Witness FF saw Kayishema, Ruzindana and Mika Muhimana, the Conseiller of the Gishyita sector, arriving at Bisesero in a white vehicle on 11 May. Kayishema was wearing a green shirt and carrying a megaphone. Ruzindana wore a white shirt and carried a weapon. Mika said through a megaphone that they were working for the Red Cross and that peace had returned. He urged people to bring the wounded and the handicapped to the Church in Mubuga where they would get blankets and beans. As those seeking refuge emerged from their hiding places Ruzindana stepped out of his vehicle and shot at a woman and two girls. Witness FF observed these events from a distance of approximately ten meters. This Chamber finds this uncontroverted testimony.

Attacks at Muyira Hill in May

415. Muyira Hill is located in the Bisesero area on the border between Gishyita and Gisovu commune on the Gishyita side of the road that separates the two communes at this location. As Saint Exupery deposed, it was a manhunt for Tutsis. Many witnesses identified Kayishema and/or Ruzindana at this massacre site including witnesses PP, OO, II, JJ, NN, HH, UU, FF, KK. Witnesses PP and OO were survivors of the Church in Mubuga massacres who then escaped to Bisesero. Witness PP testified that on 13 May Kayishema and Ruzindana were at the foot of Muyira Hill participating in the attacks. Witness PP clearly observed the attackers throwing grenades, chasing those seeking refuge and, before nightfall, Kayishema and Ruzindana shooting at the fleeing Tutsis. On 14 May, also at Muyira, PP heard Kayishema addressing a group of attackers who had come from other prefectures.

416. Witness OO testified that the Muyira attacks were led by the Bourgmestre, the Prefect, conseillers and Ruzindana. The attackers separated into groups and encircled the Tutsis seeking refuge. According to OO, he stated that before the attacks, Ruzindana had distributed traditional weapons to the attackers. Witness OO stated that on 13 May Kayishema and Ruzindana came to Muyira Hill leading a convoy

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

of vehicles, including buses, which were transporting soldiers. He testified that Kayishema signalled the start of the attack by firing a shot. Witness OO stated that he saw Kayishema clearly and described that Kayishema wore a green suit on that day. Witness OO saw Ruzindana who was armed, leading one of the group of attackers. Ruzindana shot witness OO, striking him in the foot that day. The Defence noted that the witness had told the Prosecution investigator he had been shot in the leg rather than foot. The witness explained that the Kinyarwanda word he had used on both occasions was "ikirenge," which means foot. The Trial Chamber is satisfied that, any discrepancy is not a material contradiction.

417. With regard to the events of 14 May, OO saw Ruzindana and Kayishema arrive with members of the Interahamwe. From his hiding place that morning he heard Kayishema address the attackers who came from the other prefectures and remembered Kayishema saying "the dirt should be cleaned that day and that they should finish the job ...'' and that Kayishema and others would take care of what remained to be done. [FN99]

FN99 Trans., 20 Nov. 97, p. 86.

418. Witness II, testified that on 13 May he observed the government owned ONATRACOM buses arrive along with many other vehicles from which soldier exited. As the assailants began the attack, the Tutsis fled, after an initial attempt to defend themselves using stones. Witness II testified that he saw Ruzindana arrive with the soldiers and appear to lead them. Although during examination-in-chief II testified that he witnessed Ruzindana firing a gun at the Tutsis, in cross-examination, this statement proved to be based on an assumption rather than his direct observation. In addition, on the evening of 13 May, while he was hiding at Uwingabo Cellule, II observed the attackers regrouping. There he saw and heard Kayishema thanking those attackers from the surrounding commune and prefectures, including Ruzindana, for having shown such devotion to their work.

419. On 14 May II observed the attackers as they again arrived in buses and cars. From a literal stone's throw away, II saw Kayishema and Ruzindana leading the group and observed both shoot at the Tutsis. Witness II fled in the direction of Karongi Hill and escaped. Witness II further claimed that he saw Ruzindana, on several occasions, giving money to several of the attackers.

420. Witness JJ testified to the events at Muyira Hill on 13 May. He affirmed that Kayishema, dressed in a green civilian suit, arrived in a white vehicle with military escort and Ruzindana was seen to be transporting assailants. Kayishema held a short barrelled, black gun and a hand megaphone. He divided the attackers into groups, gave instructions and fired the first shot. Witness JJ recalled that at the end of the attack, Kayishema presided over the regrouped assailants. During the examination-in-chief, JJ initially stated that he was 300 meters away from Kayishema, but later approximated the distance to have been 120 meters.

421. On 14 May, witness JJ again saw Kayishema between Gishyita Hill and Gisovu where the assailants parked their vehicles. At the end of the large-scale attack, Kayishema brought together and congratulated the assailants from other areas. Attackers shot witness JJ in the hand during the Muyira attacks.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

422. Witness NN testified that on 13 May 1994, he recognised Kayishema, Ruzindana and Bourgmestre Ndimbati, among the attackers. Kayishema was waiting for those seeking refuge on the road and shot in the direction of three Tutsis named Mbunduye, Munyandamutsa and Hakizimana. The record is unclear whether the witness observed the death of any of these persons. Witness NN, who stated that Ruzindana transported members of the Interahamwe to the massacre site on 13 May. There he fired gunshots at two Tutsis named Ragasana and Birara and shot at OO, but missed. Witness NN, who lost an eye from a grenade explosion at this site recalled how the Hill was covered with dead at the end of the attack.

423. Witness HH testified that assailants during the attack of 13 May included Kayishema, Ruzindana, Musema, Ndimbati and Sikubwabo. As OO was hiding in the forest Kayishema and Ruzindana were quite close when OO saw them shoot at a group of Tutsis seeking refuge who were at the top of the hill. Witness HH remembered the attackers singing: "The Tutsis should be exterminated and thrown into the forest ... don't spare the newly born baby, don't spare the elderly man, don't spare the elderly woman. Kagame left the country when he was a young baby." [FN100] In cross-examination, HH explained that he had not mentioned Ruzindana in his written statement because the Prosecution investigator had inquired only about the presence of responsible officials. Having reviewed the written statement, the Trial Chamber finds credible the witness's explanation.

FN100 Prosecution exh., 297.

424. Witness UU observed Kayishema at Mpura Hill, a 30-minute walk from Muyira Hill, on 14 May. There, he saw Kayishema near the top of Mpura, drinking beer with other assailants before the start of the attacks. He then saw Kayishema directing other leaders to the location of Tutsis nearby. Thereafter, the attackers began to pursue the Tutsis on Mpura Hill. Witness UU testified that he saw Ruzindana giving money to the attackers on 15 May on Gitwa Hill in Mubuga and that he had heard a conversation between him and the attackers regarding additional payments. The witness's testimony clarified that he was able to observe the exchange of money. However, UU stated that he heard only the conversation between the attackers, and not that between Ruzindana and these assailants, who confirmed that they expected Ruzindana to pay them more in the following days. If the latter version of UU's testimony regarding additional payment is how the events unfolded, the evidence proffered amounts to hearsay. However, because other witnesses, such as II corroborate Ruzindana's disbursement of payments to the attackers at various sites, the Trial Chamber finds this discrepancy to be a minor one.

425. The witnesses above provide a thorough account of the role of Kayishema and Ruzindana in the Muyira attacks of 13 and 14 May 1994. The Trial Chamber need not detail the further evidence that supports the Prosecution's case. It suffices to say that the evidence of witnesses Z and AA affirms Ruzindana was participating in the Muyira Hill attacks.

Witnesses FF and KK

426. Witnesses FF and KK provided evidence that conforms generally to the accounts of the above witnesses. However, doubt exists as to the quality or reliability of

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

their testimony. Witness FF stated that he observed the events from the peak of Gitwa Hill. The Defence proffered evidence that Gitwa Hill is about three kilometres from Muyira Hill and suggested that FF was testifying to events that were at least half that distance away. The Prosecution failed to prove otherwise. Accordingly, the Trial Chamber is not satisfied that FF had a clear view of events and deems his evidence unreliable.

427. Witness KK was a public official in Rwanda in 1994. He testified that on 13 May, he heard the attackers singing: "let's exterminate them, let's exterminate them, we must finish off these people who are hiding in bushes. Let's look for men, everywhere so that no one remains." [FN101] He further testified that on 14 May, Kayishema led the attackers, shot at those seeking refuge as they descended Muyira Hill, and addressed a crowd of assailants using a megaphone. In his written statements, however, KK had made no mention of Kayishema except in reference to a radio broadcast where the former Prime Minister had thanked Kayishema for being valiant. Witness KK explained this omission by stating that the Prosecution investigators had only asked him about those who came from his commune. A close review of his witness statement, however, reveals that this was not the case. The two statements made by witness KK to the investigating team, show that the investigators inquired about leaders of the attacks in general. They did not ask specific questions about the attackers' origins. For the above reasons, the Trial Chamber gives little weight to the evidence proffered by witness KK.

FN101 Trans., 26 Feb. 1998, pp. 33-34.

Attacks at Muyira Hill and Vicinity in June

428. The attacks in the Bisesero area continued into June 1994. A letter dated 12 June 1994 shows Kayishema's continued involvement in the massacres. In this letter, Kayishema requested from the Ministry of Defence a plethora of ammunition, such as "gun-propelled and hand grenades, bullets for R4 rifles and magazines for machine guns" to undertake a "clean-up operation" ("ratissage'' in French) in Bisesero. [FN102]

FN102 Pros. exh., 296.

429. Witness PP, who had seen Kayishema and Ruzindana at the attacks on Muyira Hill on 13 and 14 May, saw them again in June at Kucyapa. As PP was running through Kucyapa he saw Kayishema and Ruzindana who fired a gun at him and at the group with which he was fleeing. Later in June, PP saw Kayishema and Ruzindana for the last time near Kabanda's house. Here PP was with a group of unarmed Tutsis and saw both the accused and others fire guns and kill people. Witness PP also testified that Kabanda, a prominent businessman, was a particularly sought after target by both Kayishema and Ruzindana. Witness PP deposed that Kabanda was eventually shot by Bourgmestre Sikubwabo, decapitated and his head was delivered to Kayishema for reward. PP was hiding in a nearby bush when he saw Sikubwabo shoot Kabanda, but only heard about the beheading from others. The account of the beheading, given by PP, is not sufficient to prove particular direct acts of participation of the accused. However, with regard to the acts of those under his control, in this instance Bourgmestre Sikubwabo, the Trial Chamber finds the evidence of this witness convincing.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

430. In light of the above evidence, the Trial Chamber finds that Kayishema and Ruzindana were present at the massacres in Muyira Hill and its vicinity beginning on about 13 May 1994. Further, the Trial Chamber finds that Kayishema and Ruzindana helped transport other assailants to Muyira Hill and vicinity, instigated them to attack the Tutsis gathered there, orchestrated the method of attack, led the attacks, and personally participated in them. Additionally, with regard to Kayishema, this Chamber finds that the Prosecution has proved the participation in the massacres of his subordinates, including the gendarmes, communal police, members of the Interahamwe, and local officials, such as Bourgmestre Sikubwabo.

The Cave

431. One of the most horrific mass killings in Bisesero took place at a site simply called the "cave," located in Gishyita commune, Bisesero Sector, Kigarama cellule. Hutu assailants launched an attack on the cave where Tutsis sought refuge. The assailants came in the morning and fired guns and threw grenades into the crowd of Tutsis who sought refuge at this location. The attackers then fetched and piled wood at the entrance of the cave and set fire to it. The smoke killed hundreds of people inside. By all accounts, there was apparently only one survivor. The Prosecution asserts that Kayishema and Ruzindana were amongst those leading the attack.

432. Dr. Haglund visited the cave in September 1995 and described it by stating: "I went back perhaps 40 or 50 feet -- about 10 metres. It got gradually smaller and smaller and narrower and it would make sharp turns and drops. ... '' Dr. Haglund took photographs from inside and outside the cave which the Prosecution entered into evidence. [FN103] Dr. Haglund further stated "as I went [further back into the cave] ... I did observe [the remains] of many individuals, men, women and children protruding from the mud that had covered them up in the intervening rainy season, and at minimum, I observed at least 40 people in this area." Witness QQ, who's sister died at the cave, testified that he saw the smoke coming from the cave on the day of the attack, as he was fleeing from the hill. Later, when he went back to the cave, he discovered that the attackers had set the fire at the entrance.

FN103 Pros. exh., 152-55.

433. Witness CC is the sole survivor of the massacre at the cave. On the day of the attack, in June 1994, witness CC was inside the cave. According to witness CC, the attack was launched at 9 a.m. when the attackers threw grenades into the cave that did not explode. Members of the Interahamwe then went to look for wood and dry grass and piled it and firewood and earth at the entrance of the cave and ignited. On several occasions, during the attack witness CC heard the members of the Interahamwe talking of Kayishema and Ruzindana in a manner that would suggest they orchestrated the attack. Being inside the cave, however, CC never actually saw Kayishema or Ruzindana. CC claimed that he was able to stay alive by rubbing mud on his body and sipping dripping water. He did lose consciousness later but came to when cool air flowed into the cave after other Tutsis unblocked the entrance from outside.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

434. Two witnesses, witness W and HH were hiding outside the cave and confirmed that Kayishema and Ruzindana were present and participated in the cave massacre. Witness W, who was hiding in a thorny bush less than five minutes walk from the cave entrance, testified that in May or June 1994, more than one hundred people, mostly the elderly, women and children took refuge in the cave. As the attackers arrived he heard them singing: "[w]e are going to exterminate them and put them in a hole." Kayishema, Ruzindana, Bourgmestre Sikubwabo and other local authorities were among the attackers. Witness W confirmed that the attack started in the morning when the attackers fired into the cave. Later they piled wood at the entrance of the cave and set the wood ablaze. Witness W further testified that Kayishema appeared to be leading a group of attackers and that Ruzindana was leading those attackers from Ruhengeri. After attackers departed at 5 or 6 p.m., Witness W and others re-opened the entrance to rescue any survivors.

435. Witness HH testified that he fled to the cave after his wife and children were killed in another part of Kigarama. He remained outside watching the assailants in the nearby forest. He recognised Kayishema, Ruzindana, Sikubwabo, Ndimbati, and other civil authorities amongst the attackers. He recounted that the assailants fired into the cave, then closed the mouth of the cave, piled wood at the entrance and set the wood ablaze on the orders of Kayishema and Ruzindana. Witness HH confirmed W's account that Kayishema and Ruzindana were leading the groups of assailants and he saw the two men giving them instructions, "just like an overseer who is demonstrating to workers how the work should be done." After the attack, HH and others removed the earth from partially blocking the cave's entrance. Although his testimony is not completely clear on this point, it appears that when HH went into the cave he found no survivors, but later one person came out alive. Among the victims were HH's mother, sister, sister-in-law and her three children.

436. The Defence claims that there is a discrepancy between the testimony of witnesses CC, W and HH with regard to when CC was rescued from the cave. The Defence asserts that CC claimed to have stayed in the cave for three days and nights after the attack, while HH and W testified that after the departure of the assailants on the same evening, the cave entrance was opened and CC was rescued. The Trial Chamber does not find such a discrepancy. It is true that CC deposed that he remained in the cave for three days and nights after the attack. However, careful review of the transcript shows that HH stated that, although the rescuers opened the cave the same evening, they did not find any survivors on that day. HH testified that later one person came out alive. This conforms with CC's account. Witness W supported HH's account that the rescuers opened the cave on the same day and that they were able to save one survivor but did not mention the day that the survivor emerged from the cave. Witness HH and W both named the survivor as CC. It is also possible that CC lost track of time as he was unconscious for an unknown period of time. Whatever the exact day of CC's exit from the cave, the testimony of the three witnesses in relation to the presence and role of Kayishema, his subordinates and Ruzindana at the cave are a consistent and credible.

437. The Chamber notes that no exact date of this event was established. Witness CC stated it was in June. Witness W indicated it happened in late May or June, but added that he was disoriented during this period due to starvation and other factors. According to witness HH, the massacre at the cave took place after French soldiers arrived, which he thought to be 30 June. The problem that witnesses have recollecting precise dates, and the consequential lack of specificity on when the events occurred, has been discussed above. In any event, the essential elements of the crimes depicting the location and nature of the atrocities correlate, thus

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

clearly showing that the witnesses were testifying to the same massacre.

438. The Trial Chamber finds that an attack occurred at the cave and assailants killed scores of Tutsis. Further, both Kayishema and Ruzindana were present at the attack and played a leading role in directing the perpetrators of this massacre; Ruzindana of a particular group of attackers and Kayishema in general. This Chamber finds that gendarmes, members of the Interahamwe and various local officials were present and participated.

5.4.3 Massacres Where Kayishema and Ruzindana Acted Separately

439. There are a number of sites within the area of Bisesero area where the witnesses testified to having seen one of the two accused. The Trial Chamber first turns to evidence in relation to Kayishema, followed by that in relation to Ruzindana. Again, the evidence is presented and analysed chronologically and per site.

Attacks for Which Kayishema is Accused Separately

Karongi Hill

440. Testimony reveals that after the massacre at the Stadium, many Tutsi civilians fled to Karongi. Witness U testified that one morning in mid April Kayishema arrived with the Conseiller of Gitesi Commune, soldiers, gendarmes and Hutu civilians. Witness U was close to the arriving vehicles and observed Kayishema wearing a black, short sleeve shirt and a pair of black trousers. They proceeded to attack Tutsis on Karongi Hill. During the siege, gendarmes and soldiers shot at the Tutsi crowd on the Hill while the Hutu civilians surrounded the Hill preventing escape. Witness U heard Kayishema, who was speaking through a megaphone, demand help for the attack. According to witnesses, the attack started around 10 a.m. and ended about 3 p.m.

441. After this attack at Karongi, witness U fled to Kigarama Hill (in the record transcribed as Muchigarama). Here, in late April, he witnessed another attack led by Kayishema. He stated that although Kayishema was not armed, "[i]t was as though he was a general of the army," [FN104] and that thousands of Tutsis lost their lives during these attacks.

FN104 Trans., 6 May 1997, p. 141.

442. Witness DD testified that a large-scale attack took place at Karongi Hill towards the end of April. He saw, from a hiding place 30 to 35 meters away, that Kayishema arrived in a white car with other civic authorities, soldiers, gendarmes, communal police, members of the Interahamwe and civilians at about 9 a.m. Witness DD testified that Kayishema was wearing a white shirt, a black jacket and a pair of dark trousers and was carrying a long gun. After having given instructions to the attackers, Kayishema proceeded to the top of the Hill with other attackers. Kayishema shot at Rutazihana, a fleeing Tutsi refugee, and killed him

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

instantaneously. The attack continued until the evening. Witness DD described how the slaughtered bodies on the Hill were like "small insects which had been killed off by insecticide." [FN105] On that day, DD lost many members of his family, including his mother, wife, nine children, four sisters and their children, five of his brother's children, two brothers and their wives.

FN105 Trans., 25 Feb. 1998, p. 28.

443. During the cross-examination, the Defence Counsel stressed the difference between the written statement signed by DD and his oral testimony. In his statement to investigators the witness had described how his friend Rutazimana was killed by the bullet of a soldier, whereas in his testimony, he asserted that Kayishema had shot Rutazimana. The doubt raised by this inconsistency, of which the accused is entitled to the benefit, was not dispelled by the explanation of the witness. With regard to prior inconsistent statements, the Trial Chamber is of the opinion that greater emphasis should be placed on direct testimony than on unchallenged prior statements. Although the witness's oral testimony was truthful overall and the accused bears responsibility for the acts of his subordinates at this site as one of the leaders of the attack, we find that with regard to the shooting incident a reasonable doubt has been raised.

Gitwa Cellule and Gitwa Hill

444. Yet another site where Kayishema allegedly led and participated in the attacks is Gitwa Cellule and Gitwa Hill. Witness MM, who lost his wife, four children, two brothers and one sister during the attacks, testified that he (the witness) saw Kayishema when he was hiding at Mukazirandimbwe. Kayishema came in a white double-cabin vehicle with soldiers and members of the Interahamwe who were carrying guns, clubs, machetes and spears. Kayishema ordered and urged the assailants to exterminate the Tutsis seeking refuge there. Witness MM saw Kayishema three times at Gitwa in similar circumstances during May. He testified that although he did not see Kayishema carry a weapon or observe any killing, he stated that, "wherever one went one saw nothing but bodies." [FN106]

FN106 Trans., 24 Feb. 1998, p. 27.

Attacks for Which Ruzindana is Accused Separately

Mine at Nyiramuregro Hill

445. Nyiramurego Hill, where a mine is located, is in Bisesero sector. Witness RR testified that he saw Ruzindana arrive in a vehicle with members of the Interahamwe, park his car at the foot of the hill and distribute machetes and guns about 15 April. According to this witness Ruzindana told the attackers to "hurry up, I'm going to bring other people to help you. But each time bring me an identity card or a head and I will pay you." Although after cross- examination the exact distance at which RR observed Ruzindana remained unclear, RR maintained that he was close enough to hear and see Ruzindana on that occasion.

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

PROSECUTION INDEX OF AUTHORITIES

9. Security Council Resolution 1315.

United Nations S/RES/1315 (2000)

Security Council

Distr.: General
14 August 2000

Resolution 1315 (2000)

Adopted by the Security Council at its 4186th meeting, on 14 August 2000

The Security Council:

Deeply concerned at the very serious crimes committed within the territory of Sierra Leone against the people of Sierra Leone and United Nations and associated personnel and at the prevailing situation of impunity,

Commending the efforts of the Government of Sierra Leone and the Economic Community of West African States (ECOWAS) to bring lasting peace to Sierra Leone,

Noting that the Heads of State and Government of ECOWAS agreed at the 23rd Summit of the Organization in Abuja on 28 and 29 May 2000 to dispatch a regional investigation of the resumption of hostilities,

Noting also the steps taken by the Government of Sierra Leone in creating a national truth and reconciliation process, as required by Article XXVI of the Lomé Peace Agreement (S/1999/777) to contribute to the promotion of the rule of law,

Recalling that the Special Representative of the Secretary-General appended to his signature of the Lomé Agreement a statement that the United Nations holds the understanding that the amnesty provisions of the Agreement shall not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law,

Reaffirming the importance of compliance with international humanitarian law, and *reaffirming further* that persons who commit or authorize serious violations of international humanitarian law are individually responsible and accountable for those violations and that the international community will exert every effort to bring those responsible to justice in accordance with international standards of justice, fairness and due process of law,

Recognizing that, in the particular circumstances of Sierra Leone, a credible system of justice and accountability for the very serious crimes committed there would end impunity and would contribute to the process of national reconciliation and to the restoration and maintenance of peace,

Taking note in this regard of the letter dated 12 June 2000 from the President of Sierra Leone to the Secretary-General and the Suggested Framework attached to it (S/2000/786, annex),

Recognizing further the desire of the Government of Sierra Leone for assistance from the United Nations in establishing a strong and credible court that will meet the objectives of bringing justice and ensuring lasting peace,

Noting the report of the Secretary-General of 31 July 2000 (S/2000/751) and, in particular, *taking note* with appreciation of the steps already taken by the Secretary-General in response to the request of the Government of Sierra Leone to assist it in establishing a special court,

Noting further the negative impact of the security situation on the administration of justice in Sierra Leone and the pressing need for international cooperation to assist in strengthening the judicial system of Sierra Leone,

Acknowledging the important contribution that can be made to this effort by qualified persons from West African States, the Commonwealth, other Member States of the United Nations and international organizations, to expedite the process of bringing justice and reconciliation to Sierra Leone and the region,

Reiterating that the situation in Sierra Leone continues to constitute a threat to international peace and security in the region,

1. *Requests* the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court consistent with this resolution, and *expresses* its readiness to take further steps expeditiously upon receiving and reviewing the report of the Secretary-General referred to in paragraph 6 below;

2. *Recommends* that the subject matter jurisdiction of the special court should include notably crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone;

3. *Recommends further* that the special court should have personal jurisdiction over persons who bear the greatest responsibility for the commission of the crimes referred to in paragraph 2, including those leaders who, in committing such crimes, have threatened the establishment of and implementation of the peace process in Sierra Leone;

4. *Emphasizes* the importance of ensuring the impartiality, independence and credibility of the process, in particular with regard to the status of the judges and the prosecutors;

5. *Requests*, in this connection, that the Secretary-General, if necessary, send a team of experts to Sierra Leone as may be required to prepare the report referred to in paragraph 6 below;

6. *Requests* the Secretary-General to submit a report to the Security Council on the implementation of this resolution, in particular on his consultations and negotiations with the Government of Sierra Leone concerning the establishment of the special court, including recommendations, no later than 30 days from the date of this resolution;

7. *Requests* the Secretary-General to address in his report the questions of the temporal jurisdiction of the special court, an appeals process including the advisability, feasibility, and appropriateness of an appeals chamber in the special court or of sharing the Appeals Chamber of the International Criminal Tribunals for the Former Yugoslavia and Rwanda or other effective options, and a possible alternative host State, should it be necessary to convene the special court outside the seat of the court in Sierra Leone, if circumstances so require,

8. *Requests* the Secretary-General to include recommendations on the following:

(a) any additional agreements that may be required for the provision of the international assistance which will be necessary for the establishment and functioning of the special court;

(b) the level of participation, support and technical assistance of qualified persons from Member States of the United Nations, including in particular, member States of ECOWAS and the Commonwealth, and from the United Nations Mission in Sierra Leone that will be necessary for the efficient, independent and impartial functioning of the special court;

(c) the amount of voluntary contributions, as appropriate, of funds, equipment and services to the special court, including through the offer of expert personnel that may be needed from States, intergovernmental organizations and non-governmental organizations;

(d) whether the special court could receive, as necessary and feasible, expertise and advice from the International Criminal Tribunals for the Former Yugoslavia and Rwanda;

9. *Decides* to remain actively seized of the matter.

PROSECUTION INDEX OF AUTHORITIES

10. Charter of the International Military Tribunal at Nuremberg, Article 21.

2890

V. POWERS OF THE TRIBUNAL AND CONDUCT OF THE TRIAL

Article 17.

The Tribunal shall have the power

(a) to summon witnesses to the Trial and to require their attendance and testimony and to put questions to them

(b) to interrogate any Defendant,

(c) to require the production of documents and other evidentiary material,

(d) to administer oaths to witnesses,

(e) to appoint officers for the carrying out of any task designated by the Tribunal including the power to have evidence taken on commission.

Article 18.

The Tribunal shall

(a) confine the Trial strictly to an expeditious hearing of the cases raised by the charges,

(b) take strict measures to prevent any action which will cause reasonable delay, and rule out irrelevant issues and statements of any kind whatsoever,

(c) deal summarily with any contumacy, imposing appropriate punishment, including exclusion of any Defendant or his Counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article 19.

The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and nontechnical procedure, and shall admit any evidence which it deems to be of probative value.

Article 20.

The Tribunal may require to be informed of the nature of any evidence before it

2891

is entered so that it may rule upon the relevance thereof.

Article 21.

The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes, and of records and findings of military or other Tribunals of any of the United Nations.

Article 22.

The permanent seat of the Tribunal shall be in Berlin. The first meetings of the members of the Tribunal and of the Chief Prosecutors shall be held at Berlin in a place to be designated by the Control Council for Germany. The first trial shall be held at Nuremberg, and any subsequent trials shall be held at such places as the Tribunal may decide.

Article 23.

One or more of the Chief Prosecutors may take part in the prosecution at each Trial. The function of any Chief Prosecutor may be discharged by him personally, or by any person or persons authorized by him.

The function of Counsel for a Defendant may be discharged at the Defendant's request by any Counsel professionally qualified to conduct cases before the Courts of his own country, or by any other person who may be specially authorized thereto by the Tribunal.

Article 24.

The proceedings at the Trial shall take the following course:

(a) The **Indictment** shall be read in court.

(b) The Tribunal shall ask each Defendant whether he pleads "guilty" or "not guilty."

(c) The prosecution shall make an opening statement.

2892

(d) The Tribunal shall ask the prosecution and the defense what evidence (if any) they wish to submit to the Tribunal, and the Tribunal shall rule upon the admissibility of any such evidence.

(e) The witnesses for the Prosecution shall be examined and after that the witnesses for the Defense. Thereafter such rebutting evidence as may be held by the Tribunal to be admissible shall be called by either the Prosecution or the Defense.

(f) The Tribunal may put any question to any witness and to any defendant, at any time.

(g) The Prosecution and the Defense shall interrogate and may crossexamine any witnesses and any Defendant who gives testimony.

(h) The Defense shall address the court.

(i) The Prosecution shall address the court.

(j) Each Defendant may make a statement to the Tribunal.

(k) The Tribunal shall deliver **judgment** and pronounce **sentence**.

Article 25.

All official documents shall be produced, and all court proceedings conducted, in English, French and Russian, and in the language of the Defendant. So much of the record and of the proceedings may also be translated into the language of any country in which the Tribunal is sitting, as the Tribunal is sitting, as the Tribunal considers desirable in the interests of the justice and public opinion.

PROSECUTION INDEX OF AUTHORITIES

11. *Prosecutor v. Bagosora* et al., ICTR-98-41-T, Decision on Admissibility of Proposed Testimony of Witness DBY, 18 September 2003.

2894

TRIAL CHAMBER I

Before:
Judge Erik Møse, presiding
Judge Jai Ram Reddy
Judge Sergei Alekseevich Egorov

Registrar: Adama Dieng

Date: 18 September 2003

THE PROSECUTOR
v.
Théoneste BAGOSORA
Gratien KABILIGI
Aloys NTABAKUZE
Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

DECISION ON ADMISSIBILITY OF PROPOSED TESTIMONY OF WITNESS DBY

The Office of the Prosecutor
Barbara Mulvaney
Drew White
Segun Jegede
Alex Obote-Odora
Christine Graham
Rashid Rashid

Counsel for the Defence
Raphaël Constant
Paul Skolnik
Jean Yaovi Degli
David Martin Sperry
Peter Erlinder
André Tremblay
Kennedy Ogetto
Gershom Otachi Bw'Omanwa

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("the Tribunal"),

SITTING as Trial Chamber I, composed of Judge Møse, presiding, Judge Jai Ram Reddy, and Judge Sergei Alekseevich Egorov;

BEING SEIZED OF the objections by the Defence to proposed testimony of Witness DBY, made

2895

orally on 12 September 2003;

CONSIDERING the "Joint Defence Brief Regarding the Admissibility of Evidence of Criminal Acts Alleged to Have Been Committed By the Accused Outside the Period of the Trial Chamber's Temporal Jurisdiction", filed on 15 September 2003; and the Prosecution "Response" thereto, filed on 15 September 2003;

HEREBY DECIDES the motion.

INTRODUCTION

1. On 12 September 2003, Prosecution Witness DBY appeared before the Chamber to testify. Based upon a witness statement taken on 2 and 3 December 1999 and the theme of questions being posed by the Prosecution, it became apparent that the witness was about to give testimony concerning actions of the Accused before 1 January 1994.[1] The Defence objected to the testimony, and requested the Chamber to rule it inadmissible and to direct that the testimony not be heard. In response to questions from the Bench, the Prosecution indicated a series of different topics in the witness statement on which it intended to elicit testimony:

> Category I: Orders and actions of Defendant Ntabakuze on four specific occasions: 3, 5, and 9 October 1990 and some date in January 1991; on one of these occasions, 5 October 1990, the Defendant Bagosora is also identified as having engaged in the same actions as Ntabakuze;
>
> Category II: A telegram seen by Witness DBY at the end of 1992 or beginning of 1993 sent by the Defendant Bagosora identifying Tutsi as the enemy and leading to the dismissal of Tutsi from the army;
>
> Category III: A telegram seen by the witness in 1992 sent by Defendant Bagosora requesting delivery of weapons to the Ministry of Defence for distribution, which the witness later saw in the possession of *interahamwe*.

SUBMISSIONS

2. The Prosecution acknowledges that, in accordance with the temporal jurisdiction of the Tribunal, the indictments charge the Accused with crimes committed between 1 January and 31 December 1994. [2] Placing reliance on a Separate Opinion of Judge Shahabudeen in the *Media* case, the Prosecution nevertheless argues that evidence of events prior to that period is admissible to prove the commission of those crimes in 1994. Evidence of events prior to 1 January 1994 may be admitted for one of three purposes: as proof of "ongoing criminal conduct which culminates in 1994"; to place the events of 1994 in their proper context; and under the rubric of "similar fact evidence, as authorised specifically by Rule 93".[3] These submissions are discussed in more detail in the Deliberations section below. In respect of the first purpose, the Prosecution claims in particular that the evidence is probative of an ongoing conspiracy of indeterminate length that existed at the time of the events in 1990.

3. The Defence argues that the Prosecution's reliance on Judge Shahabuddeen's Opinion is misplaced. Rather than addressing the admissibility of evidence of pre-1994 events, that opinion decided only that pre-1994 incidents may be mentioned in an indictment without ruling on the admissibility of such evidence; the question of admissibility of evidence was identified as a distinct issue for the Trial Chamber.[4] Even if evidence of pre-1994 events may, in principle, be admitted, Witness DBY's

testimony does not meet the criteria for admission set forth in Rule 89(C) or Rule 93 of the Rules of Procedure and Evidence ("the Rules"). The evidence is neither relevant nor probative of any facts in issue in this case. Further, the evidence is highly prejudicial as it suggests the bad character of the accused. Any probative value that might exist is outweighed by the improper prejudice caused to the Accused. Rule 93 gives the Prosecution no licence to extend the temporal range of events which it may tender and, in any event, should only exceptionally permit the admission of otherwise inadmissible evidence. Finally, the Defence argues that admission of this testimony will greatly complicate and lengthen the trial as it will be obliged to contest these events.

DELIBERATIONS

General Principles

4. Rule 89(C) provides that a Chamber "may admit any relevant evidence which it deems to have probative value". This simple formulation sets out three distinct aspects of the process of determining admissibility. First, the evidence must be in some way relevant to an element of a crime with which the Accused is charged. Second, the evidence must have some value in proving the elements of the crimes with which an Accused is charged. The separate reference to "probative value", and to the requirement that the Chamber must "deem" that the evidence has that quality, suggests that probative value is a different and more complex hurdle than relevance. Third, even where these two criteria are met, Rule 89 (C) does not command, but merely permits, admission of the evidence.

5. The issue confronting the Chamber concerns a particular type of relevance: whether testimonial evidence of a witness concerning events prior to 1994 is relevant to, and probative of, charges of crimes committed only within that year.

6. The jurisprudence of the Tribunal on this particular question is limited. However, a discussion of general principles is to be found in decisions in the *Media* case which addressed whether events prior to 1994 – that is, prior to the temporal jurisdiction of the Tribunal -- may be recounted in an indictment.[5] The Trial Chamber ruled that:

> information that falls outside of the temporal jurisdiction of the Tribunal may be useful in helping the accused and the Chamber to appreciate the context of the alleged crimes, particularly due to the complexity of the events that occurred in Rwanda, during 1994. Furthermore the Chamber is of the view that the proper stage to determine the admissibility and evidential value, if any, of the paragraphs that contain information about events that occurred prior to 1 January 1994, is during the assessment of evidence.[6]

That decision was upheld by the Appeals Chamber, which confirmed that the indictment did not purport to charge the Accused with crimes committed prior to 1994, but merely to provide an introduction, and historical background and context, to the crimes committed in 1994. Two separate opinions were filed along with the decision of the Appeals Chamber, of which that of Judge Shahabuddeen is of particular assistance to the question of the admissibility of evidence of pre-1994 events. His principal concern was the jurisdictional question, but in so doing he rejected the assertion that pre-1994 events are categorically irrelevant to crimes within the jurisdiction of the Tribunal:

> But there is a distinction between the legal elements of a crime and and the evidence of their existence. The prosecution has to prove that all the legal elements of a crime were present at the time of commission of the crime, that is to say, at the time within the mandate year when the crime is alleged to have been committed. However, there is no reason why the

> evidence of their existence at that point in time cannot (in some cases, at any rate) include evidence deriving from a time prior to the commencement of the mandate year.[7]

7. Having so found, Judge Shahabuddeen specifically disclaimed ruling on the admissibility of any particular evidence that might be tendered at trial:

> My holding is only that the amended indictment does not charge the appellant with any crimes committed before the commencement of the mandate year. That holding does not exclude the competence of the Trial Chamber in the course of the actual trial from shutting out evidence of previous crimes on the ground that, in the circumstances of the case, the particular evidence *is not in fact relevant or that, if it is, its prejudicial effect on the accused exceeds its probative value. That is an evidentiary issue, not a jurisdictional one*....[8]

8. Evidence of events prior to 1 January 1994 is not clearly separated from crimes charged in the indictment. Such events may be relevant to, and probative of, the commission of crimes in 1994. In deciding the jurisdictional question, Judge Shahabuddeen sets out three possible avenues, all of which have been invoked by the Prosecution, by which evidence of such events may properly be considered relevant. These three bases of relevance are discussed at the outset, before considering the probative value of the specific evidence tendered, or whether its value is outweighed by its prejudicial effect.

i) Evidence Relevant to an Offence Continuing Into the Mandate Year

9. The Prosecution does not exceed its mandate by charging an individual with an offence that begins at some date prior to 1994, but continues into that year. In respect of conspiracy, "the charge could correctly be for a conspiracy made in, or continuing into, the mandate year even though the original conspiracy agreement was made prior thereto".[9] Accordingly, evidence tending to show the existence of an ongoing criminal act that began prior to 1994 but whose object was only realized in 1994 is admissible. The Prosecution claims generally that Witness DBY's testimony is relevant to the existence of a conspiracy that commenced before 1994 and continued into that year.

ii) Context or Background

10. Where an event is not itself part of the crime charged, but without which "'the account...would be incomplete or incomprehensible, then the fact that the whole account involves including evidence establishing the commission of an offence with which the accused is not charged is not of itself a ground for excluding the evidence'" [10] Evidence of the nature of the relationship between a victim and an accused, and possible motives for the commission of a crime, may be admitted on this basis.[11] Establishing motive may also be relevant to *mens rea*. Judge Shahabuddeen noted that this category should be viewed broadly, in light of the "scale of events, in space and time", and the fact that prejudicial background information will be less damaging when heard by professional judges than a jury.[12]

(iii) "Similar Fact Evidence"

11. The third avenue for admission of evidence of pre-1994 events is based on an exception, long-established in the common law, for admitting evidence of particular category of acts committed prior to the time of the act which is charged.

12. The exception can only be described in relation to the general rule. A long-standing principle of common law jurisdictions, adopted by the International Criminal Tribunal for Yugoslavia, is that "as a

general principle of criminal law, evidence as to the character of an accused is generally inadmissible to show the accused's propensity to act in conformity therewith."[13] This means that prior criminal offences by the accused – even of precisely the same offence with which the accused is charged – are not admissible if the only purpose for their introduction is to establish that the accused was capable of committing the offence, is inclined to commit the offence, or on some prior occasion actually did have the intent to commit the criminal offence. Such evidence is excluded because the evidence may so severely blacken the reputation of the accused as to make acquittal virtually impossible, even though the direct evidence of the commission of the offence is weak. Further, dealing with evidence of past conduct may be unduly distracting and time-consuming, leading to an unfocused trial that undermines the truth-finding function.[14]

13. The definition of similar fact evidence in the Shahabuddeen Opinion is taken from an Australian case:

> '[I]f the evidence of the other offence or offences goes beyond showing a mere disposition to commit crime or a particular kind of crime and points in some other way to the commission of the offence in question, then it will be admissible if its probative value for that purpose outweighs or transcends its merely prejudicial effect. The cases in which similar fact evidence may have sufficient additional relevance to make it admissible are not confined, but recognized instances occur where the evidence is relevant to prove intent, or to disprove accident or mistake, to prove identity or to disprove innocent associations....'[15]

Shahabuddeen's gloss on this passage is that "evidence of prior offences is admissible to prove a pattern, design or systematic course of conduct by the accused where his explanation on the basis of coincidence would be an affront to common sense."[16]

14. Other discussions of similar fact evidence explain that it is admissible because it reveals a propensity that "'is so highly distinctive or unique as to constitute a signature'".[17] In such cases, the evidence is of type which is not probative of merely a general propensity to commit the criminal act, but is probative of some peculiar feature of the case which substantially enhances its probative value in relation to the charge. Defining what type of evidence is sufficiently specific so as to migrate out of the prohibited zone of general propensity evidence, is a difficult exercise which depends on the facts of each case. The prejudicial effect on the character of the accused must also be considered, and whether the prosecution can achieve its stated object using less prejudicial evidence.[18]

iv) Probative Value and Prejudice

15. Probative value is a second criterion of admissibility set out in Rule 89(C). It has been described simply as "'evidence that tends to prove an issue'" and is sometimes conceived as overlapping with the concept of relevance: "For one fact to be relevant to another, there must be a connection or a nexus between the two which makes it possible to infer the existence of one from the other. One fact is not relevant to another if it does not have real probative value with respect to the latter."[19]

16. Though not expressly mentioned in Rule 89, prejudice is also relevant to the determination of admissibility.[20] It is clear from Judge Shahabuddeen's Opinion in the *Media* case that relevant and probative evidence may be excluded on the grounds of "prejudice":

> It being recognised that all relevant prosecution evidence is prejudicial to the accused and the more probative the more prejudicial, still it is possible in some cases to say that the

2899

probative value of the particular evidence is outweighed by its prejudicial effect; in such a case the evidence is to be excluded.[21]

17. Evidence of past crimes, introduced merely to blacken the character of the Accused and show a propensity and capacity to commit the crimes charged, is improper. This is so because the damning effect of the evidence tends to outweigh its true probative value and to obscure more direct evidence of the crime alleged. In this sense, the evidence is "prejudicial" in a manner that compels exclusion.

18. Relevance, probative value and even prejudice are all relational concepts. The content of the putative facts must be defined and then evaluated in relation to their possible value as proof of the existence of a crime as described in the indictment. The nature of this evaluation explains the discretion conferred on the Trial Chamber by Rule 89(C).

Application of General Principles to the Evidence of Witness DBY

19. The Prosecution accepts that the charges against the Accused concern crimes committed between 1 January and 31 December 1994.[22] The sole issue confronting the Chamber here is whether evidence of events prior to that period is relevant to those alleged crimes, and whether the probative value of that evidence outweighs its prejudicial effect on the assessment of the crimes alleged.

i) Ongoing Criminal Offence

20. On the basis of the case law summarized above (para. 9), it is the view of the Chamber that evidence tending to show the existence of an ongoing criminal act that began prior to 1994 but whose object was only realized in 1994 is admissible.[23] The Prosecution claims generally that Witness DBY's testimony is probative of the existence of a conspiracy that continued into 1994 and should be admitted on that basis.

21. The purported evidence in Category III is plainly relevant and admissible on this ground. It is alleged that one of the Accused requested weapons in 1992 for distribution to militia, which are alleged to subsequently have been seen in the possession of militia and used to commit criminal acts in 1994. The evidence may tend to show the existence of an ongoing criminal plan; the existence of an armed militia in 1994 and its relationship with the military; and the militia's relationship with the Accused and his individual criminal responsibility for their acts. Of course, none of these conclusions have yet been proven, and the Chamber is making no assessment here of the reliability or credibility of the evidence. The standard for admissibility, however, is simply that the evidence is relevant and has the prospect of probative value. This evidence satisfies both of these conditions and does not improperly prejudice the Accused.

22. The relevance of the evidence in Category II is difficult to assess under this heading, and is deferred to the next section, concerning background evidence.

23. The evidence in Category I relates to orders given, and actions taken, by the Accused Ntabakuze and Bagosora on occasions in October 1990 and January 1991. According to the Prosecution, this is relevant to and tends to prove the existence of a conspiracy that continued from October 1990 through the events of 1994.[24] The Defence has pointed to passages from the testimony of the Prosecution's own expert witness, Alison Des Forges, which seem to contradict that contention. In response, the Prosecution quoted Dr. Des Forges's testimony that she refused "to be pinned down to a single date," but stopped short of repeating its claim that a conspiracy existed in 1990 in respect of which the evidence is probative.[25]

2900

24. The Chamber recalls that Dr. Des Forges stated her position as follows:

> "Q.: Now a certain witness in the *Akayesu* case, Professor Filip Reyntjens, commenting on these events suggested that there had been a trial run, a trial-run to the massacres that happened in 1994. Do you agree with that; in other words, a dress rehearsal of the 1994 genocide; would you agree with that assessment? A.: To make that assessment requires a conclusion that from the very beginning, that is, from 1990, it was foreseen that these various smaller attacks could and probably would lead to a larger scale genocide. I have said that I myself do not support the idea that this idea of genocide or a plan of genocide was clearly established in October 1990. So I would prefer to say that it appears there was a pattern of learning and finding which elements work and then using them again the next time, rather than setting out from the start in 1990 with the notion of dress rehearsals to arrive at a final grand performance that one knew would come one day."[26]

25. Whether a conspiracy existed in October 1990 in which the Accused participated is, of course, a matter that can only be assessed after hearing the totality of the evidence. The issue here is not whether there is evidence already heard in the trial that establishes (or negates) the existence of the conspiracy, but rather whether a sufficient nexus of relevance and probativeness connects the evidence with the crime alleged. This involves comparing the evidence tendered with the specific crime alleged.

26. The connection between the proffered evidence and the crime alleged is tenuous. The events of October 1990 and January 1991 to which Witness DBY wishes to testify are said to occur in the context of repelling an invading military force from Uganda. The specific evidence here concerning the Accused Ntabakuze is that (a) on 3 October 2003 he issued an order to shoot anyone seen along a certain road in the area of military activities; (b) that on 5 October 1990, in the vicinity of Kigali, along with the Accused Bagosora, he ordered his men to arrest anyone without an identity card and "all suspicious looking Tutsis", and that some of these suspects were later beaten to death; (c) that Ntabakuze himself participated in these arrests on 5 October 1990 and appeared to use a list; (d) that on 9 October he ordered farms to be destroyed and civilians killed on the basis of a suspicion that they were aiding the invading force; and (e) that in January 1991 he ordered the execution of prisoners, both Hutu and Tutsi, who had been released from a Rwandan prison by the invading force.

27. What is required for admission is that the evidence, either on its own or viewed in the light of other evidence, be probative of a conspiracy. The Prosecution has not explained with particularity how these pieces of evidence show the existence of a conspiracy in 1990 to commit the criminal acts that were allegedly committed by the Accused in 1994. The Prosecution made no such claim or argument in its written submissions.[27] Such a connection would be obvious if, for example, the testimony concerned the content of a conspiratorial agreement; meetings at which an agreement was made; references by individuals to the existence of an agreement; or patterns of conduct showing that individuals were acting in accordance with the terms of some agreement. In light of the absence of a foundation for the contention – and, indeed, the contrary testimony in this regard from Dr. Des Forges – that an ongoing conspiracy existed in 1990, the Prosecution has failed to make the requisite showing of relevance or probative value of *this particular* evidence to a conspiracy that continues through 1994. However, the Chamber accepts item (c) as admissible, because the drawing up of lists may imply some sort of concerted preparation by several individuals and it cannot, at this stage of the proceedings, be ruled out that further evidence may place this incident in context.

28. Any probative value that the evidence may have is outweighed by its serious prejudicial effect. Four of the five events to which Witness DBY will testify concern allegations that the Accused Ntabakuze committed the very same acts – killings of civilians – which form the basis of the charges in the indictment, but with which he is not charged because of the temporal jurisdiction of the Tribunal.

2901

The Accused must be found guilty on the basis of evidence of the crimes charged, not on the basis of evidence that he committed the offence on prior occasions and, therefore, had a propensity to commit them again.[28] It is true that Chambers composed of professional judges may be less susceptible to distraction or prejudice by the admission of irrelevant or prejudicial evidence than juries.[29] But hearing extensive examination and cross-examination on the evidence in question would distract the Chamber from the proper focus of the trial, namely, the events charged in the indictment, and lengthen the trial.

29. Accordingly, the Category I evidence, concerning the orders to kill civilians and destroy the property by Ntabakuze in October 1990 and January 1991, and the arrests and killings of civilians by Ntabakuze and Bagosora on 5 October 1990, is not admissible on the basis of proof of an ongoing offence.

(ii) Context or Background

30. The evidence in Category II should be admitted as background evidence (see para. 10 above). Witness DBY is expected to testify that he saw a telegram from one of the Accused to military units which identified the Tutsi as the enemy because they were providing information to the RPF; requested that the Tutsi be "localised"; and that all Tutsi should be dismissed from the army.

31. The information is relevant to the Accused's relationship with the Tutsi as a group. It may tend to establish motives for acts that he is alleged to have committed in 1994, although the probative value at this stage is still difficult to weigh. The information is not unduly prejudicial as it does not describe any prior criminal acts charged in the indictment. The Chamber reiterates that none of the inferences that the Prosecution intends to establish are proven and that the Accused is, of course, entitled to offer explanations for these statements that negate such inference. The only issue before the Chamber now is whether the evidence should be heard.

32. The information concerning dismissal of Tutsi from the army is also relevant as an explanation of the ethnic composition of the military as it may have existed in 1994. That ethnic composition is a background fact which may assist the Chamber in understanding the milieu in which the Accused were operating. Their role in shaping that military is also helpful to the Chamber and is not significantly prejudicial.

33. The Chamber further observes that evidence of military operations in 1990 and 1991 can be relevant as background evidence. Such evidence may offer the Chamber a broader understanding of the relationship between Tutsi and Hutu as it existed in 1994, and the social and institutional context of the Accused and the military. The positions and actions of the Accused within that hierarchy before 1994 are also admissible as background.

34. However, the Prosecution may not lead evidence of the specific allegations contained in Category I as background evidence. The narrative of events would not be "incomplete or incomprehensible" without this evidence. It has not been shown that these specific incidents serve the purposes claimed by the Prosecution: to illuminate the military command structure; how orders within that command structure were given and executed; or the mechanisms of military discipline in the Rwandan army. Whatever small probative value there may be is outweighed by the improper prejudice that would be caused to the Accused by permitting evidence of these past criminal acts, up to four years before the events in 1994, with which they are not charged.[30]

(iii) Prior Acts and "Similar Fact Evidence"

35. As previously discussed (see paras. 11-14), the prior commission of the acts with which a Defendant is charged are inadmissible if the purpose for their introduction is to show a general propensity or disposition to commit the acts. This does not preclude the introduction of such evidence for other valid purposes, if those purposes exist, and if they outweigh the prejudicial effect of the evidence. In such cases, the direct link between the prior act and the act charged is said to reverse the usual balance of probative value and prejudicial effect in favour of the former.

36. The Prosecution argues that the Category I evidence should be admitted as similar fact evidence, which is said to be liberally permitted under Rule 93.

37. At the outset, the Chamber rejects the view that Rule 93 broadly authorizes the admission of evidence of prior criminal acts that are the same as acts alleged in the indictment. "Pattern of conduct" has generally not been used to introduce evidence of crimes not alleged in the indictment, but has rather been used as the basis for inferences of intent from actions which *are* alleged in the indictment.[31] Based on these precedents, there is reason to believe that Rule 93 has little to say about the general standard of relevance and probativeness set out as the basic test of admissibility in Rule 89(C).

38. The Chamber is of the view that the similar fact evidence exception is not satisfied in this case. No indication has been given as to why these incidents are an exceptional, unique, or peculiar form of the criminal act alleged so as to make it highly probative of the acts alleged in the indictment. On the other side of the scale, these events severely blacken the character of the accused and imply a propensity to commit the acts. The following factors mentioned in a leading Canadian decision, *R v. Handy*, on whether to admit evidence as similar fact evidence, are relevant here:

(1) proximity in time of the similar acts;

(2) extent to which the other acts are similar in detail to the charged conduct;

(3) number of occurrences of the similar acts;

(4) any distinctive feature(s) unifying the incidents;

(5) intervening events;

(6) any other factor which would tend to support or rebut the underlying unity of the similar acts.[32]

These factors must then be weighed against the likely prejudice to the Accused, including the "inflammatory nature of the similar acts and whether the [Prosecution] can prove its point with less prejudicial evidence", and potential for distraction of the court.[33]

39. Without reviewing the many decisions from national systems in which evidence has been introduced under the "similar fact" exception, there is little doubt that the evidence tendered by the Prosecution in Category I does not come close to meeting the criteria for admission. The Prosecution has not identified with sufficient particularity the distinctive or unique features of this evidence, or what it might prove *other than* that the Accused committed the same offence on prior occasions. The evidence has low probative value, but has substantial prejudicial effect for reasons already discussed. This evidence does not qualify as similar fact evidence.

FOR THE ABOVE REASONS, THE CHAMBER

2903

GRANTS THE MOTION IN PART

DECLARES inadmissible the proposed testimony of Witness DBY that (a) on 3 October 1990, the Accused Ntabakuze issued an order to shoot anyone seen along a certain road in the area of military activities; (b) on 5 October 1990, in the vicinity of Kigali, along with the Accused Bagosora, Ntabakuze ordered his men to arrest anyone without an identity card and "all suspicious looking Tutsis" and that some of these suspects were later beaten to death; (c) on 9 October Ntabakuze ordered farms to be destroyed and civilians killed on the basis of a suspicion that they were aiding the invading force; and (d) in January 1991 Ntabakuze ordered that prisoners, both Hutu and Tutsi, who had been released from a Rwandan prison by the invading force be executed.

DECLARES admissible the proposed testimony of Witness DBY in respect of: that Ntabakuze participated in arrests on 5 October 1990 and appeared to use a list; a telegram seen by the witness at the end of 1992 or beginning of 1993 sent by the Bagosora identifying Tutsi as the enemy and leading to the dismissal of Tutsi from the army; a telegram seen by the witness in 1992 sent by Bagosora requesting delivery of weapons to the Ministry of Defence for distribution, which the witness later saw in the possession of *interahamwe*; general evidence concerning events in 1990 and 1991, including the general role of the Accused, but without touching on the prohibited evidence as described above.

Arusha, 18 September 2003

Erik Møse	Jai Ram Reddy	Sergei Alekseevich Egorov
Presiding Judge	Judge	Judge

[Seal of the Tribunal]

---

[1] The witness statement is identified as "DBY-1".

[2] As the criteria for admission of evidence under Rule 89(C), discussed *infra*, depend on the purposes for which it is tendered, it is convenient to set out the Prosecution's submissions first.

[3] *Prosecutor v. Théoneste Bagosora, Anatole Nsengiyumva, Gratien Kabiligi, and Aloys Ntabakuze*, Prosecution Response, 15 September 2003, p. 6 ("Prosecution Response").

[4] *Prosecutor v. Hassan Ngeze and Ferdinand Nahimana*, Décision sur les appels interlocutoires, Separate Opinion of Judge Shahabuddeen, 5 September 2000 ("Shahabuddeen Opinion").

[5] Article 1 of the Statute states, in relevant part: "The International Tribunal for Rwanda shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed...between 1 January 1994 and 31 December 1994...."

[6] *Prosecutor v. Ferdinand Nahimana*, Decision on the Defence Preliminary Motion, Pursuant to Rule 72 of the Rules of Procedure and Evidence, 12 July 2000, p. 4. See also *Prosecutor v. Ferdinand Nahimana*, Decision on the Prosecutor's Request for Leave to File and Amended Indictment, 5 November 1999, para. 27: "The Trial Chamber recognizes the possibility that these allegations may be subsidiary or interrelated allegations to the principal allegation in issue and thus may have probative or evidentiary value. The Trial Chamber is therefore of the view that it is premature to address the relevance of and admissibility of these allegations at this stage of the proceedings. The appropriate stage will be at the trial of the accused."

2904

[7] Shahabuddeen Opinion, para. 9.

[8] *Id.* para. 40 (italics added).

[9] *Id.* para. 14.

[10] *Id.* para. 21, quoting *R. v. Pettman*, 2 May 1985, unreported, per Purchas LJ.

[11] *Id.* para. 20.

[12] *Id.* para. 24.

[13] *Prosecutor v. Kupreskic*, Decision on Evidence of the Good Character of the Accused and the Defence of *Tu Quoque*, 17 February 1999. One type of evidence which is well-recognised in the world's common law systems as relevant and yet generally inadmissible is past conduct used to establish that the accused "has the propensity or disposition to do the type of acts charged and is therefore guilty of the offence." See also 31.

[14] *R v. Handy*, [2002] 2 SCR 908, paras. 139-147.

[15] Shahabuddeen Opinion, para. 20, quoting *Thomson v. R.*, (1989) 86 A.L.R. 1.

[16] Shahabuddeen Opinion, para. 20.

[17] *R. v. Handy*, [2002] 2 SCR 908, para. 77 quoting *R. v. Scopelliti* (1981), 63 CCC (2d) 481 (Ont. CA).

[18] Id. at para. 83.

[19] *R v. Cloutier* [1979] 2 SCR 709, p. 731, as quoted in *Prosecutor v. Delalic*, Decision on the Prosecution's Oral Requests for the Admission of Exhibit 155 Into Evidence", etc., 19 January 1998, para. 29.

[20] *Cf.* Rule 89(D) of the Rules of the International Criminal Tribunal for Yugoslavia, which provides that "[a] Chamber may exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial."

[21] Shahabuddeen Opinion, para. 19.

[22] Prosecution Response, p. 2.

[23] Shahabuddeen Opinion, para. 11: "In the result, the charge could correctly be for a conspiracy made in, or continuing into, the mandate year even though the original conspiracy agreement was made prior thereto."

[24] Transcripts of 12 September 2003, p. 56: "This is the commencement of the conspiracy, Your Honour."

[25] Transcripts of 19 November 2002, p. 39.

[26] Transcripts of 16 September 2002, p. 122. See also Transcripts of 19 November 2002, p. 37: "You will see that in my answer I referred to 1990 and say that I do not subscribe to the thesis that there was a genocidal plan beginning in 1990. I speak instead of a pattern of learning, of incorporating certain elements that are repeated time after time, the same elements then also appearing at the time of the 1994 genocide."

[27] "More particularly, this evidence goes to the acts of Ntabakuze in both the targeting and the killings of certain individuals, such as Tutsi civilians and non-combatants; the existence of a command structure; how orders within that command structure were given and executed; the opportunity to prevent subordinates from committing criminal acts and to punish subordinates for having committed such acts." Prosecution Response, p. 7.

[28] *Prosecutor v. Kupreskic*, Decision on Evidence of the Good Character of the Accused and the Defence of *Tu Quoque*, 17

2905

February 1999. See also *R v. Handy*, [2002] 2 SCR 908, paras. 37, 39: "The policy basis for exclusion is that while in some cases propensity inferred from similar acts may be relevant, it may also capture the attention of the trier of fact to an unwarranted degree. Its potential for prejudice, distraction and time consumption is very great and these disadvantages will almost always outweigh its probative value. It ought, in general, to form no part of the case which the accused is called on to answer." ... 'The principal reason for the exclusionary rule relating to propensity is that there is a natural human tendency to judge a person's action on the basis of character. Particularly with juries there would be a strong inclination to conclude that a thief has stolen, a violent man has assaulted and a pedophile has engaged in pedophilic acts. Yet the policy of the law is wholly against this process of reasoning.'

[29] Cf. *Prosecutor v. Zejnil Delalic, Hazim Delic, and Esad Landzo*, Decision on the Motion of the Prosecution for the Admissibility of Evidence, 19 January 1998, para. 20; Shahabuddeen Opinion, para. 24.

[30] The situation here may be contrasted with that in *R v. Sidhu*, referred to in the Shahabuddeen Opinion, para. 22. There, the accused was charged with possession of explosives.

[31] *Prosecutor v. Clement Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-T, para. 534; *Prosecutor v. Bagilishema*, Case No. ICTR-951A-T, para. 50.

[32] *R. v. Handy*, [2002] 2 SCR 908, para. 83.

[33] *Id.*

PROSECUTION INDEX OF AUTHORITIES

12. *Prosecutor v. Blaškić*, IT-95-14-T, Judgement, 3 March 2000.

UNITED
NATIONS

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of The Former Yugoslavia since 1991

Case No. IT-95-14-T

Date: 3 March 2000

Original: English
French

IN THE TRIAL CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Almiro Rodrigues
Judge Mohamed Shahabuddeen

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 3 March 2000

THE PROSECUTOR

v.

TIHOMIR BLA[KI]

JUDGEMENT

The Office of the Prosecutor:

Mr. Mark Harmon
Mr. Andrew Cayley
Mr. Gregory Kehoe

Defence Counsel:

Mr. Anto Nobilo
Mr. Russell Hayman

TABLE OF CONTENTS

ANNEX vii
I. INTRODUCTION 1
A. The Tribunal 1
B. The Indictment 1
1. The general context and form of responsibility incurred 2
2. The crimes charged 4
a) Persecution 4
b) Unlawful attacks upon civilians and civilian objects 4
c) Wilful killing and serious bodily injury 5
d) Destruction and plunder of property 5
e) Destruction of institutions dedicated to religion or education 5
f) Inhumane treatment, taking of hostages and use of human shields 6
C. The main stages of the proceedings 6
1. Issues relating to the composition of the Trial Chamber 7
2. Issues relating to the detention of the accused 8
a) Motions for modification to the detention conditions of the accused 8
b) Motions for provisional release of the accused 9
3. Issues relating to evidence 9
a) Disclosure obligations 9
b) The exception to the disclosure obligation set down in Rule 70 of the Rules 11
c) The admissibility of the evidence 13
d) Access to the confidential documents in related Lašva Valley cases 14
e) Orders for production of documents 16
i) Proceedings regarding the Republic of Croatia 16
ii) Other proceedings 18
4. Issues relating to the appearance and protection of victims and witnesses 19
5. Issues relating to the length of proceedings 20
6. The issue of the dismissal of some counts following the presentation of Prosecution evidence 21
7. The summoning of Trial Chamber witnesses pursuant to Rule 98 of the Rules 22
8. The procedure for determining the sentence 23
II. APPLICABLE LAW 24
A. The requirement that there be an armed conflict 24
1. Definition 24
2. Role 25
a) A condition for charging under Articles 2 and 3 of the Statute 25
b) A condition for jurisdiction under Article 5 of the Statute 25
3. Nexus between the crimes imputed to the accused and the armed conflict 26
B. Article 2 of the Statute: Grave breaches of the Geneva Conventions 27
a) International nature of the armed conflict 28
i) Direct intervention 30
ii) Indirect intervention 34
b) Protected persons and property 44
i) The "nationality" of the victims 44
ii) Co-belligerent States 47
a. Co-belligerence 47
b. Reasoning of Article 4 of the Fourth Geneva Convention 49
iii) Prisoners of war 50
iv) Protected property 51

c) The elements of the grave breaches 51
i) Article 2(a) – wilful killing (count 5) 52
ii) Article 2(b) – inhuman treatment (counts 15 and 19) 52
iii) Article 2(c) – wilfully causing great suffering or serious injury to body or health (count 8) 53
iv) Article 2(d) – extensive destruction of property (count 11) 53
v) Article 2(h) – taking civilians as hostages (count 17) 53
C. Article 3 of the Statute – Violations of the Laws or Customs of War 54
a) Scope and conditions of applicability of Article 3 of the Statute 54
i) Customary international law and conventional law 55
ii) Individual criminal responsibility 58
iii) Protected persons (Common Article 3) 59
b) The elements of the offences 59
i) Unlawful attack against civilians (count 3); attack upon civilian property (count 4) 59
ii) Murder (count 6) 60
iii) Violence to life and person (count 9) 60
iv) Devastation of property (count 12) 60
v) Plunder of public or private property (count 13) 60
vi) Destruction or wilful damage to institutions dedicated to religion or education (count 14) 61
vii) Cruel treatment (count 16 and 20) 61
viii) Taking of hostages (count 18) 61
D. Article 5 of the Statute: crimes against humanity 62
1. The Arguments of the Parties 63
a) The Prosecution 63
b) The Defence 64
2. Discussion and conclusions 65
a) The legal and factual elements 65
i) The material element 66
a. The widespread or systematic attack against any civilian population 66
i. A widespread or systematic attack 66
ii. A civilian population 70
b. The sub-characterisations 73
i. Murder 73
ii. Persecution 73
iii. Serious bodily and mental harm, infringements upon freedom and attacks against property as forms of persecution 74
iv. Legal and factual elements of the forms of persecution specified in the indictment 78
v. Discrimination 79
vi. Other inhumane acts 80
vii. Serious physical and mental injury as "other inhumane acts" 80
viii. Legal and factual elements of serious bodily or mental harm 81
ii) Mens Rea 81
a. Knowledge of the widespread or systematic attack 82
i. Knowledge of the context 82
ii. Knowing participation in the context 83
iii. The evidence 85
b. Exclusion of discriminatory intent 86
E. Article 7 of the Statute: Individual Criminal Responsibility 86
1. Individual criminal responsibility under Article 7(1) of the Statute 86

a) Introduction 86
b) The arguments of the Parties 87
i) The Prosecution 87
ii) The Defence 89
c) Discussion and Findings 90
i) Planning, instigating and ordering 90
ii) Aiding and abetting 91
2. Individual Criminal Responsibility Within the meaning of Article 7(3) 93
a) Introduction 93
b) The Superior-Subordinate Relationship 94
i) Arguments of the parties 94
ii) Discussion and Findings 96
c) Mens Rea: "Knew or Had Reason to Know" 97
i) Arguments of the Parties 97
ii) Discussion and Findings 97
a. "Actual knowledge" 97
b. "Had reason to know" 98
d) Necessary and Reasonable Measures to Prevent or Punish 105
i) Arguments of the Parties 105
ii) Discussion and Conclusions 106
e) Concurrent Application of Articles 7(1) and 7(3) of the Statute 107
III. FACTS AND DISCUSSION 109
A. The Lašva Valley: May 1992 – January 1993 109
1. The exacerbation in tensions 109
a) The municipality of Vitez 109
b) The municipality of Busova~a 113
c) The municipality of Kiseljak 117
d) Conclusions 120
2. The Vance-Owen Plan and the January 1993 conflicts 121
a) The Vance-Owen Plan 121
b) The January 1993 conflicts 122
c) Conclusions 124
B. The municipality of Vitez 125
1. Ahmici , Šanti}i , Pirici, Nadioci 125
a) A planned attack with substantial assets 126
i) An organised attack 126
ii) The troops involved 129
b) An attack against the Muslim civilian population 132
i) The absence of military objectives 132
ii) The discriminatory nature of the attack 137
iii) Arrests 138
iv) Murders of civilians 138
v) Destruction of dwellings 140
vi) Destruction of institutions dedicated to religion 141
vii) Plunder 142
c) Conclusion 142
d) General Blaškic's responsibility 143
i) The orders issued by the accused 145
ii) The accused ordered the attack of 16 April 1993 147
iii) The accused ordered an attack aimed at the Muslim population 147
a. The accused's control over the *Vite{ka* brigade and the Home Guard (Domobrani) 148

b. The control exercised by the accused over the special units 150
c. The accused's control over the Military Police 151
iv) The massive and systematic nature of the crimes as proof that they were committed on orders 155
v) The content of the orders 155
vi) The risk taken by the accused 157
vii) The accused knew that crimes had been committed 159
viii) The accused did not take the necessary measures 163
2. The events in Vitez and Stari Vitez 167
a) The attacks committed as from 16 April 1993 167
b) The widespread or systematic nature of the attacks 169
i) The 16 April 1993 attack 169
ii) The booby-trapped lorry attack of 18 April 1993 170
iii) The 18 July 1993 attack 171
c) The civilian and Muslim character of the target populations 171
i) The 16 April 1993 attack 171
ii) The booby-trapped lorry of 18 April 1993 173
iii) The 18 July 1993 attack 174
d) General Blaškic's responsibility 174
i) The arguments of the parties 174
ii) The individual criminal responsibility of General Blaškic 175
a. The accused's orders or reports as evidence of a relationship of subordination 176
b. The other evidence that there existed a relationship of subordination 178
c. The organized nature of the attacks 179
d. Conclusions 180
3. Other villages in the municipality of Vitez 180
a) Donja Ve~eriska and Ga~ice 180
i) The arguments of the parties 181
ii) The course of the attacks 182
a. Donja Ve~eriska 182
b. Ga~ice 185
b) Grbavica 187
i) The arguments of the parties 187
ii) The course of the attack 188
c) General Bla{ki}'s responsibility 190
C. The municipality of Busovaca 191
1. The attacks against the villages in the municipality of Busovaca 191
a) Loncari 191
b) Ocehnici 192
c) Conclusions 193
i) The organized and massive nature of the attacks 193
ii) The civilian and Muslim nature of the targeted populations 194
2. The responsibility of General Bla{ki} 195
a) The arguments of the parties 195
b) The individual criminal responsibility of General Bla{ki} 196
i) The accused was the superior of the troops involved 196
ii) The accused was responsible for the attacks on the villages of Lon~ari and O~ehni}i 197
D. The municipality of Kiseljak 199
1. The April and June 1993 attacks against the villages in the Kiseljak enclave 199
a) The attacks on the villages in the north of the municipality of Kiseljak 199

i) Behri}i and Gomionica 199
ii) Gromiljak 200
iii) Hercezi 201
iv) Polje Vi{nijica and Vi{nijica 201
v) Rotilj 202
vi) Svinjarevo 204
b) The attacks against the villages in the south of the municipality of Kiseljak 204
i) Grahovci and Han Ploca 204
ii) Tulica 206
c) Conclusions 206
i) The systematic and massive nature of the April and June 1993 attacks 207
ii) The civilian and Muslim character of the targeted populations 209
2. The responsibility of General Bla{ki} 212
a) Arguments of the parties 212
i) The Prosecution 212
ii) The Defence 213
b) Discussion 214
i) The combat preparation order and combat order 214
a. The texts of the combat preparation order and combat order 214
b. The recipient of the orders 216
c. Military assets 217
d. Conclusions 218
ii) The widespread and systematic nature of the crimes perpetrated 218
iii) The general context of persecution of the Muslim populations 220
iv) Conclusions 221
E. The shelling of Zenica 221
1. The Prosecution argument 222
2. The Defence argument 223
3. Conclusions 224
F. Detention related crimes 225
1. Inhuman and cruel treatment 226
a) Arguments of the parties 226
b) Conclusions 227
i) Busova~a municipality 228
ii) Kiseljak municipality 228
iii) Vitez municipality 230
2. Taking of hostages 233
a) Arguments of the parties 233
b) Conclusions 234
3. Inhuman and cruel treatment: human shields 235
a) The arguments of the parties 235
b) Conclusions 236
4. Individual criminal responsibility of General Bla{ki} 237
a) Arguments of the parties 237
b) Conclusions 238
i) Inhuman and cruel treatment (counts 15 and 16) 238
a. Detention centres 238
i. Tihomir Bla{ki} exercised "effective control" over the perpetrators of the crimes 238
ii. Tihomir Bla{ki} "knew or had reason to know" that crimes had been committed 239

iii. Tihomir Bla{ki} did not take the necessary and reasonable measures to punish the perpetrators of the crimes 241
b. Trench digging 242
ii) The taking of hostages (counts 17 and 18) 243
iii) Inhuman and cruel treatment: human shields (counts 19 and 20) 243
IV. FINAL CONCLUSIONS 245
V. PRINCIPLES AND PURPOSES OF SENTENCING 247
A. Applicable provisions 247
1. Statute 247
2. Rules of Procedure and Evidence 248
3. General practice regarding prison sentences 248
4. Purposes and objectives of the sentence 249
B. Sentencing 250
1. The accused 250
2. Mitigating circumstances 251
a) The material mitigating circumstances 251
b) Personal mitigating circumstances 252
3. Aggravating circumstances 256
a) The scope of the crime 256
i) How the crime was committed 256
ii) Effects of the crime upon the victims 258
b) The degree of the accused's responsibility 258
i) Command position 258
ii) Form of participation 260
iii) Premeditation 261
4. Credit for time served 261
5. The sentence 261
a) Legal bases and consequences of an objective ranking of the crimes 262
b) The principles set by the case-law of the two Tribunals 263
i) The principles 263
ii) The method for assessing seriousness 265
c) A single sentence 265
6. Conclusion 266
VI. DISPOSITION 267

ANNEX

Abbreviations

ABiH	Muslim Army of Bosnia-Herzegovina
BH	Republic of Bosnia-Herzegovina
BRITBAT	UNPROFOR British Battalion
ICRC	International Committee of the Red Cross
ECMM	European Commission Monitoring Mission
UNPROFOR	United Nations Protection Force
HDZ	Croatian Democratic Community
HOS	Croatian Defence Forces
HV	Army of the Republic of Croatia
HVO	Croatian Defence Council
HZHB	Croatian Community of Herceg-Bosna
JNA	Yugoslav People's Army
UN	United Nations
FRY	Federal Republic of Yugoslavia (Serbia and Montenegro)
SDA	Party of Democratic Action
SDS	Serbian Democratic Party
SIS	HVO Security and Information Service
TO	Bosnian Territorial Defence
VJ	Army of the FRY
VRS	Army of Republika Srpska
CBOZ	Central Bosnia Operative Zone

Players

Miro Andri}	HV Colonel, he was later the "number two at the joint command of the BH armed forces" before returning to the HV in Croatia.
Mate Boban	President of the HZHB and Commander-in-Chief of the HZHB military forces.
Janko Bobetko	HV General, southern front commander.
Mario ^erkez	Commander of the HVO Vitez Brigade.
Filip Filipovi}	HVO Colonel in Travnik.
Darko Geli}	Liaison officer for General Bla{ki} to the UNPROFOR
Enver Had`ihasanovi}	ABiH 3rd Army Corps Commander.
Dario Kordi}	Vice-President of the HZHB.
Ignac Ko{troman	Secretary-General of the HZHB and the HDZ in BH.
Pa{ko Ljubi~i}	Military Police Fourth Battalion Commander.
D`emo Merdan	ABiH Chief-of-Staff.
Slobodan Milo{evi}	President of the FRY.
Milivoj Petkovi}	HV General, HVO headquarters Chief-of-Staff.
Slobodan Praljak	HV General, former Croatian deputy national defence minister in Zagreb, he was replaced by Petkovi} as HVO Chief-of-Staff on 27 July 1993.
Ivica Raji}	HVO operative zone 3 Commander (in Kiseljak).
Ante Roso	HV General in charge of the Livno region, he replaced Praljak as HVO Chief-of-Staff in October 1993.

Bruno Stoji}	Head of the HZHB Defence Department.
Gojko [u{ak	Croatian Minister of Defence.
Franjo Tudjman	President of the Republic of Croatia.
Anto Valenta	President of the HDZ in Vitez, deputy president of the HDZ for the HZHB, vice president of the HVO (April 1993).
Ivica Zeko	Deputy commander of the CBOZ responsible for intelligence activities.

Units

Brigades

a) HVO regular brigades

Ban Jela~i}	Located in Kiseljak and commanded by Mijo Bo`i} and, later, Ivica Raji}.
Bobovac	Located in Vare{ and commanded by Emil Harah.
Frankopan	Located in Gu~a Gora, Travnik and commanded by Ilija Naki}.
Jure Franceti}	Located in Zenica (until 14 May 1993 at the latest) and commanded by @ivko Toti}.
Kotromani}	Located in Kakanj and commanded by Neven Mari}.
Kralj Tvrtko	Located in Sarajevo and commanded by Slavko Zeli}.
Nikola [ubi} Zrinski	Located in Busova~a and commanded by Du{ko Grube{i}.
Stjepan Toma{evi}	Located in Novi Travnik and commanded by @eljko Sablji}.
Vite{ka	Located in Vitez and commanded by Mario ^erkez.
III XP	Located in @ep~e and commanded by Ivo Lozan~i}.
Zenica 2nd Brigade	Located in Zenica (until 14 May 1993 at the latest) and commanded by Vinko Bare{i}).

b) ABiH Chief-of-Staff

3rd Corps	Located in Zenica and commanded by General Had`ihasanovi}, the 3rd Corps commanded the ABiH brigades in central Bosnia.
7th Muslim Brigade	Brigade forming part of the 3rd Corps command structure, particularly well equipped and comprised in part of foreign soldiers (Mujahedin).
325th Mountain Brigade	3rd Corps Brigade in Vitez.

Military Police

Fourth Battalion	Located in Travnik. Commanded initially by Zvonko Vukovi} who was replaced on 18 January 1993 by Pa{ko Ljubi~i}. Pa{ko Ljubi~i} was removed from his position on 23 July 1993 and replaced by Marinko Palavra. In July 1993, the Fourth Battalion was renamed the Seventh Battalion.
Seventh Battalion	See the Fourth Battalion.

Special Units

Bruno Bu{i}	Located in Travnik and commanded by the "director of the Defence Department". The unit left the CBOZ before the April 1993 conflict
D`okeri	Anti-terrorist units formed within the Military Police (Fourth Battalion). Located in the bungalows in Nadioci (still called "Swiss chalet"). The immediate commander was Vlado [anti} whose headquarters were in the Hotel Vitez. Anto Furund`ija was appointed commander, subordinate to Vlado [anti}.
Ludwig Pavlovi}	Located at the Dubravica school (with the Vitezovi).
Maturice	Formed from the Ban Jela~i} brigade. Located in Kiseljak.
Tvrtko II	Located in Nova Bila.
Vitezovi	Located at the Dubravica school. Its members were former HOS members. Commanded by Colonel Darko Kraljevi} and his deputy Niko Kri`anac.
@uti	HVO Frankopan Brigade unit. Located at the Gu~a Gora school in Travnik and commanded by @arko Andri} (nicknamed "@uti").

Others

Domobrani	So-called Home Guard units positioned in each village pursuant to a decision of the Mostar Ministry of Defence dated 8 February 1993.
SIS	Commanded in the CBOZ by Ante Sli{kovi}, office at the Hotel Vitez.
HOS	Commanded in Bosnia by Jadranko Jandri} who was replaced by Mladen Holman before being incorporated into the HVO prior to 16 April 1993.

I. INTRODUCTION

A. The Tribunal

1. The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (hereinafter "the Tribunal") was established by the Security Council[1] pursuant to Chapter VII of the Charter of the United Nations.

B. The Indictment

2. General Tihomir Bla{ki}[2] was initially indicted along with five other accused in a single indictment, *The Prosecutor v. Dario Kordi} et al*, confirmed on 10 November 1995[3]. The indictment charged the accused alone with 13 counts. An Order of Judge McDonald dated 22 November 1996 authorised a new indictment to be filed, *The Prosecutor v. Tihomir Bla{ki}*, which incorporated seven new counts.

3. Further to the amendment, the Defence filed four preliminary motions all relating to the amended indictment. The first requested that portions of the indictment alleging "failure to punish" liability be struck out on the ground that it did not constitute an offence falling under the jurisdiction of the Tribunal[4]. The Trial Chamber rejected the request of the Defence since it deemed that, in most cases, such a failure also constituted a failure to prevent other crimes from being committed[5].

4. The Defence submitted a second preliminary motion so as to receive a more detailed explanation of the criteria for the intent required for the charges alleging command

---

[1] Resolution 827 (1993) adopted by the Security Council on 25 May 1993.
[2] At the time, the accused was a colonel. He was promoted to General of the army of the Republic of Croatia after the period covered by the indictment. In addition, the first name "Tihofil" was sometimes used in referring to him. To take this situation into account but also to ensure the presentation is consistent, the accused shall be called "General Bla{ki}", "Colonel Bla{ki}", "Tihomir Bla{ki}" or simply "the accused".
[3] Confirmation of the indictment, case no. IT-95-14-I, 10 November 1995. Originally, the document included six accused including *Dario Kordi}*, *Tihomir Bla{ki}*, *Mario ^erkez* and *Zlatko Aleksovski*. Following severances, the reference "IT-95-14" concerns *Tihomir Bla{ki}* only.
[4] Motion to strike portions of amended indictment alleging "failure to punish" liability, Case no. IT-95-14-PT, 4 December 1996.
[5] Decision on the Defence Motion to strike portions of the amended indictment alleging "failure to punish" liability, Case no. IT-95-14-PT, 4 April 1997.

responsibility[6]. The Trial Chamber did not grant the Motion on the ground that it related to the subject-matter of the prosecution and was premature at that stage of the proceedings[7].

5. In a third preliminary motion, the Defence also requested the Trial Chamber to reject those counts under Article 2 of the Tribunal's Statute based on a failure to plead adequately the existence of an international armed conflict[8]. The Motion was rejected because the Trial Chamber considered that the Prosecutor did not have to present proof at this stage of the proceedings that such a conflict did occur and that the formal validity of the indictment was in no manner undermined thereby [9].

6. This Judgement responds to the indictment *The Prosecutor v. Tihomir Bla{ki}* as amended for the second time on 25 April 1997 further to the Decision of the Trial Chamber on the fourth and last preliminary motion tendered by the Defence for the dismissal of the indictment based upon defects in the form thereof[10]. The Trial Chamber had granted the Defence Motion in part and ordered the Prosecutor to add details relating to the times and places of the facts characterised, the role of the accused and the type of responsibility alleged, pursuant to the criteria set down by Article 18(4) of the Statute and Sub-rule 47(B) of the Rules of Procedure and Evidence (hereinafter "the Rules"). Following a fresh Defence motion, the Trial Chamber deemed that some of the amendments to the indictment did not comply with its previous Decision[11]. The Prosecutor ultimately withdrew count 2 of the indictment[12].

1. The general context and form of responsibility incurred

7. The indictment of 25 April 1997 (hereinafter "the indictment") contains twenty counts including six grave breaches of the Geneva Conventions (counts 5, 8, 11, 15, 17 and 19),

---

[6] Motion *in limine* regarding *mens rea* required for charges alleging command responsibility and for bill of particulars re command responsibility portions of indictment, Case no. IT-95-14-PT, 4 December 1996.
[7] Decision rejecting the Defence motion *in limine* regarding *mens rea* required for charges alleging command responsibility and for bill of particulars re command responsibility portions of indictment, Case no. IT-95-14-95-PT, 4 April 1997.
[8] Motion to dismiss counts 4, 7, 10, 14, 16 and 18 based on failure to adequately plead existence of international armed conflict, Case no. IT-95-14-PT, 16 Decmeber 1996.
[9] Decision to reject a motion of the Defence to dismiss counts 4, 7, 10, 14, 16 and 18 based on failure to adequately plead existence of international armed conflict, Case no. IT-95-14-PT, 4 April 1997.
[10] Decision on the Defence motion to dismiss the indictment based upon defects in the form thereof (vagueness/lack of adequate notice of charges), Case no. IT-95-14-PT, 4 April 1997.
[11] Decision on the Defence request for enforcement of an Order of the Trial Chamber, Case no. IT-95-14-PT, 23 May 1997.

eleven violations of the laws or customs of war (counts 2, 3, 4, 6, 9, 12, 13, 14, 16, 18 and 20)[13] and three crimes against humanity (counts 1, 7 and 10) under Articles 2, 3 and 5 of the Tribunal's Statute respectively. The crimes alleged in the indictment were purportedly committed in the context of "serious violations of international humanitarian law against Bosnian Muslims" by members of the armed forces of the Croatian Defence Council (hereinafter "the HVO") between May 1992 and January 1994[14], in the municipalities of:

> Vitez, Busova~a, Kiseljak, Vare{, @ep~e, Zenica, Duvno, Stolac, Mostar, Jablanica, Prozor, ^apljina, Gornji Vakuf, Novi Travnik, Travnik, Kre{evo and Fojnica, all in the territory of the Republic of Bosnia and Herzegovina[15].

However, it emerges from the specific counts that the particular municipalities mentioned as the setting for the crimes with which the accused is charged are Vitez, Busova~a, Kiseljak and Zenica.

8. The indictment states that, throughout the period under consideration, a state of international armed conflict and partial occupation existed in the territory of the Republic of Bosnia and Herzegovina[16].

9. Tihomir Bla{ki} was appointed commander of the HVO armed forces headquarters in central Bosnia on 27 June 1992 and occupied the position throughout the period covered by the indictment. In this position and pursuant to Article 7(1) of the Statute, he was accused of having, in concert with members of the HVO, planned, instigated, ordered or otherwise aided and abetted in the planning, preparation or execution of each of the crimes alleged. In addition or in the alternative, Tihomir Bla{ki} was accused of having known or having had reason to know that subordinates were preparing to commit those crimes or that they had done so and that he had not taken the necessary and reasonable measures to prevent the said crimes from being committed or to punish the perpetrators.

---

[12] Summary of the Prosecutor's Final Brief, 22 July 1999 (filed on 30 July 1999) (hereinafter "Prosecutor's Brief"), paragraph (hereinafter "para.") 8.2, p. 59.
[13] For counts 6, 9, 16, 18 and 20, the Prosecutor specifies Article 3 common to the Geneva Conventions of 12 August 1949 (hereinafter "the Geneva Conventions") for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (hereinafter "the First Convention"), for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at sea (hereinafter "the Second Convention"), Relative to the Treatment of Prisoners of War (hereinafter "the Third Convention") and relative to the Protection of Civilian Persons in Time of War (hereinafter "the Fourth Convention"); in addition, for counts 3 and 4, the Prosecutor refers to Articles 51(2) and 52(1) respectively of Protocol I of 8 June 1977 Additional to the Geneva Conventions of 1949 Relating to the Protection of Victims in International Armed Conflicts (hereinafter "Protocol I").
[14] That is, in actual fact, between 1 May 1992 at the earliest and 31 January 1994 at the latest.
[15] Second amended indictment, Case no. ITR-95-14-PT, para. 1.
[16] *Ibid.*, para. 5.10.

2. The crimes charged

10. The indictment brought by the Prosecutor groups the facts imputed to General Bla{ki} into six distinct categories.

a) Persecution

11. Under count 1, Tihomir Bla{ki} is accused of a crime against humanity for persecution[17] of the Muslim civilian population of Bosnia[18] throughout the municipalities of Vitez, Busova~a, Kiseljak and Zenica on political, racial or religious grounds from May 1992 to January 1994[19]. The persecution was allegedly implemented through a widespread, large-scale and systematic attack upon towns, villages and hamlets inhabited by Bosnian Muslims[20]. During and after the attack, Bosnian Muslim civilians were allegedly murdered and subjected to serious bodily harm[21] whilst dwellings, buildings, private property, livestock and businesses belonging to Bosnian Muslims as well as their institutions dedicated to religion or education were all allegedly plundered and wilfully destroyed[22]. Furthermore, the Prosecutor alleged that hundreds of Bosnian Muslim civilians were systematically arrested, interned, treated inhumanly[23], intimidated and coerced to leave their homes or forcibly transferred by the HVO to zones outside the municipalities of Vitez, Busova~a and Kiseljak. The forcible transfer of civilians was allegedly described "by HVO representatives as a voluntary or humanitarian transfer of civilians [...]"[24]. The persecutions allegedly resulted in a considerable reduction of the Bosnian Muslim civilian population within the three municipalities[25].

b) Unlawful attacks upon civilians and civilian objects

12. Under counts 2 to 4, Tihomir Bla{ki} was accused of three violations of the laws or customs of war[26] for the unlawful attacks upon civilians and civilian objects and for the destruction, not justified by military necessity, which were allegedly perpetrated in the

---

[17] Article 5(h) of the Statute.
[18] The Trial Chamber states the neutrality of the expression, in any case used by the Prosecutor (hereinafter "Bosnian Muslims" or "Muslim civilians").
[19] Second amended indictment, Case no. ITR-95-14-PT, para. 6.
[20] *Ibid.*, para. 6.1.
[21] *Ibid.*, para. 6.2.
[22] *Ibid.*, para. 6.3.
[23] *Ibid.*, paras. 6.4 and 6.5..
[24] *Ibid.*, para. 6.7.
[25] *Ibid.*, para. 7.
[26] Articles 3 and 3(b) of the Statute and Articles 51(2) and 52(1) of Protocol I for counts 3 and 4.

towns and villages of Ahmi}i, Nadioci, Piri}i, [anti}i, O~ehni}i, Vitez, Stari Vitez, Rotilj and Zenica[27].

c) Wilful killing and serious bodily injury

13. Under counts 5 to 10, Tihomir Bla{ki} was prosecuted for wilful killing and serious physical and mental injury to civilians, allegedly committed from January 1993 to January 1994 in the municipalities of Vitez, Busova~a, Kiseljak and Zenica[28]. The crimes thus alleged were prosecuted as two serious breaches of the Geneva Conventions[29], two violations of the laws or customs of war[30] and two crimes against humanity[31].

d) Destruction and plunder of property

14. Under counts 11 to 13, Tihomir Bla{ki} was accused of a serious breach of the Geneva Conventions[32] and two violations of the laws or customs of war[33] for the large-scale plunder and destruction of Bosnian Muslim dwellings, buildings, businesses, private property and livestock between January 1993 and September 1993, and more specifically in Ahmi}i, Nadioci, Piri}i, [anti}i, O~ehni}i, Vitez, Stari Vitez, Donja Ve~eriska, Ga~ice, Lon~ari, Behri}i, Svinjarevo, Gomionica, Gromiljak, Polje Vi{njica, Vi{njica and Rotilj in April 1993, in Tulica and Han Plo~a/Grahovci in June 1993, again in Stari Vitez in August 1993 and in Grbavica in September 1993[34].

e) Destruction of institutions dedicated to religion or education

15. Under count 14, Tihomir Bla{ki} was accused of a violation of the laws or customs of war[35] for the destruction or wilful damage done to Bosnian Muslim institutions dedicated to religion or education between August 1992 and June 1993 – in Duhri in August 1992, Busova~a, Stari Vitez and Svinjarevo in 1993, Ahmi}i, Kiseljak, Gromiljak and Kazagi}i in April 1993, Hercezi, Han Plo~a and Tulica in June 1993 and Vi{njica in September 1993[36].

---

[27] Second amended indictment, para. 8.
[28] *Ibid.*, para. 9.
[29] Articles 2(a) and 2(c) of the Statute.
[30] Article 3 of the Statute and Article 3(1) of the Geneva Conventions.
[31] Articles 5(a) and 5(i) of the Statute.
[32] Article 2(d) of the Statute.
[33] Articles 3(b) and 3(e) of the Statute.
[34] Second amended indictment, para. 10.
[35] Article 3(d) of the Statute.
[36] Second amended indictment, para. 11.

f) Inhumane treatment, taking of hostages and use of human shields

16. Counts 15 to 20 concern the cruel and inhumane treatment inflicted from January 1993 to January 1994 on Bosnian Muslims detained at facilities controlled by the HVO[37], the taking of Bosnian Muslim civilians as hostages between January 1993 and January 1994 to obtain prisoner exchanges and the cessation of Bosnian military operations against the HVO[38] and, lastly, the use of Bosnian Muslim civilians between January 1993 and April 1993 as human shields to protect the HVO positions[39]. In this respect, the Prosecutor charged the accused with three grave breaches of the Geneva Conventions[40] and three violations of the laws or customs of war[41].

C. The main stages of the proceedings

17. Following Judge McDonald's confirmation of the initial indictment on 10 November 1995, the warrants of arrest ordering the transfer of the accused were sent to the authorities of the Federation of Bosnia-Herzegovina of the Republic of Bosnia-Herzegovina and to the authorities of the Republic of Croatia[42]. Copies of the indictments and warrants of arrest were subsequently sent to IFOR[43] upon an Order of Judge Jorda. Lastly, Judge Vohrah issued a warrant of arrest ordering the transfer of Tihomir Bla{ki} to the Kingdom of The Netherlands on 28 March 1996[44].

18. Tihomir Bla{ki} voluntarily gave himself up to the International Tribunal on 1 April 1996 and, pursuant to Rule 62 of the Rules, his initial appearance hearing was held on 3 April 1996 before Trial Chamber I composed of Judge Jorda, presiding, Judge Deschênes and Judge Riad. The accused pleaded "not guilty" to all the counts brought against him in the initial indictment. On 4 December 1996, Tihomir Bla{ki} pleaded "not guilty" to the new counts confirmed against him[45] following the first amendment of the indictment on 22 November 1996. The second amendment of the indictment on

---

[37] *Ibid.*, paras. 13 and 14.
[38] *Ibid.*, para. 15.
[39] *Ibid.*, para. 16.
[40] Articles 2(b) and 2(h) of the Statute.
[41] Article 3 of the Statute and Article 3(1)(a) common to the four Geneva Conventions.
[42] Warrants of Arrest Order for Surrender of Tihomir Bla{ki} addressed to the Federation of Bosnia-Herzegovina, the Republic of Croatia and the Republic of Bosnia-Herzegovina, Case no. IT-95-14-I, 10 November 1995.
[43] Order rendered on 24 December 1995 by Judge Claude Jorda, Case no. IT-95-14-I, 24 December 1995.
[44] Warrant of Arrest Order for Surrender of Tihomir Bla{ki} addressed to the Kingdom of The Netherlands, Case no. IT-95-14-I, 28 March 1996.
[45] Provisional English Transcript (hereinafter "PT") of the hearing of 4 December 1996, p. 5.

25 April 1997 did not bring any new counts against the accused who, for that reason, did not have to enter a new plea.

19. The proceedings against Tihomir Bla{ki} before the Tribunal were complex and at each stage gave rise to many questions, often without precedent. Accordingly, during the fourteen-month pre-trial phase, the Tribunal rendered eighty-two interlocutory decisions. The trial proper commenced on 24 June 1997[46] and lasted a little over two years, closing on 30 July 1999. During this stage of the proceedings, seventy-eight interlocutory Decisions were rendered, 158 witnesses heard and more than one thousand three hundred exhibits filed[47]. The French version of the transcript runs to more than 18,300 pages. This chapter is intended to recall the various stages of the lengthy proceedings in brief and according to the issues. However, it will not deal with the issues relating to the indictment, which were examined in the previous chapter or the proceedings relating to binding Orders for the production of documents addressed to some States.

1. Issues relating to the composition of the Trial Chamber

20. The Trial Chamber hearing the present case was initially composed of Judge Jorda, presiding, Judge Deschênes and Judge Riad. Since Judge Deschênes was unable to continue sitting in the case, the President of the Tribunal ordered the temporary assignment of Judge Li pursuant to Sub-rule 15(F) of the Rules[48]. On 18 April 1997, Judge Deschênes resigned for medical reasons and was replaced on 16 June 1997 by Judge Shahabuddeen who was assigned to the case in an Order of the President[49] on the same day of his appointment to the Tribunal.

21. Sub-rule 15(F) was implemented for a second time when Judge Riad became unavailable for approximately three months for medical reasons. Upon consulting with the parties at two status conferences[50], the Presiding Judge of the Trial Chamber, Claude Jorda, submitted a report to the President of the Tribunal expressing his preference for Judge Riad to be replaced given the circumstances[51]. The said report recalled that the Prosecutor

---

[46] Order for the holding of a hearing and the setting of a date for the start of trial, Case no. IT-95-14-PT, 17 June 1997.
[47] Some of the exhibits contain several distinct parts, even up to around one hundred elements.
[48] Order of the President temporarily assigning a Judge to Trial Chamber I, Case no. IT-95-14-PT, 27 January 1997.
[49] Order of the President assigning a Judge to a Trial Chamber, Case no. IT-95-14-T, 16 June 1997.
[50] PT of 12 and 21 January 1999.
[51] Report of the Presiding Judge of Trial Chamber I pursuant to Sub-rule 15(F) of the Rules of Procedure and Evidence, Decision on the production of discovery materials, Case no. IT-95-14-T, 26 January 1999.

favoured a solution which would enable Judge Riad to continue reviewing the case and mentioned the document filed by the accused reiterating his conditional consent to the continuation of the proceedings following the assignment of a new Judge[52]. In view of these developments, the President of the Tribunal ordered the assignment of Judge Almiro Rodrigues and the resumption of proceedings before the newly composed Trial Chamber[53].

2. Issues relating to the detention of the accused

22. The Trial Chamber considers that in this instance it is appropriate to distinguish between the requests for modification to the detention conditions presented to the President of the Tribunal pursuant to Rule 64 of the Rules and the Motions for provisional release submitted to the Trial Chamber by the accused pursuant to Rule 65 of the Rules. Although in this case, the requests were filed at the same time, they will be examined successively in this chapter.

a) Motions for modification to the detention conditions of the accused

23. On the same day as Tihomir Bla{ki}'s surrender to the Tribunal, Defence Counsel submitted to the President of the Tribunal pursuant to Rule 64 of the Rules a motion for modification to the conditions of detention of the accused. The President authorised that the accused be detained under strict conditions outside the United Nations Detention Unit facilities "within the confines of a residence designated by the Netherlands authorities" [54]. The detention conditions were later modified, in particular as regards family visits and movement of the accused outside[55]. Nonetheless, following serious threats to the security of General Bla{ki}, these detention conditions were abandoned in a Decision of the Tribunal and the accused was transferred to the United Nations Detention Unit[56].

---

[52] Conditional consent of the accused to the continuation of the proceedings following the assignment of a new Judge to the Trial Chamber, Case no. IT-95-14-T, 22 January 1999.
[53] Order of the President for the assignment of a Judge to the Trial Chamber, Case no. IT-95-14-T, 29 January 1999.
[54] Decision on the motion of the Defence filed pursuant to Rule 64 of the Rules of Procedure and Evidence, Case no. IT-95-14-I, 3 April 1996, para. 24.
[55] Decision on the motion of the Defence seeking modification to the conditions of detention of General Bla{ki}, Case no. IT-95-14-PT, 17 April 1996; Decision on the motion of the Defence seeking modification to the conditions of detention of General Bla{ki}, Case no. IT-95-14-PT, 9 May 1996; Decision on motion of the Defence seeking modification of the conditions of detention of General Bla{ki}, Case no. IT-95-14-PT, 9 January 1997; Decision on the conditions of detention of General Bla{ki}, Case no. IT-95-14-PT, 26 May 1997.
[56] Order modifying the conditions of detention of General Bla{ki}, Case no. IT-95-14-PT, 20 June 1997; Decision on the modification of the conditions of detention of General Bla{ki}, Case no. IT-95-14-PT, 23 June 1997; Decision, Case no. IT-95-14-T, 17 July 1997.

b) Motions for provisional release of the accused

24. Defence Counsel to Tihomir Bla{ki} twice presented a motion for provisional release pursuant to Rule 65 of the Rules. The first gave rise to a Decision dated 25 April 1996 and the second to a Decision dated 20 December 1996. In both instances the Trial Chamber rejected the Motion upon reviewing all the elements to be taken into consideration[57].

3. Issues relating to evidence

25. Throughout the trial, the administration of the evidence gave rise to many motions relating both to the disclosure obligations of the parties and to the admissibility of the evidence. One of the characteristics of this case is that the questions relating to disclosure obligations, which typically arise at the pre-trial phase, persisted through the trial itself. It is also appropriate to deal with the unprecedented matter of access to confidential documents in related "La{va Valley" cases and the lengthy procedure for Orders addressed to States for the production of documents.

a) Disclosure obligations

26. Seised of a Defence motion[58], the Trial Chamber rendered a Decision on 27 January 1997 setting out how it interpreted the scope of the parties' disclosure obligations under Rules 66, 67 and 68 of the Rules[59].

Pursuant to former Sub-rule 66(A) of the Rules, the Trial Chamber initially took up a broad interpretation of the notion of disclosure by concluding that all the prior statements of the accused appearing in the Prosecutor's case-file had to be disclosed to the Defence without delay whatever their nature or origin. The Judges further stated that the same criteria were to apply *mutatis mutandis* to the prior statements of the witnesses under that same Sub-rule 66(A). Nonetheless, the Trial Chamber attached two reservations to this interpretation, grounded on Sub-rules 66(C) and 70(A) of the Rules respectively.

Secondly, on the issue of the disclosure of the Prosecution witnesses' names to the Defence provided for under Sub-rule 67(A), the Trial Chamber found that all the names of the witnesses had to be disclosed "at the same time in a comprehensive document which thus

[57] Decision rejecting a request for provisional release, Case no. IT-95-14-PT, 25 April 1996. Order denying a motion for provisional release, Case no. IT-95-14-PT, 20 December 1996.
[58] Motion to compel the production of discovery material, Case no. IT-95-14-PT, 26 November 1996.
[59] Decision on the production of discovery materials, Case no. IT-95-14-PT, 27 January 1997.

permits the Defence to have a clear and cohesive view of the Prosecution's strategy and to make the appropriate preparations"[60].

Thirdly, the Trial Chamber evaluated the scope and methods of application of Rule 68 of the Rules relating to the Prosecutor's disclosure of exculpatory material. It recalled that the obligation was boundless and unquestionably fell upon the Prosecutor alone, though under the control of the Trial Chamber, if only because she was in possession of the said exculpatory material. However, the Trial Chamber drew a parallel between the evidence identified under Sub-rule 66(B) of the Rules "material to the preparation of the Defence" and Rule 68 exculpatory evidence. Applying the case-law on the interpretation of Sub-rule 66(B) in the *^elebi}i* case[61] to Rule 68, it therefore deduced that where the Defence contested the Prosecutor's execution of her obligations it "must present a *prima facie* case which would make probable the exculpatory nature of the materials sought"[62].

27. The Trial Chamber subsequently heard fresh motions on the matter during the same trial and clarified its case-law of 27 January 1997.

Hence, in response to a Defence motion, the Trial Chamber reviewed the notion of prior statements in the light of its foregoing case-law on the subject and found that topographical maps, personal journals and radio logs could not be likened to prior statements of witnesses within the meaning of Sub-rule 66(A) of the Rules and did not need to be disclosed to the Defence[63]. The matter was also raised in respect of written orders of Tihomir Bla{ki}. The Trial Chamber assessed, however, that these were documents within the meaning of Sub-rule 66(B) of the Rules and fell under Sub-rule 66(A):

> all statements made by the accused during questioning in any type of judicial proceedings which may be in the possession of the Prosecutor, but only such statements[64].

The Defence also approached the Trial Chamber in order to have the statements of a third party presented by a witness at a hearing disclosed to it. The Judges limited the field of

---

[60] *Ibid.*, para. 22.
[61] Decision on the Motion by the accused Zejnil Delali} for the disclosure of evidence, Case no. IT-96-21-T, 26 September 1996.
[62] Decision on the production of discovery materials, Case no. IT-95-14-PT, 27 January 1997, para. 49.
[63] Decision on the Defence Motion to preclude testimony of certain Prosecution witnesses based upon the Prosecution's violation of the Tribunal's Order compelling the production of discovery materials, Case no. IT-95-14-T, 25 August 1997.
[64] Decision on the Defence Motion for sanctions for the Prosecutor's failure to comply with Sub-rule 66(A) of the Rules and the Decision of 27 January 1997 compelling the production of all statements of the accused, Case no. IT-95-14-T, 15 July 1998, p. 3.

application of Sub-rule 66(A) of the Rules to the statements of only those witnesses whom the Prosecutor actually meant to call[65], in addition to the elements provided to the confirming Judge in support of the indictment.

28. In respect of application of Sub-rule 67(A) of the Rules on disclosure to the Defence of the names of the Prosecution witnesses called to appear, the Prosecutor was instructed to provide the Trial Chamber and the Defence with the list of the witnesses whom she intended to call to appear at least two working days beforehand[66]. The Trial Chamber did not adjudge it appropriate at this stage to rule on the proceedings as regards the reciprocal prior disclosure of the names of Defence witnesses[67]. It was only just before the Defence began to present its case that the Trial Chamber ordered that the names and identifying information of the Defence witnesses whom the Defence intended to call and the summary of the facts on which their testimony would bear be disclosed at least seven days before their appearance[68]. This was done for the purposes of a faster and more efficient conduct of the proceedings and pursuant to Rule 54 of the Rules.

29. Being seised of a Defence motion, the Trial Chamber clarified its initial case-law on the interpretation of Rule 68 of the Rules and stated that it assumed that the Office of the Prosecutor was acting in good faith. However it reserved the possibility to verify on a case by case basis the potential failures and, at time of trial, draw the necessary conclusions as regards the probative value to be given to the evidence in question[69].

b) The exception to the disclosure obligation set down in Rule 70 of the Rules

30. Pursuant to Sub-rule 70(A) of the Rules:

> reports, memoranda, or other internal documents prepared by a party, its assistants or representatives in connection with the investigation or preparation of the case, are not subject to disclosure or notification

[65] Decision on the Defence Motion to compel the disclosure of Rule 66 and 68 material relating to statements made by a person known as "X", Case no. IT-95-14-T, 15 July 1998.
[66] Decision on the Defence Motion to preclude testimony of certain Prosecution witnesses based upon the Prosecution's violation of the Tribunal's Order compelling the production of discovery materials, Case no. IT-95-14-T, 25 August 1997.
[67] Decision of Trial Chamber I on the Prosecutor's Motion for clarification of order requiring advance disclosure of witnesses and for Order requiring reciprocal advance disclosure by the Defence, Case no. IT-95-14-T, 29 January 1998.
[68] Decision on the Prosecutor's Motion for seven (7) days advance disclosure of Defence witnesses and Defence witnesses statements, Case no. IT-95-14-T, 3 September 1998.
[69] Decision on the Defence Motion for "Sanctions for Prosecutor's repeated violations of Rule 68 of the Rules of Procedure and Evidence", Case no. IT-95-14-T, 29 April 1998.

The Trial Chamber took note that the accused, appearing as a witness in accordance with Sub-rule 85(C) of the Rules, relied upon his personal notes made during the preparation of his defence which included a war diary kept by his assistant and a military logbook of activities held at the headquarters. The Judges were of the opinion that these materials did not constitute internal documents within the meaning of Sub-rule 70(A) of the Rules and considered it appropriate and in the interests of justice to be able to view them. In so doing and where need be, they ordered the Defence or the Federation of Bosnia-Herzegovina to disclose them to the Trial Chamber[70]. The Defence replied that it no longer had these materials in its possession.[71]

31. The other paragraphs under Rule 70 of the Rules deal with the exception to the disclosure obligation set down in Rules 66, 67 and 68 of the Rules. The Trial Chamber acknowledged that this was an exceptional and strictly governed right which benefited *mutatis mutandis* the accused and was intended to allow the use of confidential source information which, failing the said provision, would allegedly prove unusable[72]. In light of several Prosecution and Defence submissions[73] within the terms of Rule 70, the Judges stated its conditions of applicability and its limits.

32. In accordance with Rule 70 of the Rules, the Trial Chamber held that the information specified must meet several conditions, that is: be in the applicant's possession; have been disclosed confidentially - the holder or holding entity being the sole judge of its confidentiality; and have been used for the sole purpose of collecting new evidence which, contrary to initial information, did not enjoy Rule 70 protection.[74]

33. Pursuant to Sub-rule 70(B) of the Rules, the transmission and use in evidence of information responding to the criteria specified above are subject to the consent of the person or entity providing them. The Trial Chamber nevertheless firmly recalled the limits of this protection where the rights of the Defence were involved and affirmed that once the person or entity holding the information had consented to its use in evidence it had to be disclosed without undue delay to the Defence and that the person or entity concerned could not determine whether and, where applicable, when it was appropriate to disclose the said

---

[70] Order for the production of documents used to prepare for testimony, Case no. IT-95-14-T, 22 April 1999.
[71] No response was received from the Federation.
[72] Decision of Trial Chamber I on the Prosecutor's Motion for video deposition and protective measures, Case no. IT-95-14-T, 11 November 1997, para. 10.
[73] Decision of Trial Chamber I on the Application of the Defence pursuant to Sub-rule 70(F) of the Rules, Case no. IT-95-14-T, 12 January 1999 (under seal) and Decision of Trial Chamber I on the Motion to protect a witness, Case no. IT-95-14-T, 19 March 1999.
[74] Aforementioned Decision of 11 November 1997, paras. 10-23.

information[75]. The Trial Chamber further observes that recourse to this provision of the Rules allowed highly confidential evidence to be presented to the Trial Chamber, in particular by former representatives of the government of a member State of the United Nations.

c) The admissibility of the evidence

34. The admissibility of the evidence presented at trial was also the subject of Decisions on several occasions. The principle embodied by the case-law of the Trial Chamber on the issue is the one of extensive admissibility of evidence - questions of credibility or authenticity being determined according to the weight given to each of the materials by the Judges at the appropriate time.

35. In this respect, it is appropriate to point out that the Trial Chamber authorised the presentation of evidence without its being submitted by a witness. The Trial Chamber relied on various criteria for this. At the outset, it is appropriate to observe that the proceedings were conducted by professional Judges with the necessary ability for first hearing a given piece of evidence and then evaluating it so as to determine its due weight with regard to the circumstances in which it was obtained, its actual contents and its credibility in light of all the evidence tendered. Secondly, the Trial Chamber could thus obtain much material of which it might otherwise have been deprived. Lastly, the proceedings restricted the compulsory resort to a witness serving only to present documents. In summary, this approach allowed the proceedings to be expedited whilst respecting the fairness of the trial and contributing to the ascertainment of the truth.

36. Nonetheless, the discussions between the parties as to how evidence was to be administered were generally animated and acrimonious. By way of example, the Trial Chamber notes the following submissions.

Initially, the Defence filed a standing objection to the admission of hearsay with no inquiry as to its reliability. The Trial Chamber rejected this objection on the ground that Sub-rule 89(C) of the Rules authorises the Trial Chamber to receive any relevant evidence which it deems has probative value and that the indirect nature of the testimony depends on the weight which the Judges give to it and not on its admissibility[76].

---

[75] Decision on the Prosecutor's request for authorization to delay disclosure of Rule 70 information, Case no. IT-95-14-T, 6 May 1998, paras. 13-15.
[76] Decision on the standing objection of the Defence to the admission of hearsay with no inquiry as to its reliability, Case no. IT-95-14-T, 21 January 1998.

The Defence raised a similar issue regarding the authenticity of documents produced during testimony. The Trial Chamber found that any documentary evidence produced by a party and identified by a witness was admissible and that any dispute over its authenticity did not derive from its admissibility but from the weight which it would be appropriate to give to it[77].

Furthermore, the Trial Chamber was confronted with the problem of the admission of the statement of a deceased witness which had been given under oath to the Prosecutor's investigators. The Judges considered this to be clearly one of the exceptions to the principle of oral witness testimony, in particular for cross-examination, accepted in the different national and international legal systems and therefore they admitted the said statement in evidence but reserved the right to give it the appropriate weight when the time came[78].

Finally, in order to assist the Judges in their search for the truth, the Trial Chamber authorised that the statement of a witness who had already appeared before it be admitted into evidence. In so doing, it considered that pursuant to Rule 89 of the Rules it could admit any relevant document with probative value and reserve the right to evaluate freely the weight to be given to it at the end of the trial[79].

d) Access to the confidential documents in related La{va Valley cases

37. On 16 September 1998, Defence for the accused *Dario Kordi}* and *Mario ^erkez* (hereinafter "the *Kordi}-^erkez* Defence") filed a motion for access to the non-public materials in this case, that is, the hearing transcripts, exhibits, Orders and Decisions concerning events, facts and witnesses at issue in their related case, with the Trial Chamber hearing the case *The Prosecutor v. Tihomir Bla{ki}* (hereinafter "the *Bla{ki}* Trial Chamber")[80]. On 12 November 1998, the Trial Chamber hearing the case *The Prosecutor v. Dario Kordi} and Mario ^erkez* (hereinafter "the *Kordi}-^erkez* Trial Chamber") issued, at the same time, a Decision on the matter in which it requested the Trial Chambers concerned to give their reasoned opinion on the review of the issues raised and to indicate whether the

[77] Decision on the Defence Motion for reconsideration of the ruling to exclude from evidence authentic and exculpatory documentary evidence, Case no. IT-95-14-T, 30 January 1998
[78] Decision on the Defence Motion to admit into evidence the prior statement of deceased witness Midhat Ha{ki}, Case no. IT-95-14-T, 29 April 1998.
[79] Decision of Trial Chamber I on the application of the Prosecutor to admit into evidence the statement of Defence witness Mr. Leyshon, Case no. IT-95-14-T, 16 March 1999.
[80] Motion of the accused Dario Kordi} and Mario ^erkez for access to the non-public materials in this case, Case no. IT-95-14-T, 16 September 1998.

Motion could be granted and if so under what confidentiality and protective measure conditions[81].

38. The *Bla{ki}* Trial Chamber rendered its Opinion on 16 December 1998 pursuant to the Decision of the *Kordi}-^erkez* Trial Chamber[82]. Bearing in mind that the two cases had at the outset formed part of one and the same indictment, the Trial Chamber affirmed that the Prosecutor was compelled to disclose to the *Kordi}-^erkez* Defence all statements or evidence within the meaning of Rules 66 and 68 of the Rules. Nonetheless, the Judges stated that protective measures granted to witnesses by the *Bla{ki}* Trial Chamber must apply *ipso facto* to the parties in the *Kordi}-^erkez* case and proposed a set of tightened measures in order to offset the increased risk of breaches of confidentiality due to the greater number of persons in possession of confidential information. These additional measures included, *inter alia*, limitation on access to confidential documents to a single responsible custodian and the use of separate pseudonyms in the two cases.

39. Subsequently, the *Bla{ki}* Trial Chamber rendered another Decision on the disclosure to the *Kordi}-^erkez* Defence of a confidential transcript of a statement given by a witness appearing for the Defence. The *Bla{ki}* Trial Chamber recalled that, although the Defence was not subject to the same disclosure obligations as the Prosecutor, with the exception of the materials tendered under Rule 70 of the Rules the Prosecutor remained subject to her Rule 66 and 68 obligations with no distinction being made between the public or confidential nature of the documents concerned[83].

40. On 17 January 2000, the *Bla{ki}* Trial Chamber authorised the Prosecutor's use of a confidential document belonging to the *Bla{ki}* Defence, subject to the appropriate protective measures being taken by the *Kordi}-^erkez* Trial Chamber. The *Bla{ki}* Defence did not contest the principle by which the document was disclosed to the Judges and the Defence in the *Kordi}-^erkez* case[84].

---

[81] Decision on the Motion of the accused for access to non-public materials in the La{va Valley and related cases, Case no. IT-95-14/2-T, 12 November 1998.
[82] Opinion further to the Decision of the Trial Chamber seized of the case *The Prosecutor v. Dario Kordi} and Mario ^erkez* dated 12 November 1998, Case no. IT-95-14-T, 16 December 1998.
[83] Decision on the Prosecution and Defence Motions dated 25 January 1999 and 25 March 1999 respectively, Case no. IT-95-14-T, 22 April 1999.
[84] Decision on the Motion to allow non-public evidence to be revealed to the Kordi}-^erkez Trial Chamber and Defence Counsel, Case no. IT-95-14-T, 17 January 2000.

e) Orders for production of documents

41. This Trial Chamber conducted several parallel proceedings relating to the forced production of documents by certain States and entities. Beforehand, it is appropriate to point out that both the Prosecution and the Defence resorted to these proceedings. In addition, it must be recorded that the Trial Chamber was not necessarily informed of whether the measures it ordered were properly executed. It is incumbent upon the requesting party to refer any difficulties to the Trial Chamber which, however, does not intervene, or only marginally so, in the hand-over of the documents requested.

i) Proceedings regarding the Republic of Croatia

42. The issue of a *subpoena duces tecum* ordering the production of documents had been pending in the *Bla{ki}* case since 10 January 1997, the date on which the Prosecutor requested a Judge to issue a *subpoena duces tecum* to Croatia. The Judge issued just such a *subpoena duces tecum* on 15 January 1997 to Croatia and Mr. Gojko [u{ak, then Minister of Defence[85]. Her Order listed the documents to be produced by 14 February 1997 at the latest. Croatia declared in a letter dated 10 February 1997, first, that it adjudged that any request addressed to its Minister as a government official was ungrounded as, according to the Statute and the Rules, a request for assistance had to be addressed to a State and, second, that as a sovereign State, it could not accept to comply with the order of the *subpoena duces tecum* "but respecting its obligations under the Tribunal's Statute reiterate[d] its readiness for full co-operation under the terms applicable to all States"[86]. On 19 February 1997, Judge McDonald held a hearing at which a representative from Croatia expressed an identical view. That same day, the Prosecutor issued an official request for assistance to the Republic of Croatia pursuant to Rule 39 of the Rules asking for the same categories of documents[87]. The discussions continued for several months before Trial Chamber II ruled, on 18 July 1997, on

[85] *Subpoena duces tecum* issued to the Republic of Croatia and to the Ministry of Defence Gojko [u{ak, Case no. IT-95-14-PT, Judge McDonald, 15 January 1997. Judge MacDonald issued the Order being the Judge who confirmed the indictment against Tihomir Bla{ki}.
[86] Reply to *subpoena duces tecum*, government of the Republic of Croatia, Case no. IT-95-14-PT, 10 February 1997.
[87] Request for assistance to the Republic of Croatia by the Prosecutor under Rule 39 of the Rules of Procedure and Evidence of the International Tribunal, Case no. IT-95-14-PT, 19 February 1997.

the power of the Tribunal to issue *subpoenae duces tecum*[88] and the Appeals Chamber rendered a subsequent ruling[89].

43. On 29 October 1997, the Appeals Chamber ruled pursuant to Rule 108 *bis* of the Rules on the Request of the Republic of Croatia filed on 25 July which requested *inter alia* that the 18 July Decision of Trial Chamber II be reviewed and set aside and the *subpoena duces tecum* of 15 January 1997 be quashed[90]. In its Judgement, the Appeals Chamber decided that neither a State nor its *ex officio* official agents could be the subject of a *subpoena duces tecum* and stated the conditions under which a potential binding Order to a State to produce documents or other items could be issued and the rights and duties of the State concerned. Moreover, the Appeals Chamber set the criteria which any motion for an Order for the production of documents had to meet[91]. These criteria were: 1) an exact description of the documents requested (as opposed to broad categories); 2) the relevance of the documents to the trial; 3) comparatively simple execution of the Order; and 4) a sufficient time-period for the State to comply[92]. Furthermore, it established the "possible modalities of making allowance for national security concerns"[93].

44. On 12 January 1998, the Prosecutor, relying on Article 29 of the Statute[94], filed a motion "for the issuance of a binding Order on the Republic of Croatia for the production of documents". The Trial Chamber granted the Motion and issued confidentially and *ex parte* the Order of 30 January 1998[95] in which it instructed that the documents requested be provided to the Office of the Prosecutor in the shortest possible time and by 27 February 1998 at the latest. On 13 February 1998, the Republic of Croatia filed a Request pursuant to Rule 108 *bis*

---

[88] Decision on the objection of the Republic of Croatia to the issuance of *subpoenae duces tecum*, Case no. IT-95-14-PT, 18 July 1997, (hereinafter "the Decision on the *subpoenae duces tecum*").

[89] Judgement on the Request of the Republic of Croatia for review of the Decision of Trial Chamber II of 18 July 1997, Case no. IT-95-14-AR 108*bis*, 29 October 1997 (hereinafter "the Judgement on the Request of the Republic of Croatia"); for a full reminder of the proceedings of the issue until the Judgement, see the Judgement, para. 2-18.

[90] In addition, Croatia requested that the Order of the Trial Chamber be suspended until the Appeals Judgement had been rendered and that no new binding Order under threat of sanctions be issued to the States or their official agents. The Appeals Chamber declared the Request admissible and suspended the *subpoena duces tecum* (Decision on the admissibility of the request for review by the Republic of Croatia of an interlocutory Decision of a Trial Chamber (issuance of *subpoenae duces tecum*) and scheduling Order, *The Prosecutor v. Tihomir Bla{ki}*, Case no. IT-95-14-AR 108*bis*, Appeals Chamber, 29 July 1997).

[91] The Judgement on the Request of the Republic of Croatia, para. 32.

[92] For an exact description of the four criteria see the Judgement on the Request of the Republic of Croatia, para. 32.

[93] The Judgement on the Request of the Republic of Croatia, paras. 67-69.

[94] Article 29 of the Statute entitled, "Co-operation and judicial assistance" states *inter alia* that "States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including but not limited to [...] the production of evidence [and] the service of documents".

of the Rules for the Order of 30 January 1998 to be reviewed and stayed[96]. A lengthy dispute ensued during which the Trial Chamber strove, within the context of the Appeals Chamber decision, to obtain production of those documents which it deemed relevant whilst taking account of the national security concerns expressed by the Republic of Croatia.

45. On 15 and 16 April 1999, following many procedural episodes, the Trial Chamber consequently heard a civil servant duly empowered by the Republic of Croatia to put forward its concerns, especially regarding national security. The proceedings allowed it to be established that the Republic of Croatia had disclosed only a very limited number of documents. Furthermore, the Republic of Croatia transmitted directly to the Trial Chamber some documents which the Prosecutor had refused on the ground that they were not responsive to her successive motions. The documents essentially touched on the humanitarian aid transited through the Republic of Croatia bound for Bosnia-Herzegovina and on the treatment given to refugees to Bosnia-Herzegovina. They could in no manner be construed as responding to the Prosecutor's motions, interesting though they might be.

46. Finally, on 16 November 1999, the Appeals Chamber found that there was reason to reject the Request for review of the Republic of Croatia without prejudice to the rights of the parties to raise an issue further to the present Judgement[97].

ii) Other proceedings

47. Other proceedings for the production of documents were undertaken against States and other entities. The spirit of co-operation of the entities came to the fore at hearings organised to enable a procedure for executing Trial Chamber decisions to be passed which took into account the legitimate confidentiality and security concerns of these entities. On a State level, some responses provided by the Croatian part of the Croat-Muslim Federation appeared to contradict other elements in the possession of the Trial Chamber, including the accused's statements[98].

---

[95] Order on the Motion of the Prosecutor for the issuance of a binding Order on the Republic of Croatia for the production of documents (confidential – *ex parte*), Case no. IT-95-14-T, 30 January 1998.
[96] Notice of State Request for review of Order on the Motion of the Prosecutor for the issuance of a binding Order on the Republic of Croatia for the production of documents and Request for stay of Trial Chamber's Order of 30 January 1998 (hereinafter "the Request of Croatia").
[97] Order terminating proceedings, Case no. IT-95-14-AR 108*bis*, 16 November 1999.
[98] The accused claimed that he had been able to prepare his testimony upon the basis of archives whose existence the party concerned denied.

4. Issues relating to the appearance and protection of victims and witnesses

48. On 17 June 1996, the Trial Chamber rendered its first Decision granting protective measures to Prosecution witnesses. It observed that there were exceptional circumstances covered by Sub-rule 69(A) of the Rules and authorised the sole disclosure to the Defence, by 1 September 1996 at the latest, of versions of the witnesses' statements which had been redacted of names and identifying information until the witnesses were placed under the Tribunal's protection[99]. Having rejected the Request of the Prosecutor for an *ex parte* hearing[100], on 18 September 1996, the Trial Chamber heard the parties in closed session regarding the Prosecutor's request for release from her obligations pursuant to the Decision of 17 June 1996 through a general Order to the Defence for non-communication of witness identification information. In its Decision of 2 October 1996, the Trial Chamber ordered that all the redacted statements be disclosed in their unabridged versions within fifteen days as well as the ten statements still not communicated from before 1 December 1996, failing which the testimony could not be used in trial. The Defence was bound by a non-disclosure obligation in respect of the identification information under pain of contempt of the Tribunal[101]. This measure imposed on the Defence was subsequently to be the focus of a general Order prohibiting it from:

> disclos[ing] to the public or to the media the name of the witnesses residing in the territory of the former Yugoslavia or any other information which would permit them to be identified, unless absolutely necessary for the preparation of the Defence[102].

Prior to the Defence commencing its case, the Trial Chamber held that there was reason to apply *mutatis mutandis* the relevant provisions of the Rules to the Defence witnesses who accordingly enjoyed protection under the same terms[103].

49. In all, thirty-three witness testified in closed session. Each time that tightened protection was required for witnesses who were heard in open session, the Trial Chamber went into private session.

---

[99] Decision on the Prosecutor's Motion requesting protective measures for witnesses and victims, Case no. IT-95-14- PT, 17 June 1996.
[100] Decision rejecting the Request of the Prosecutor for *ex parte* proceedings, Case no. IT-95-14-PT, 18 September 1996.
[101] Decision of Trial Chamber I on the Applications of the Prosecutor dated 24 June and 30 August 1996 in respect of the protection of witnesses, Case no. IT-95-14-PT, 2 October 1996.
[102] Decision of Trial Chamber I on the Requests of the Prosecutor of 12 and 14 May 1997 in respect of the protection of witnesses, Case no. IT-95-14-PT, 6 June 1997, para. 12.
[103] Decision on the Defence Motion for protective measures for Defence witnesses, Case no. IT-95-14-T, 30 September 1998.

50. The matter of anonymous testimony was raised by the Prosecutor in respect of two of her witnesses. The Trial Chamber asserted on the matter that:

> the victims and witnesses merit protection, even from the accused, during the preliminary proceedings and continuing until a reasonable time before the start of the trial itself; from that time forth, however, the right of the accused to an equitable trial must take precedence and require that the veil of anonymity be lifted in his favour, even if the veil must continue to obstruct the view of the public and the media[104].

Concurring with the conclusions of the Trial Chamber hearing the case *The Prosecutor v. Du{ko Tadi}*[105], the Judges nevertheless deemed that the fundamental exceptional circumstance which would justify that anonymity be granted to one or several witnesses, namely an ongoing armed conflict in central Bosnia, no longer existed.

51. The Defence requested that several Defence witnesses enjoy safe-passage, failing which they would refuse to appear. Mindful of the need to respect the principle of appearance of witnesses in person, the Trial Chamber granted such immunity limited *ratione materiae* to the facts within the Tribunal's jurisdiction, *ratione temporis* to seven days at the most after the said witnesses had finished testifying and *ratione loci* to the territory of the Netherlands and those territories crossed by the said witnesses when travelling from this country to their country of origin[106].

52. Lastly, some witnesses requested the authorisation of the Trial Chamber to testify by video-link. Accordingly and bearing in mind the situation in the territory of the former Yugoslavia and the crucial command role played by the witness, the Trial Chamber permitted General Milivoj Petkovi}[107] to testify by video-link from Zagreb[108].

5. Issues relating to the length of proceedings

53. The Trial Chamber always took care to ensure that the ongoing trial, already long in itself, was not subject to additional delays and guaranteed the accused that he would be tried without undue delay, a guarantee provided for by Article 21(4)(c) of the Statute. Once the parties had "agreed on the need to limit the number of hearing days which they would use respectively for the presentation of their evidence", the Trial Chamber was moved by a

---

[104] Decision on the Application of the Prosecutor dated 17 October 1996 requesting protective measures for victims and witnesses, Case no. IT-95-14-PT, 5 November 1996, para. 24.
[105] Hereinafter "the *Tadi}* Trial Chamber".
[106] Orders granting safe-passage to Defence witnesses "D/A","D/B", "D/C", "D/E", "D/F" and "D/G", Case no. IT-95-14-T, 7 September 1998.
[107] *Cf. infra* the section on the appearance of the Trial Chamber witnesses pursuant to Rule 98 of the Rules.
[108] Order relative to the testimony of General Milivoj Petkovi}, Case no. IT-95-14-T, 17 June 1999.

concern for vigilance to set the number of hearing days each party would be authorised to use for the presentation of their evidence. Thus, the Prosecution and the Defence were accorded seventy-five and sixty hearing days respectively [109]. The rebuttal and rejoinder each took a little over the equivalent of one hearing day.

54. With a mind to enable the expeditious and efficient conduct of the trial, the Trial Chamber decided that when one of its members was exceptionally and temporarily unable to sit, it would proceed by deposition as provided for under Rule 71 of the Rules. Sub-rule 71(A) sets forth that, in the interests of justice and at the request of one of the parties, the Trial Chamber may in exceptional circumstances order depositions be taken by a duly mandated presiding officer. Upon obtaining the consent of the accused, the Trial Chamber granted the joint Motion of the parties to implement such a procedure and mandated the two remaining members of the Trial Chamber as presiding officers whilst the case-file relative to the depositions was subsequently transmitted to the full Trial Chamber.[110]

6. The issue of the dismissal of some counts following the presentation of Prosecution evidence

55. After the close of the Prosecution case, the Defence filed a motion based on Rule 54 of the Rules alleging that, in legal terms, the Prosecutor had not managed to present evidence which enabled her to establish sufficient grounds justifying the proceedings brought against the accused. It consequently requested that fifteen counts be dismissed and that the scope of the five remaining counts be restricted[111].

Upon the basis of new Rule 98 *bis* of the Rules and the foregoing Tribunal case-law grounded on Rule 54 of the Rules, the Trial Chamber confined the review of the Motion to only those theoretical cases where the Prosecutor had allegedly failed to provide the factual proof of one of the counts and a strong legal *prima facie* case in support of her allegations. In so doing, the Judges observed that none of the counts could be dismissed, in whole or in part, at this stage of the trial[112].

---

[109] Decision on the length of proceedings and the time allocated to the parties to present their evidence, Case no. IT-95-14-T, 17 December 1997. One "hearing day" equates to a productive session lasting five hours and twenty minutes. One calendar day is often not long enough to constitute a whole hearing day, if only because of unforeseen technical issues.
[110] Decision on Prosecutor and Defence Motions to proceed by deposition, Case no. IT-95-14-T, 19 February 1998.
[111] Motion to dismiss, Case no. IT-95-14-T, 10 August 1998.
[112] Decision of Trial Chamber I on the Defence Motion to dismiss, Case no. IT-95-14-T, 3 September 1998.

7. The summoning of Trial Chamber witnesses pursuant to Rule 98 of the Rules

56. On 25 March 1999, the Trial Chamber ordered *proprio motu* the appearance of several witnesses in accordance with Rule 98 of the Rules [113]. At this stage of the proceedings, when the principal Prosecution and Defence witnesses had been heard, it held that in order to ascertain the truth about the crimes ascribed to the accused it was vital to make appear General Philippe Morillon[114], Mr. Jean-Pierre Thébault[115], Colonel Robert Stewart[116], General Enver Had`ihasanovi}[117], General Milivoj Petkovi}[118] and the successive commanders of the Seventh Muslim Brigade, namely, Colonels [erif Patkovi}, Amir Kubara and Asim Kori~i}[119].

57. The Trial Chamber rendered several subsequent Orders for each of the witnesses concerned in order to set the date and modalities of their testimony, the protective measures which they would enjoy and the subjects on which they were invited to testify. In this respect, it is appropriate to note that a procedure was established which ensured that the witness could give a spontaneous but not pre-drafted statement whilst guaranteeing the equality of the parties who were granted equal time to put their questions. The questions were restricted to the witnesses' initial statements and were, in fact, asked before those of the Judges[120].

---

[113] So as to be comprehensive, it should be pointed out that the Trial Chamber also made a Defence witness appear, Professor Jankovi} (PT pp. 17336-17337).

[114] Decision of Trial Chamber I in respect of the appearance of General Philippe Morillon, Case no. IT-95-14-T, 25 March 1999.

[115] Decision of Trial Chamber I in respect of the appearance of Mr. Jean-Pierre Thébault, Case no. IT-95-14-T, 25 March 1999.

[116] Decision of Trial Chamber I on the appearance of Colonel Robert Stewart, Case no. IT-95-14-T, 25 March 1999.

[117] Decision of Trial Chamber I in respect of the appearance of General Enver Had`ihasanaovi}, Case no. IT-95-14-T, 25 March 1999.

[118] Decision of Trial Chamber I in respect of the appearance of General Milivoj Petkovi}, Case no. IT-95-14-T, 25 March 1999.

[119] Decision of Trial Chamber I in respect of the appearance of the commanders of the Seventh Muslim Brigade of the Army of Bosnia and Herzegovina, Case no. IT-95-14-T, 25 March 1999.

[120] Decision of Trial Chamber I on protective measures for General Philippe Morillon, witness of the Trial Chamber, Case no. IT-95-14-T, 12 May 1999; Decision of Trial Chamber I on protective measures for Mr. Jean-Pierre Thébault, witness of the Trial Chamber, Case no. IT-95-14-T, 13 May 1999; Decision of Trial Chamber I summoning Mr. Robert Stewart as a witness of the Trial Chamber, Case no. IT-95-14-T, 19 May 1999; Decision of Trial Chamber I to call General Enver Had`ihasanaovi} as a witness of the Trial Chamber, Case no. IT-95-14-T, 21 May 1999; Decision of Trial Chamber I to call General Milivoj Petkovi} as a witness of the Trial Chamber, Case no. IT-95-14-T, 21 May 1999; Order relative to the testimony of General Milivoj Petkovi}, Case no. IT-95-14-T, 17 June 1999; Decision of Trial Chamber I in respect of protective measures for General Milivoj Petkovi}, Case no. IT-95-14-T, 22 June 1999; Decision of Trial Chamber I to call Colonel [erif Patkovi} as a witness of the Trial Chamber, Case no. IT-95-14-T, 21 May 1999; Decision of Trial Chamber I to call Colonel Amir Kubura as a witness of the Trial Chamber, Case no. IT-95-14-T, 21 May 1999; Decision of Trial Chamber I to call Colonel Asim Kori~i} as a witness of the Trial Chamber, Case no. IT-95-14-T, 21 May 1999.

8. The procedure for determining the sentence

58. The Judges proved their flexibility in letting the witnesses testify, where need be, on elements which might have appeared more specifically relevant to determining a possible sentence, at the very least once the Rules were amended to provide for trials' being one single stage[121]. This held all the more true for the accused whom the Defence called in this context even before the start of his cross-examination as a witness. The Prosecution did not present any witnesses in this respect.

[121] During the 18th plenary, the Judges decided that the amendment, which did not impinge upon the rights of the accused, was to come into immediate effect.

II. APPLICABLE LAW

59. Both the case-law of the Tribunal and the arguments of the parties show that a close legal connection exists between Articles 2, 3, 4 and 5 of the Statute and in particular between Articles 2 and 3. As the Appeals Chamber concluded in the *Tadi}* Appeal Decision[122], under certain conditions Article 3 operates as a residual clause covering all those violations of international humanitarian law which do not fall under Article 2 or are not covered by Articles 4 and 5:

> Article 3 may be taken to cover all violations of international humanitarian law other than the "grave breaches" of the four Geneva Conventions falling under Article 2 [and as conferring] on the International Tribunal jurisdiction over any serious offence against international humanitarian law not covered by Article 2, 4 or 5[123].

60. In addition, the existence of an armed conflict is one of the conditions for Articles 2, 3 and 5 of the Statute to apply. Application varies, however, depending on whether in question are Articles 2 and 3 of the Statute or Article 5 thereof.

61. Lastly, the Prosecutor puts forward the criminal responsibility of the accused on the basis of Articles 7(1) and 7(3) of the Statute.

62. Consequently, the Trial Chamber will deal briefly with the question of the armed conflict in relation to the relevant articles of the Statute before reviewing Articles 2 and 3 of the Statute and addressing separately crimes against humanity and individual criminal responsibility.

A. The requirement that there be an armed conflict

1. Definition

63. According to the *Tadi}* Appeal Decision:

> an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State[124].

---

[122] Decision on the Defence Motion for interlocutory appeal on jurisdiction, *The Prosecutor v. Du{ko Tadi} a/k/a "Dule"*, Case no. IT-94-1-AR72 (hereinafter the "*Tadi}* Appeal Decision"), para. 87.
[123] *Tadi}* Appeal Decision, para. 91.
[124] *Tadi}* Appeal Decision, para. 70.

64. This criterion applies to all conflicts whether international or internal. It is not necessary to establish the existence of an armed conflict within each municipality concerned. It suffices to establish the existence of the conflict within the whole region of which the municipalities are a part. Like the Appeals Chamber, the Trial Chamber asserts that:

> International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there[125].

2. Role

a) A condition for charging under Articles 2 and 3 of the Statute

65. The requirement that an armed conflict exist and that there be a nexus between the crimes alleged and that conflict was presented in detail in the Judgement of the case *The Prosecutor v. Zejnil Delali} et al*[126]. The Trial Chamber accepts that reasoning. None of these conditions has been challenged in the case in point. The Trial Chamber will therefore limit itself to setting forth its opinion in brief after having shown the specificity of Article 5.

b) A condition for jurisdiction under Article 5 of the Statute

66. An armed conflict is not a condition for a crime against humanity but is for its punishment by the Tribunal. Based on an analysis of the international instruments in force[127], the Appeals Chamber affirmed[128] the autonomy of that charge in relation to the conflict since it considered that the condition of belligerence had "no logical or legal basis" and ran contrary to customary international law[129].

67. Neither Articles 3 or 7 of the Statutes of the ICTR and the International Criminal Court nor *a fortiori* the case law of the Tribunal for Rwanda require the existence of an

---

[125] *Id.*
[126] Judgement, *The Prosecutor v. Zejnil Delali} et al*, Case no. IT-96-21-T, 19 November 1998, (hereinafter the "^*elebi}i* Judgement"), paras. 182 to 185 and 193 to 195).
[127] *Cf. inter alia* Article II 1-c of Law No. 10, Article 1 of the Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, 78 *United Nations Treaty Series* (hereinafter the "UNTS") 277 and Articles 1 and 2 of the International Convention on the Suppression and Punishment of the Crime of Apartheid, 30 November 1973, UNTS 243.
[128] *Tadi}* Appeal Decision, para. 140; Judgement, *The Prosecutor v. Du{ko Tadi}*, Case no. IT-94-1-A, 15 July 1999 (hereinafter the "*Tadi}* Appeal Judgement"), para. 251.
[129] *Tadi}* Appeal Decision, para. 140.

armed conflict as an element of the definition of a crime against humanity[130]. In his Report to the Security Council on the adoption of the Statute of the future Court, the Secretary-General also explicitly refused to make this condition an ingredient of the crime:

> Crimes against humanity are aimed at any civilian population and are *prohibited regardless of whether they are committed in an armed conflict*, international or internal in character.[131]

68. Nonetheless, the Appeals Chamber stated that whether internal or international, the existence of an armed conflict was a condition which gave the Tribunal jurisdiction over the offence. In its analysis of Article 5 of the Statute in the *Tadi}* Appeal Decision, the Appeals Chamber concluded that:

> [...] Article 5 may be invoked as a *basis of jurisdiction* over crimes committed in either internal or international armed conflicts[132]

This position was reasserted in the *Tadi}* Appeal Judgement:

> The Prosecution is, moreover, correct in asserting that the armed conflict requirement is a *jurisdictional* element, not "a substantive element of the *mens rea* of crimes against humanity" (i.e. not a legal ingredient of the subjective element of the crime)."[133]

3. Nexus between the crimes imputed to the accused and the armed conflict

69. In addition to the existence of an armed conflict, it is imperative to find an evident nexus between the alleged crimes and the armed conflict as a whole. This does not mean that the crimes must all be committed in the precise geographical region where an armed conflict is taking place at a given moment. To show that a link exists, it is sufficient that:

> the alleged crimes were closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict[134].

70. The foregoing observations demonstrate that a given municipality need not be prey to armed confrontation for the standards of international humanitarian law to apply there. It is also appropriate to note, as did the *Tadi}* and *^elebi}i* Judgements, that a crime need not:

---

[130] *Cf.* Judgement, *The Prosecutor v. Jean-Paul Akayesu*, Case no. ICTR-96-4-T, 2 September 1998 (hereinafter the "*Akayesu* Judgement"), paras. 563-584; Judgement, *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Case no. ICTR-95-1-T, 21 May 1999 (hereinafter the "*Kayishema-Ruzindana* Judgement"), paras. 119-134.

[131] *Report of the Secretary-General pursuant to paragraph 2 of Security Council resolution 808 (1993)* (hereinafter the "Report of the Secretary-General"), para. 47 (emphasis added).

[132] *Tadi}* Appeal Decision, para. 142.

[133] *Tadi}* Appeal Judgement, para. 249.

[134] *Tadi}* Appeal Decision, para. 70.

> be part of a policy or practice officially endorsed or tolerated by one of the parties to the conflict, or that the act be in actual furtherance of a policy associated with the conduct of the war or in the actual interest of a party to the conflict[135].

71. With particular regard to Article 5 of the Statute, the terms of that Article[136], the *Tadi}* Appeal Judgement[137], the Decision of the Trial Chamber hearing the *Tadi}* case[138] and the statements of the representatives of the United States, France, Great Britain and the Russian Federation to the United Nations Security Council[139] all point out that crimes against humanity must be perpetrated during an armed conflict. Thus, provided that the perpetrator's act fits into the geographical and temporal context of the conflict, he need not have the intent to participate actively in the armed conflict.

72. In addition, the Defence does not challenge that crimes were committed during the armed conflict in question but rather that the conflict was international and that the crimes are ascribable to the accused.

B. Article 2 of the Statute: Grave breaches of the Geneva Conventions

73. Article 2 of the Statute "grave breaches of the Geneva Conventions" stipulates that:

> The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Convention of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
>
> (a) wilful killing;
>
> (b) torture or inhuman treatment, including biological experiments;
>
> (c) wilfully causing great suffering or serious injury to body or health;
>
> (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
>
> (e) compelling a prisoner of war or civilian to serve in the forces of a hostile power;

---

[135] Judgement, *The Prosecutor v. Du{ko Tadi} a/k/a "Dule"*, Case no. IT-94-1-T, 7 May 1997 (hereinafter the "*Tadi}* Judgement"), para. 573; *^elebi}i* Judgement, para. 195.

[136] The condition required by the provisions of Article 5 of the Statute is temporal: "The International Tribunal shall have the power to prosecute persons responsible for the following crimes *when* committed *in* armed conflict" (emphasis added).

[137] *Tadi}* Appeal Judgement, para. 251. According to the Judges of the Appeals Chamber "[t]he armed conflict requirement is satisfied by proof that *there was* an armed conflict; that is all the Statute requires, and in so doing, it requires more than does customary international law".

[138] *Tadi}* Judgement, paras. 618-660.

[139] Provisional transcript of the 3217th meeting, UN document S/PV. 3217 (25 May 1993), p. 11 (French declaration), p. 16 (United States declaration), p. 19 (United Kingdom declaration) and p. 45 (Russian Federation declaration).

(f) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial;

(g) unlawful deportation or transfer or unlawful confinement of a civilian;

(h) taking civilians as hostages.

74. Within the terms of the *Tadi}* Appeal Decision and *Tadi}* Appeal Judgement, Article 2 applies only when the conflict is international. Moreover, the grave breaches must be perpetrated against persons or property covered by the "protection" of any of the Geneva Conventions of 1949. Neither party challenged these two conditions. The Defence, however, refuted that these two conditions were met in the instance. The Trial Chamber will now address the issue of the nature of the armed conflict and that of the status of the victims as protected persons by relying on the *Tadi}* Appeal Judgement and on other applicable sources of law.

a) International nature of the armed conflict

75. The legal criteria which allow the international nature of an armed conflict to be demonstrated were set out in great detail by the Appeals Chamber in its Judgement of 15 July 1999 in the *Tadi}* case. The Trial Chamber, which agrees with the conclusions in that Judgement, does not intend to reproduce the lengthy analysis set forth therein. It prefers to limit itself to drawing on those essential elements necessary for ruling on the present case.

76. An armed conflict which erupts in the territory of a single State and which is thus at first sight internal may be deemed international where the troops of another State intervene in the conflict or even where some participants in the internal armed conflict act on behalf of this other State[140]. The intervention of a foreign State may be proved factually. Analysing this second hypothesis is more complex. In this instance, the legal criteria allowing armed forces to be linked to a foreign power must be determined. This link confers an international nature upon an armed conflict which initially appears internal.

77. The Prosecution put forward that the direct military intervention of Croatia and the involvement of its armed forces (hereinafter the "HV") alongside those of the Croatian Defence Council (hereinafter the "HVO") in the armed conflict against the Bosnian Muslims conferred on it an international nature by January 1993 at the latest. The Prosecution pointed out however that the engagement of the HV had extended to central Bosnia even before the

[140] *Tadi}* Appeal Judgement, para. 84.

date marking the start of the period covered by the indictment charging the accused with having committed grave breaches[141].

78. The Defence maintained that the conflict pitting the HVO against the Muslim element of the Bosnia-Herzegovina army (hereinafter the "ABiH")[142] in central Bosnia was internal.

79. The Defence stated first that the HVO had been organised to fight the Serbian aggression in Bosnia. After a conflict pitting Croats against Serbs in Ravno, President Izetbegovi} allegedly stated: "this was not our war"[143]. This was a reaction to the statement that the Bosnian Croats were allegedly attempting to organise their own defence against the Serbian threat. Fighting the Muslims was allegedly never the HVO's objective.

80. The Defence therefore referred to the agreement signed in May 1992 under the auspices of the ICRC between the Croatian Democratic Community (hereinafter the "HDZ"), the Serbian Democratic Party (hereinafter the "SDS") and the Party of Democratic Action (hereinafter the "SDA" – Muslim), according to which, it claimed, the latter were committed to honouring the provisions regarding internal armed conflicts as covered in Article 3 common to the Geneva Conventions and to observing certain rules applicable to international armed conflicts. The Defence considered that the agreement demonstrated the conviction of the ICRC that the conflict was internal[144].

81. On this point, the Trial Chamber does not consider that the cited agreement clearly showed a conviction on the part of the ICRC that the conflict was internal. The preamble of the agreement[145] stipulates that:

> The parties agree that, *without any prejudice* to the legal status of the parties to the conflict or *to the international law of armed conflict in force*, they will apply the following rules...[146]

82. Whatever the case, the parties to the conflict may not agree between themselves to change the nature of the conflict, which is established by the facts whose interpretation, where applicable, falls to the Judge. In May 1992, the ICRC was certainly responsible for

---

[141] Prosecutor's summary, p. 6, para. 1.9.
[142] Originally, the HVO was a component of the army of Bosnia-Herzegovina and came under the supreme authority of Sarajevo. However, it detached from it quickly and became the armed wing of the Bosnian Croats and received its orders only from its large headquarters in Mostar (see below, section II).
[143] Submissions, PT p. 24940.
[144] Defence Final Brief, 22 July 1999 (hereinafter the "Defence Brief"), p. 32.
[145] P786 (the exhibits will be specified by their number, preceded by the letters P, D or C according to who submitted them during the trial, the Prosecutor, the Defence or a witness of the Trial Chamber).

fulfilling its mandate to provide the best possible protection to civilians and persons placed *hors de combat* whilst the war unfolded around them. Nonetheless, it is this Trial Chamber which is responsible for evaluating the facts before it and determining the true nature of the conflict.

i) Direct intervention

83. The first issue to be resolved is whether Croatian HV troops intervened in the conflict in question. The Prosecutor's assertion that the HV was allegedly present in the territory of the Central Bosnia Operative Zone (hereinafter the "CBOZ") which the accused commanded, in particular in the La{va Valley, was contested by the Defence. The Defence relied *inter alia* on testimony stating that some units of the Croatian army were present and engaged in an armed conflict not in the La{va Valley but in other parts of Bosnian territory (in Herzegovina and in the border regions between Bosnia and Herzegovina)[147].

84. The presence of HV soldiers or units in Bosnia-Herzegovina (hereinafter "BH") has been amply demonstrated and, indeed, the Defence acknowledged that the Prosecutor established the presence of HV soldiers or units in BH but not in the CBOZ[148]. The Trial Chamber heard the testimony of several witnesses on the subject of which it took especial note of the following.

85. One witness stated that he heard from a high-ranking Croatian government official that HV soldiers had been sent to BH in 1993 to combat the Muslim forces[149]. Another witness spoke of HV soldiers who had been dismissed from their positions because they did not want to got to Bosnia and of other soldiers who had to exchange their HV insignia for HVO insignia while they were in Bosnia[150]. One Defence witness, Admiral Domazet, confirmed that, along with other Croatian army personnel, he was in Bosnia-Herzegovina in April 1993 when he was "head of personnel" of the HV intelligence service[151]. He also testified that General Bobetko could never have defended and liberated the southern portion of the territory of Croatia without entering the territory of Bosnia-Herzegovina[152]. The

---

[146] Emphasis added.
[147] Witness Degan, PT pp. 16180-16181.
[148] Defence Summary, p. 32.
[149] Witness DX, PT p. 20004
[150] Witness II, PT pp. 7169-7171.
[151] Witness Domazet, PT pp. 11563, 11572.
[152] Witness Domazet, PT pp. 11583-11584. *Cf.* also document P406/49 (27 March 1993): authorisation given by Milivoy Petkovi} to an HV unit to enter BH territory.

presence of the HV in BH was even confirmed by one witness who discussed the nature of the intervention of the HV[153] and another who was of the view that the Croatian troops in Bosnia between 1992 and 1994 were not there lawfully given that such a decision had never been taken in the Sabor (parliament of the Republic of Croatia)[154]. Other evidence also demonstrated a general HV presence in Bosnia[155].

86. Those places where the presence of HV soldiers was noted have been specified. The Croatian army penetrated into BH territory at least as far as Livno[156] and Tomislavgrad[157]. In October 1992, when he was Deputy Minister of Defence of the Republic of Croatia, General Praljak was seen in Mostar[158]. Other witnesses spoke of the presence of the HV in the Mostar region[159] and in the Prozor and Gornji Vakuf regions from mid-January to February 1993[160]. In July 1993, UNPROFOR noted that the HVO in Mostar was being supported by HV soldiers "in great numbers"[161]. Other written evidence attesting to the HV presence was detailed in the Prosecutor's brief. Some documents recall the HV's "massive presence" in Bosnia in Jablanica, Prozor and Gornji Vakuf[162] and provide clarification as to who the troops involved were and what materiel and weapons these troops had[163].

87. On 13 May 1993, the government of Bosnia-Herzegovina brought a complaint against the armed aggression upon its territory:

> The government of Bosnia and Herzegovina states, once again, that it wishes to develop all encompassing relations in co-operation with the Republic of Croatia on the basis of mutual trust and respect; however, unless the attacks are immediately stopped and the units of the state of Croatia are withdrawn immediately from the territory of Bosnia and Herzegovina, the government of the Republic of Bosnia and Herzegovina will be forced to turn to the international community and request protection from the aggression[164].

88. In a letter dated 4 September 1993 addressed to the UNPROFOR commander in Bosnia-Herzegovina, the Presidency of Bosnia-Herzegovina described the attack on certain

---

[153] Witness Degan, PT p. 16206.
[154] Witness II, PT pp. 7169-7170.
[155] Witness Vulliamy, PT p. 7711; P406/38 (under seal); P303 (report of the European Commission Monitoring Mission (hereinafter the "ECMM")); see also the Prosecutor's Brief, book 1, p. 149 , para. 6.95.
[156] Witness Domazet, PT p. 11591. *Cf.* also P406/89.
[157] Witness Domazet, PT p. 11591. *Cf.* also P406/94.
[158] Witness DX, PT pp. 20002-20003.
[159] Witness VV, PT pp. 9556-9557, pp. 9562-9565.
[160] Witness Buffini, PT pp. 5581-5588, p. 5599; witness Short, PT p. 24244; witness Duncan, PT p. 9083; P601, P747.
[161] P406/72.
[162] P741, p. 3. P406/90; P406/91 (these documents date from November 1993). *Cf.* also witness Short, PT p. 24244.
[163] P406/20, P406/74; P406/76; P406/78; P406/94.
[164] P556; witness Degan, PT pp. 16142-16143.

towns by HVO and Croatian army forces[165]. Another letter, dated 28 January 1994 from the Permanent Representative of Bosnia-Herzegovina to the United Nations addressed to the Security Council President, contained an annex which included a description of the military intervention by the armed forces of the Republic of Croatia against Bosnia-Herzegovina[166].

89. The Trial Chamber also points to the existence of United Nations documents (hereinafter the "UN") confirming the presence of the HV in BH. United Nations Security Council resolutions 752 of 15 May 1992[167] and 787 of 16 November 1992[168] demanded that the elements of the HV respect the territorial integrity of the BH and withdraw[169]. In correspondence dated 1 February 1994 and 17 February 1994, the Secretary-General informed the Security Council of the support lent to the HVO by Croatia[170]. In particular, the United Nations Secretary-General wrote to the Security Council on 1 February 1994:

> The Croatian army has directly supported the HVO in terms of manpower, equipment and weapons for some time. Initially the level of support was limited to individual and small sub-units, many of them volunteers. As the offensives of the Bosnia and Herzegovina Government forces against the HVO have become successful, the number of Croatian soldiers appears to have increased. It is assessed that in total there is the equivalent of three Croatian Brigades of regular army personnel in Bosnia and Herzegovina, approximately 3,000 to 5,000 (this is an estimation, as it is impossible with UNPROFOR's assets to obtain the required information for a more accurate account).

90. Other United Nations reports and correspondence dealt with the same subject[171] In a letter dated 11 February 1994 addressed to the Secretary-General, the Croatian Vice-Prime Minister and Minister for Foreign Affairs explained *inter alia* that his government was prepared to withdraw some units from the Bosnia-Herzegovina border areas but simultaneously urged the government of that Republic "immediately to order its army to cease all hostilities and offensive actions against Croatian population centres, especially *in the region of central Bosnia. Following the cessation of hostilities, we shall issue an appeal to all Croat volunteers in central Bosnia to lay down their arms and return to normal civilian lives*"[172].

91. The Trial Chamber is of the opinion that proof exists as to the presence of the HV within the CBOZ itself. Over the period in question, HV officers, in particular Colonel

---

[165] P557; witness Degan, pp. 16147*ff*.
[166] P406/95; witness Degan, PT pp. 16151-16152.
[167] P406/14.
[168] P406/29
[169] Several documents make reference to the withdrawal of the HV troops from BH: *cf.* in particular, P406/99 and P406/101 to P406/104.
[170] P406/96 and P406/100.
[171] Prosecutor's Brief, book 1, p. 171, para. 6.106. *Cf.* P406/38.

Vido{evi} from the Split Brigade along with two other Croatian army officers, were "frequently" seen at the Hotel Vitez. In April 1993, representatives of the Croatian Defence Council, Dragan]ur~i} and Bo`o]ur~ija, were seen there too[173]. Soldiers wearing insignia bearing the initials "HV" set up in a Dubravica school near the Hotel Vitez[174]. Soldiers from Croatia were also observed in Busova~a whilst the HVO forces were grouping between May 1992 and January 1993[175] and at the Vitez Health Centre in January 1993[176]. At the same time, soldiers wearing badges which identified them as members of the HV arrived in the Kiseljak zone[177]. The Muslim victims of the attacks launched against villages in the Vitez and Busova~a municipalities declared that they had seen members of HV units participating in the assaults[178].

92. One example of the presence of the HV is particularly significant. HV Colonel Miro Andri} and members of the 101st National Guards Brigade of the President of the Republic of Croatia were sent to the BH southern front by the Croatian Defence Minister, Gojko [u{ak[179]. They continued to operate in central Bosnia in 1993[180]. Miro Andri}, along with Tihomir Bla{ki} and Milivoj Petkovi}, represented the HVO at meetings in Vitez on 28 and 29 April 1993 and during negotiations with the ECMM and the ABiH on the establishment of a joint command[181]. Bla{ki} declared that "Miro Andri} [...] was the number two in the joint command of the armed forces of the Republic of Bosnia-Herzegovina on behalf of the HVO"[182]. Subsequently, Andri} returned to the HV in Croatia.

93. In the CBOZ, several orders were given to the members of the HV serving in the HVO to remove their HV insignia so that observers would not detect their presence in BH[183]. Further, a helicopter from Croatia "frequently" landed at the quarry some two kilometres south of the UNPROFOR British battalion base (hereinafter "BRITBAT") during the summer

---

[172] UN Document S/1994/117 (16 February 1994), P406/99 (emphasis added).
[173] Witness HH, PT pp. 6800-6803.
[174] Witness Hrusti}, PT pp. 4797-4798; witness HH, PT p. 6837.
[175] Witness FF, PT p. 6164.
[176] Witness Mujezinovi}, PT pp. 1723-1724.
[177] P406/45. One witness stated that when the accused was in Kiseljak his personal guard was an individual who wore the Croatian coat of arms (witness HH, PT pp. 6820-6821; this assertion has not however been confirmed).
[178] Prosecutor's Brief, book 1, p. 172, para. 6.111.
[179] P406/17. This order, dated 10 June 1992, affects the parties concerned on a "temporary" basis while indicating that they will continue to have the same rights as beforehand and that they must report to General Bobetko, Chief-of-Staff of the "southern front – Plo~e" command. Amongst other equipment, the parties were supposed to be supplied with four VHF radios and a cellular telephone.
[180] P604.
[181] Witness Bla{ki}, PT p. 19050.
[182] Witness Bla{ki}, PT p. 19210.
[183] P406/7, P406/26, P406/31, P406/36, P406/55.

of 1993[184], apparently to provide direct communication between Croatia, in particular, and the HVO enclave in central Bosnia.

94. Ultimately, the evidence demonstrated that, although the HV soldiers were primarily in the Mostar, Prozor and Gornji Vakuf regions and in a region to the east of ^apljina[185], there is also proof of HV presence in the La{va Valley. The Trial Chamber adds that the presence of the HV in the areas outside the CBOZ inevitably also had an impact on the conduct of the conflict in that zone. By engaging the ABiH in fighting outside the CBOZ, the HV weakened the ability of the ABiH to fight the HVO in central Bosnia. Based on Croatia's direct intervention in BH, the Trial Chamber finds ample proof to characterise the conflict as international.

ii) Indirect intervention

95. Aside from the direct intervention by HV forces, the Trial Chamber observes that Croatia exercised indirect control over the HVO and HZHB.

96. In order to establish whether some of the participants in the armed internal conflict acted on behalf of another State, the Appeals Chamber in the *Tadi}* Appeal Judgement took as its starting point Article 4 of the Third Geneva Convention which defines those situations in which militia and paramilitary groups may be likened to legitimate combatants. The Appeals Chamber deemed that the condition of belonging to another Party to the conflict provided for in this Article constituted an implicit reference to a control criterion[186]. Therefore, some degree of control exercised by a Party to a conflict over the perpetrators of the breaches is needed for them to be held criminally responsible[187] on the basis of Article 2 of the Statute. The question of determining the degree of control required then arises.

97. In this respect, the *Tadi}* Appeal Judgement contains a meticulous analysis of the notion of control. Upon examining the reasoning and control criteria set forth by the International Court of Justice in the *Nicaragua* case[188], the majority of the Appeals Chamber ultimately rejected the position of the Court on the ground that the criteria in question agreed

[184] Witness Hunter, PT p. 5141.
[185] As suggested by witness DX, PT pp. 20034-20035.
[186] *Tadi}* Appeal Judgement, para. 95.
[187] *Tadi}* Appeal Judgement, para. 96.
[188] Case concerning military and paramilitary activities in and against Nicaragua (*Nicaragua v. United States of America*), Merits, Judgement of 27 June 1986, ICJ Report 1986 (hereinafter "the *Nicaragua* Judgement" or "*Nicaragua*").

neither with "the logic of the law of State responsibility" nor with "judicial and State practice"[189]. The Defence contended that the *Tadi}* Appeal Judgement wrongly dismissed the criterion of "effective control" set by the International Court of Justice in the *Nicaragua* case[190]. For the Defence, this is the appropriate criterion to apply in the instance, notwithstanding the conclusions of the *Tadi}* Appeal Judgement. Nonetheless, this Trial Chamber is of the opinion that it is correct to follow the reasoning of the Appeals Chamber.

98. The Appeals Chamber concluded that although State and legal practice adopted the *Nicaragua* criterion for unorganised groups or individuals acting on behalf of a State, it applied another when military or paramilitary groups were at issue[191]. Thus:

> the Appeals Chamber holds the view that international rules do not always require the same degree of control over armed groups or private individuals for the purpose of determining whether an individual not having a status of a State official under internal legislation can be regarded as a *de facto* organ of the State.[192]

99. The Appeals Chamber clearly laid out the three control criteria which allow the acts of individuals or groups to be ascribed to a foreign State, circumstances which transform what at first sight is an internal armed conflict into an international one. The first criterion is applicable to individuals or unorganised groups and demands the issuance of specific instructions for the acts at issue to be perpetrated or, in the alternative, proof that the foreign State endorsed *a posteriori* the said acts.[193] Another criterion relates to a situation wherein, even though no instructions are given by a State, individuals may be likened to State organs because of their effective behaviour within the structure of the said State[194]. Neither of these criteria is relevant in this case and this is why we will not analyse them here.

100. The matter is one of possibly imputing the acts of the HVO to the Republic of Croatia which would then confer an international nature upon the conflict played out in the La{va Valley. It is the third criterion[195] which applies in this instance. This criterion allows the degree of State control required by international law to be determined in order to be able to ascribe to a foreign State the acts of armed forces, militia and paramilitary units (hereinafter "organised groups"). The Appeals Chamber characterised it as a criterion of overall control when it stated:

---

[189] *Tadi}* Appeal Judgement, paras. 99 to 145.
[190] Defence Brief, pp. 50 to 53.
[191] *Tadi}* Appeal Judgement, para. 124.
[192] *Tadi}* Appeal Judgement, para. 137.
[193] *Tadi}* Appeal Judgement, para. 137.
[194] *Tadi}* Appeal Judgement, para. 141.

> control by a State over subordinate *armed forces or militias or paramilitary units* may be of an overall character (and must comprise more than the mere provision of financial assistance or military equipment or training). This requirement, however, does not go as far as to include the issuing of specific orders by the State, or its direction of each individual operation. Under international law it is by no means necessary that the controlling authorities should plan all the operations of the units dependent on them, choose their targets, or give specific instructions concerning the conduct of military operations and any alleged violations of international humanitarian law. The control required by international law may be deemed to exist when a State (or, in the context of an armed conflict, the party to the conflict) *has a role in organising, co-ordinating or planning the military actions* of the military group, in addition to financing, training and equipping or providing operational support to that group[196].

101. How may it be established that a State exercises overall control over an organised military group? The Appeals Chamber stated numerous factors whose conjunction indicated that the Federal Republic of Yugoslavia (Serbia and Montenegro) (hereinafter "the FRY") exercised an overall control over the Army of Republika Srpska (hereinafter the "VRS"), i.e. the transfer of non-Bosnian Serb former officers of the old Yugoslav National Army (hereinafter the "JNA") to BH, the payment of the wages of Bosnian Serbs by the FRY administration, the fact that the reorganisation and change of name of the JNA in no way altered the military objectives and strategies, the fact that the VRS had structures and ranks identical to those of the army of the FRY (hereinafter "the VJ") and that the VJ continued to direct and supervise the VRS (well beyond the generous financial, logistical and other support which it lent) and the persistence of the VJ's direct intervention[197]. However, for the Appeals Chamber, these factors do not define overall control but instead constitute indications thereof. Accordingly, the factors which permit the existence of overall control to be proved may vary depending on the circumstances.

102. In this instance, the direct intervention of the HV in Bosnia and in the CBOZ has already been demonstrated above. Mention may be made of several other indications of Croatia's involvement in the conflict which rebut the Defence argument that the HV did indeed direct HVO operations, but only between March and June 1992 before the HVO became organised and prior to the outbreak of the conflict in central Bosnia between the Croatian and Muslim forces[198]. The Trial Chamber concurs that the involvement of the HV and Croatia may appear more clear-cut at the start of the period under consideration but deems that it persisted throughout the conflict.

---

[195] This is the second criterion presented in the *Tadi}* Appeal Judgement.
[196] *Tadi}* Appeal Judgement, para. 137.
[197] *Tadi}* Appeal Judgement, paras. 150 to 151.
[198] Defence Brief, book 3, p. 52.

103. This involvement does not seem to be the result only of the particular circumstances prevailing at the time. In fact, according to one Defence witness, Croatia had harboured ambitions in respect of the Croatian territory of Bosnia-Herzegovina for 150 years[199]. President Tudjman aspired to partitioning this neighbouring country. In his book entitled *Nationalism in Contemporary Europe* Franjo Tudjman argued that Bosnia-Herzegovina should form part of the federal Croatian unit because it was linked historically to Croatia. Moreover, Tudjman observed that from an ethnic and linguistic viewpoint most Muslims were of Croatian origin[200]. On the partitioning of Bosnia-Herzegovina, Tudjman wrote:

> But large parts of Croatia had been incorporated into Bosnia by the Turks. Furthermore, Bosnia and Herzegovina were historically linked with Croatia and together they comprise an indivisible, geographic and economic entity. Bosnia and Herzegovina occupy the central part of this whole, separating southern (Dalmatian) from northern (Pannonian) Croatia. The creation of a separate Bosnia and Herzegovina makes the territorial and geographic position of Croatia extremely unnatural in the economic sense and therefore in the broadest nationalist political sense very unfavourable for life and development and in the narrower administrative sense unsuitable and disadvantageous. These factors largely explain why the 1939 agreement between Belgrade and Zagreb included the following areas of Bosnia into the Banovina of Croatia: the whole of Herzegovina and Mostar and those Bosnian districts where the Croats have a clear majority[201].

104. Franjo Tudjman's nationalism and his desire to annex a part of BH were apparent to Lord David Owen to whom President Tudjman staked his claim that 17.5% of Bosnian territory should revert to a republic with a Croatian majority[202]. Witness P also confirmed that Franjo Tudjman had in mind the partition of BH[203].

105. These aspirations for a partition were furthermore displayed during the confidential talks between Franjo Tudjman and Slobodan Milo{evi} in Karadjordjevo on 30 March 1991[204] on the division of Bosnia-Herzegovina. No Muslim representative participated in these talks which were held bilaterally between the Serbs and Croats[205]. Following Karadjordjevo, Franjo Tudjman opined that it would be very difficult for Bosnia to survive and that the Croats were going to take over the Banovina plus Cazin, Kladu{a and Biha}[206]. Preliminary secret negotiations were held using maps to come to an agreement with the Serbs on how to partition Bosnia[207]. An interview of the Defence witness Biland`i} published on 25

---

[199] Witness Biland`i}, PT pp. 11366-11367.
[200] Witness Biland`i}, PT pp. 11384-11385; P18, Tudjman's book, *Nationalism in Contemporary Europe* (1981).
[201] P18, witness Donia, PT pp. 169-171.
[202] P19, witness Donia, PT p. 178.
[203] Witness P, PT pp. 4708-4709.
[204] Witness II, PT p. 7136.
[205] Witness Biland`i}, PT pp. 11363-11364,
[206] Witness II, PT. p. 7137.
[207] Witness II, PT pp. 7247-7248, 7249-7250.

October 1996 by the Croatian weekly *Nacional* confirms that, following negotiations with Slobodan Milo{evi}, "it was agreed that two commissions should meet and discuss the division of Bosnia and Herzegovina"[208]. The agreement entered into by the Serbs and Croats on the partition of Bosnia was reportedly confirmed at a meeting between the Bosnian Serb and Bosnian Croat political leaders, Radovan Karad`i} and Mate Boban, in Graz in Austria on 6 May 1992. They allegedly agreed to resort to arbitration to determine whether certain zones would fall within Serbian or Croatian "constituent entities"[209].

106. The aspirations of Franjo Tudjman to annex "Croatian" regions of Bosnia persisted throughout the conflict. On 6 May 1995, during a dinner at which he was sitting beside Mr. Paddy Ashdown, leader of the Liberal Democrat Party in the United Kingdom, who was called as a witness by the Prosecutor, President Tudjman clearly confirmed that Croatia had aspirations to territory in Bosnia. Having sketched on the back of a menu[210] a rough map of the former Yugoslavia showing the situation in ten years time, Franjo Tudjman explained to Mr. Ashdown that one part of Bosnia would belong to Croatia and the other part to Serbia. He also said that there would no longer be a Muslim region within the former Yugoslavia, that it would constitute only a "small element of the Croat State". Franjo Tudjman was convinced that the Serbs would ultimately exchange Banja Luka for Tuzla[211]. President Tudjman also said that he intended to retake Knin and the Krajina region[212] which Croatia did indeed subsequently do. According to the witness, Franjo Tudjman and Slobodan Milo{evi} seemed to have reached an agreement on some territories[213].

107. The Defence claimed, however, that the opinions expressed by President Tudjman were purely personal and did not reflect the official position of the Republic of Croatia[214]. Admittedly, the distinction in principle between President Tudjman's personal comments and Croatia's official policy is justified. The Trial Chamber notes nonetheless that President Tudjman was so dominant in the government of Croatia that his personal opinions in fact represented the position of the official authorities. According to Witness P, President

[208] P464. The witness denied some of what was said in this interview but not this particular fact.
[209] Prosecutor's Brief, book 1, p. 68, para. 5.76.
[210] P275; Witness Ashdown, PT pp. 7330-7331.
[211] Witness Ashdown, PT p. 7331.
[212] Witness Ashdown, PT p. 7332.
[213] Witness Ashdown, PT, pp. 7349, 7351. Although the Defence attempted to make it seem that Tudjman's statements to the witness were merely words said after a few drinks, the Trial Chamber considers that the testimony of the witness is totally credible and coherent in all respects even when what the Defence raised is taken into account. Nor can there be any doubt as to what the partition of territory between Croatia and Serbia as shown in the sketch drawn by President Tudjman represents.
[214] Submissions, PT pp. 25245-25246.

Tudjman exercised his responsibilities within an authoritarian regime where only he held the power[215]. For this reason, the distinction cannot apply in the case in point.

108. Furthermore, it appears that the HVO and Croatia shared the same goals. The HVO and some paramilitary or assimilated forces fought for Croatia, defended the "Croatian" people and territory and wanted the territory which they regarded as Croatian to be annexed to the Republic of Croatia[216]. The members of these armed forces saw Tudjman as their President[217]. Mate Boban, President of Herceg-Bosna, rejected the constitution of Bosnia-Herzegovina which he thought protected only the rights of the Muslims in Bosnia. According to Mate Boban, Herceg-Bosna was culturally, spiritually and economically part of Croatia and had only been separated from it for regrettable reasons[218]. For him, the HDZ was the Bosnian branch of the party founded by Franjo Tudjman[219].

109. The minutes of a meeting held on 12 November 1991 in Grude between the representatives of the regional communities of the Herzegovina and Travnik HDZ regional communities are particularly revealing. The two communities declared that they "have unanimously decided that the Croatian people in Bosnia and Herzegovina must finally embrace a determined and active policy which will realise our eternal dream – a common Croatian state" and that they must "show ... which territories in BH are Croatian territories [...]. Our *people will not accept*, under any conditions, any other solution *except* within the borders of a free Croatia"[220].

110. These common goals did indeed have consequences on the decision-making mechanism of the Croatian Community of Herceg-Bosna (hereinafter "the HZHB"). Croatia was able to control the decisions either through Croatian officers detached from the HV so as to serve in the HVO or through Bosnian Croats who shared the same goals as Croatia and who effectively followed the instructions issued by the Croatian government.

111. On 21 March 1992, Pa{ko Ljubi~i}, commander of the "HB Defence", requested the Defence Minister of the Republic of Croatia, Gojko [u{ak, for a meeting *inter alia* "to

---

[215] Witness P, PT p. 4700.
[216] Witness HH, PT pp. 6884-6887.
[217] Witness HH, PT pp. 6774-6775.
[218] Witness Vulliamy, PT pp. 8496-8497.
[219] Witness Vulliamy, PT pp. 7769-7770. The Defence concedes that some of the leaders of Croatia and the Croatian Community of Herceg-Bosna had common aspirations. See Defence Brief, p. 32.
[220] P406/2 (emphasis in document in the original language); document signed by Jozo Mari}, Dario Kordi} and Mate Boban.

receive your *instructions for further actions* [in central Bosnia]"[221]. President Tudjman announced that Croatia officially recognised the independence of BH on 7 April 1992[222]. For this reason, any involvement of Croatia in the setting up of the HVO after that date was intervention in the internal affairs of BH. The Trial Chamber notes, however, that although Croatia's action in BH was less obvious after that date, it did not stop.

112. Croatia was thus directly involved in the control of the HVO forces which were created on 8 April by the HZHB presidency[223]. On 10 April 1992, President Tudjman appointed General Bobetko of the HV as commander of the "Southern Front"[224]. His duties included commanding HV and HVO units in Croatia and Bosnia-Herzegovina. Three of General Bobetko's subordinates, officers in the HV, subsequently took command of HVO units. On 21 April 1992, General Bobetko ordered General Ante Roso to take responsibility for the Livno region in BH[225]. By 19 May, General Bobetko had already established a forward command post in Gornji Vakuf in BH[226]. On 14 June 1992, General Bobetko ordered offensive activities to commence, HVO forces to manoeuvre in a certain direction and specific operations to be launched as part of a military campaign[227]. On 27 June 1992 while still an HV General, Ante Roso promoted Tihomir Bla{ki} to the rank of HVO Colonel and made him commander of the CBOZ[228]. General Petkovi} was replaced in his post as Chief-of-Staff by General Praljak, the former Croatian national Deputy Minister of Defence in Zagreb[229]. In October 1993, General Praljak was replaced by General Roso. The decisions to make these replacements were taken by the Croatian government[230] and affected an army in principle answering to a distinct sovereign State.

113. The HDZ in Croatia had overall control of the HDZ in Bosnia:

> formally the HDZ in Croatia was separate from the HDZ in Bosnia-Herzegovina – that is formally, but, in reality, all decisions are made in Zagreb and I think that there is no doubt

---

[221] P406/4 (emphasis added); among the participants put forward for this meeting was the name of "Dario Kordi}, head of the Crisis Committee for Central Bosnia, vice-president of the HZ /Croatian Community of/ Herceg-Bosna".
[222] P406/5. In this document signed by President Tudjman on 7 April 1992, the Republic of Croatia "recognises the independent and sovereign socialist Republic of Bosnia and Herzegovina *as a State of three constituent nations*" (emphasis added).
[223] P457; P38/1
[224] P406/6.
[225] P406/11.
[226] P406/16.
[227] P406/20; witness Degan, PT p. 16180.
[228] Witness Bla{ki}, PT p. 17914.
[229] P406/79; P406/80.
[230] Witness DX, PT pp. 20002: "The HVO was monitored or controlled by Zagreb, and so the political leadership in Zagreb appointed [the] leadership of the HVO". See also PT pp. 20030-20031.

> about it. I do not think that – there is no question of the HDZ in Bosnia being an independent party in Bosnia-Herzegovina – formally yes, but not in reality.[231]

114. The Defence furthermore did not challenge the fact that the HVO shared personnel, often from BH, with the HV. According to Admiral Domazet, officers in the army of the Republic of Croatia voluntarily resigned from the HV in order to serve in Bosnia-Herzegovina. These officers needed official authorisation and were regarded as temporarily detached officers. It appears that these officers continued to receive their wage from Croatia[232]. Those who wished to rejoin the ranks of the Croatian army could do so if they obtained the official approval of the HV authorities which, bearing in mind how the Trial Chamber interpreted the elements of the case, was but a formality.

115. The Trial Chamber heard evidence indicating that Milivoj Petkovi}, Ante Roso, Slobodan Praljak and General Tolj, all high-ranking officers within the Croatian army, went to serve in the HVO for a time before returning to the Croatian army[233]. Before becoming HVO Chief-of-Staff, General Milivoj Petkovi} was a senior officer in the army of the Republic of Croatia. Slobodan Praljak left the army of the Republic of Croatia and became an HVO General. He then returned to the armed forces of the Republic of Croatia, was promoted to the rank of General and pensioned off[234]. It was only on 15 October 1993 that General Roso resigned from the HV to "leave for Bosnia-Herzegovina" and become the HVO Chief-of-Staff. On 23 February 1995, he requested to be taken back into the HV, a request which was granted[235]. Ivan Tolj was a deputy of the Sabor, a general, chief of the Croatian army's political department and also a member of the HVO[236]. The aforementioned HV Colonel, Miro Andri}, also belonged to the HVO. Even at junior levels, the HVO was in part made up of Croats who had returned from Croatia after having fought in the Croatian army[237].

116. President Tudjman also ordered the replacement of Bosnian Croats who did not agree with him. Stepan Kljuji} was President of the HDZ in Bosnia but was replaced because he

---

[231] Witness II, PT p. 7112.
[232] Witness Domazet, PT pp. 11607-11608.
[233] Witness II, PT p. 7173. This witness stated that Ivan Tolj, a member of the Croatian Parliament "was a general of both armies" and that along with other "members of the Croat Parliament [who went] to Bosnia and Herzegovina [and] to Herceg-Bosna [was] photographed there wearing HVO uniforms, while at the same time being members of the Croat Parliament. Those same people in the Croat Parliament are satanising, to the limit of the permissible, the Muslims and their right to defend Bosnia and Herzegovina" (PT p. 7283).
[234] Witness Domazet, PT p. 11583.
[235] Prosecutor's Brief, book 1, p. 159, para. 6.70; P586, P587.
[236] Witness II, PT p. 7162.
[237] Witness DX, PT pp. 19933-19934. *Cf.* also P406/61; The ABiH granted a request from the ICRC to return a captured soldier to the HVO so that he could then be returned to the HV.

was fighting for a united Bosnia. Lastly, Mate Boban was appointed President of Herceg-Bosna. Before taking an important decision related to Herceg-Bosna, Mate Boban always consulted Franjo Tudjman[238] and effectively followed his instructions. Delegations from the Bosnian HDZ regularly went to consult President Tudjman[239].

117. General Bla{ki} himself was appointed by a procedure which stressed the need to select loyal people prepared to implement the policy dictated by Zagreb. In order to implement the BH HDZ partisan policy, it was decided, during the meeting in Grude presided over by Mate Boban[240], to "strengthen its membership, and select people who [could] see these tasks through to the end" and "to prepare better militarily for the struggle against all the forces trying to hinder the inevitable process of the creation of a free Croatian state"[241]. General Bla{ki} could not have been appointed to the post he held if he had not fully endorsed this policy.

118. The Bosnian Croat leaders followed the directions given by Zagreb or, at least, co-ordinated their decisions with the Croatian government[242]. Co-ordination was manifest at various levels. The day after the establishment of the Territorial Defence (hereinafter the "TO") on 9 April 1992 as the legitimate military organisation in Bosnia-Herzegovina, Mate Boban issued an order prohibiting the TO from entering HZHB territory[243]. The order was confirmed in a similar one issued by General Roso on 8 May 1992[244]. On 11 May 1992, in the municipality of Kiseljak, Tihomir Bla{ki} issued an order[245] to execute the one from Anto Roso by which the HVO became the sole legal military unit and which outlawed the TO. Dario Kordi} allegedly issued a similar order in the municipality of Busova~a[246]. An order of HV General Anto Roso was therefore quickly put into effect. Even on the subject of control of the munitions factory in Vitez, President Tudjman and Tihomir Bla{ki} promoted the same policy by threatening to blow it up if the ABiH attacked[247].

---

[238] Witness II, PT pp. 7115-7116, 7295-7296.
[239] Witness II, PT pp. 7112-7113, 7115-7116.
[240] See *supra* para. 110.
[241] P406/2. Translated from the French: "mieux se préparer militairement à la lutte contre toutes ces forces qui tentent d'entraver l'inévitable processus de création d'un Etat croate libre" (emphasised in the original).
[242] "Oftentimes the operations of the Croat army were co-ordinated with those of the HVO", Witness II, PT pp. 7294-7296. See also the authorisation for publishing a collective work to which Tihomir Bla{ki} contributed entitled *Offensives and Operations of the HV and HVO*, P406/112.
[243] P583; Prosecutor's Brief, book 1, p. 160, para. 6.75.
[244] P584.
[245] P502b (*bis*).
[246] Prosecutor's Brief, book 1, p. 160, para. 6.76.
[247] Prosecutor's Brief, book 1, p. 163, para. 6.85.

119. Accordingly, the evidence demonstrates that there were regular meetings with President Tudjman and that the Bosnian Croat leaders, appointed by Croatia or with its consent, continued to direct the HZHB and the HVO well after June 1992.

120. Apart from providing manpower, Croatia also lent substantial material assistance to the HVO in the form of financial and logistical support[248]. The person responsible for all the intelligence services in Croatia publicly declared that Croatia had spent a million German marks (DM) a day on providing aid to all of Herceg-Bosna's structures including the HVO[249]. Croatia supplied the HVO with large quantities of arms and materiel in 1992, 1993 and 1994[250]. The presence of T-55 tanks and howitzers with the HV acronym was raised before the Trial Chamber. In September 1993, witness DX observed Croatian T-55 assault tanks in the Gornji Vakuf region being crewed by HV teams and that these tanks seemed to have been intended for participation in the hostilities between the HVO and the ABiH[251]. Equipment was also supplied to the ABiH but this ceased in 1993 during the conflict between the HVO and the ABiH[252]. HVO troops were trained in Croatia[253].

121. Finally, in the *Tadi}* Appeal Judgement, the Appeals Chamber also found that:

> Where the controlling State in question is an adjacent State with territorial ambitions on the State where the conflict is taking place, and the controlling State is attempting to achieve its territorial enlargement through the armed forces which it controls, it may be easier to establish the threshold [254].

122. In the light of all the foregoing and, in particular, the Croatian territorial ambitions in respect of Bosnia-Herzegovina detailed above, the Trial Chamber finds that Croatia, and more specifically former President Tudjman, was hoping to partition Bosnia and exercised such a degree of control over the Bosnian Croats and especially the HVO that it is justified to speak of overall control. Contrary to what the Defence asserted, the Trial Chamber concluded that the close ties between Croatia and the Bosnian Croats did not cease with the establishment of the HVO.

---

[248] P741, p. 1.
[249] Witness II, PT p. 7168. For example, the HDZ leadership in the municipality of Bugojno used 540,000 DM made available to it in a Viennese bank by the Ministry of Finance of the Republic of Croatia to move the equipment necessary for its defence (P406/3; document dated 3 March 1992).
[250] P406/1: supply of petrol; P406/89: vehicles; P406/25: order of the accused dated 19 September 1992 regarding the movement of arms, munitions and military equipment to and from Croatia.
[251] Witness DX, PT pp. 20004-20005.
[252] P558 (under seal), Prosecutor's Brief, book 1, p. 170, para. 6.104.
[253] P406/23: order of the accused for reconnaissance group to undergo 10-day training in Croatia as "specific tasks are to be carried out" dated 24 July 1992.
[254] *Tadi}* Appeal Judgement, para. 140.

123. Croatia's indirect intervention would therefore permit the conclusion that the conflict was international.

b) Protected persons and property

124. Once it has been established that a conflict is international, it becomes necessary to examine the last condition for Article 2 of the Statute to apply, namely, to determine whether the victims or property were protected under the Geneva Conventions.

i) The "nationality" of the victims

125. Article 4(1) of the Fourth Geneva Convention states that:

> Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a party to the conflict or Occupying Power of which they are not nationals.

126. The Defence maintained that since the Bosnian Muslims and Bosnian Croats were nationals of the same country, they did not enjoy the protection accorded to the persons protected within the meaning of Article 4(1). The Defence argued that in the *Tadi}* Appeal Judgement the Appeals Chamber incorrectly found that the criterion of nationality was not a decisive factor for this article to apply. Nevertheless, the Trial Chamber follows the conclusion arrived at by the Appeals Chamber which chose a "legal approach hinging more on substantial relations than on formal bonds" [255], an approach which it deemed best adapted to contemporary international armed conflicts:

> While previously wars were primarily between well-established States, in modern inter-ethnic armed conflicts such as that in the former Yugoslavia, new States are often created during the conflict and ethnicity rather than nationality may become the grounds for allegiance. Or, put another way, ethnicity may become determinative of national allegiance. Under these conditions, the requirement of nationality is even less adequate to define protected persons. In such conflicts, not only the text and the drafting history of the Convention but also, and more importantly, the Convention's object and purpose suggest that allegiance to a Party to the conflict and, correspondingly, control by this Party over persons in a given territory, may be regarded as the crucial test[256].

127. Consequently, the Defence argument on this particular point is rejected and the principle put forward by the Prosecution[257] confirmed. In an inter-ethnic armed conflict, a

---

[255] *Tadi}* Appeal Judgement, para. 166.
[256] *Tadi}* Appeal Judgement, para. 166. *Cf.* also the *^elebi}i* Judgement, in which the Trial Chamber concluded as follows: "The provisions of domestic legislation and citizenship in a situation of violent State succession cannot be determinative of the protected status of persons caught up in conflicts which ensue from such events" (para. 263). The Trial Chamber continued by concluding that since the victims of the alleged acts had been arrested and detained principally on the basis of their ethnicity, they should be regarded as protected persons within the meaning of the Fourth Geneva Convention "as they were clearly regarded by the Bosnian authorities as belonging to the opposing party in an armed conflict and as posing a threat to the Bosnian State" (para. 265).
[257] Prosecutor's Brief, book 1, pp. 151-154, paras. 6.48-6.60.

person's ethnic background may be regarded as a decisive factor in determining to which nation he owes his allegiance and may thus serve to establish the status of the victims as protected persons. The Trial Chamber considers that this is so in this instance.

128. Several of the explanations on the international nature of the conflict elaborated above by the Trial Chamber may be restated here. The disintegration of Yugoslavia occurred along "ethnic" lines. Ethnicity became more important than nationality in determining loyalties or commitments. One historian, a Defence witness, stated that Yugoslavia was a multi-ethnic State in which each of the nations that had formed had followed differing "ideologies": Orthodox, Catholic or Muslim[258]. The witness made reference to the ethnic principle and the historic principle whereby even 150 years ago Serbia and Croatia considered that they had a right to Bosnia. For their part, the Bosnians regarded themselves as a distinct people[259].

129. These trends became manifest in 1990 during the first multi-party elections held in Yugoslavia. The parties with nationalist leanings won in each constitutive republic. In Bosnia-Herzegovina, the dominant parties were the SDS, the SDA and the HDZ[260].

130. Croatia's policy towards the Bosnian Croats placed more emphasis on their ethnic background than on their nationality. A provision adopted by the Republic of Croatia gave to all members of the Croatian nation the right to citizenship[261]. General Bla{ki} himself asked to take advantage of this measure[262]. Another law authorised all Croats to vote in the elections in Croatia, thus allowing the Bosnian Croats with Bosnian nationality to vote in the parliamentary elections in the Republic of Croatia. The "Agreement on Friendship and Co-operation between the Republic of Bosnia-Herzegovina and the Republic of Croatia" stipulated that the two republics would reciprocally authorise their citizens to obtain dual nationality[263]. The Trial Chamber deems that all these texts were used by Croatia to steer the Croats of Bosnia-Herzegovina towards Croatia[264] and contributed to the fact that the people identified more with ethnicity than formal nationality when expressing their loyalty. Approximately 10% of the representatives in the Sabor came from the diaspora. Two Bosnian Croat members of the HVO were elected to the Croatian parliament – Vice Vukojevi} and

[258] Witness Biland`i}, PT pp. 11281-11282.
[259] Witness Biland`i}, PT pp. 11452-11456.
[260] Prosecutor's Brief, book 1, p. 8, para. 3.10.
[261] P406/5.
[262] P765.
[263] Agreement of 21 July 1992, para. 7 (D572).
[264] Witness II, PT pp. 7156-7158.

Ivan Tolj[265]. UNPROFOR basically looked upon the HVO and the HV as being on the same side during the conflict against the ABiH and referred to them collectively as the "HV/HVO"[266]. The ECMM spoke of the need to put strong pressure on Croatia *and* the Bosnian Croats[267].

131. President Tudjman himself thought that BH was comprised of different nations:

> International recognition of Bosnia and Herzegovina shall imply that *the Croatian people, as one of the three constituent nations* in Bosnia and Herzegovina, shall be *guaranteed their sovereign rights*[268];

and the Bosnian Croat officials considered the Bosnian Muslims and Serbs to be people of another nationality or another people altogether:

> The Croatian Defence Council of the Croatian Community of Herceg-Bosna shall respect the competence of the authorities in provinces where the other two *nations* are in the majority[269].

In April 1993, the vice-president of the HVO, Anto Valenta, requested "a province for every of these three nations"[270].

132. In the La{va Valley, one observer saw flags symbolising the various ethnic groups[271]. General Bla{ki} himself announced that the BH authorities in Sarajevo had no legitimacy in Kiseljak, that Kiseljak would be part of a Croatian canton and would look more to the west than the east[272]. A report submitted to the Trial Chamber mentioned "separate schools, only for Croats, [...] with new school books coming from Zagreb, using the 'traditional Croat language'"[273].

133. The supporters of the HVO were in no doubt that Croatia was their ally and that the Bosnian Muslims were their adversaries. They treated the Muslims as foreigners in Croatian territory. "Balija", a pejorative term for a Muslim, was commonly used. Keeping in mind the sense in which the notion of nationality was used in the former Yugoslavia and more specifically in central Bosnia, the Trial Chamber is of the opinion that the Bosnian Muslim

---

[265] Witness II, PT pp. 7156-7158
[266] P406/66, P406/72, P406/75, P406/80, P406/82.
[267] P741, p. 6.
[268] P406/5 (emphasis added).
[269] P24 (emphasis added).
[270] P741, p. 5.
[271] Witness DX, PT p. 19953. *Cf.* also P741.
[272] P545.
[273] P741, p. 1.

victims in the hands of the HVO must be considered as protected persons within the meaning of the Geneva Conventions[274].

ii) Co-belligerent States

134. The Prosecution considered that the Bosnian Muslim civilians were persons protected within the meaning of the Fourth Geneva Convention because Croatia and BH were not co-belligerent States and did not have normal diplomatic relations when the grave breaches were committed[275].

135. The Defence contended that even if the conflict had been international, the Bosnian Muslim victims of acts imputed to the HVO still would not have had the status of "protected" persons since Croatia and Bosnia-Herzegovina were co-belligerent States united against the aggression of the Bosnian Serbs. It draws its argument from Article 4(2) of the Fourth Geneva Convention, which provides *inter alia* that:

> nationals of a co-belligerent State shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

136. The Defence argument may be tested from three perspectives: co-belligerence, normal diplomatic relations and the reasoning underlying Article 4 of the Fourth Geneva Convention.

a. Co-belligerence

137. Firstly, the reasoning of the Defence may be upheld only if Croatia and Bosnia-Herzegovina were co-belligerent States or allies within the meaning of Article 4. The Defence first stated that none of these States had declared war on the other. It then suggested that the status of co-belligerent could be deduced from a review of the treaties signed between the two countries and whether or not there were diplomatic relations between the States in question. The Trial Chamber considers that it is important not to limit oneself to the formal or superficial elements but also to examine the actual relations between the two countries at the relevant time and region. It therefore comes down to deciding whether the Republic of Bosnia-Herzegovina and the Republic of Croatia were allies and acted as such in conducting operations in the Central Bosnia Operative Zone.

[274] Prosecutor's Brief, book 1, pp. 151-152, footnote on p. 75.
[275] Prosecutor's Summary, p. 7, para. 1.10.

138. Granted, Croatia and Bosnia-Herzegovina did enter into agreements over the course of the conflict. One of these, dated 14 April 1992, stipulated that the diplomatic and consular missions of Croatia and Bosnia-Herzegovina abroad would be responsible for defending the interests of the nationals of the other State when there was only a mission of one of the two party-States in the territory of a given country[276]. On 21 July 1992, an agreement on friendship and co-operation was signed[277] and on 25 July the two States entered into an agreement establishing diplomatic relations.

139. However, the true situation was very different from that which these agreements might suggest. Bosnia-Herzegovina perceived Croatia as a co-belligerent to the extent that they were fighting alongside each other against the Serbs. Nonetheless, it is evident that Bosnia did not see Croatia as a co-belligerent insofar as Croatia was lending assistance to the HVO in its fight against the ABiH over the period at issue[278].

140. The Croats had an ambivalent policy towards Bosnia-Herzegovina. The nationalist Croats benefited from the Serb aggression in Bosnia to expand the territory of Croatia into some regions of the newly independent Bosnia. Furthermore, the Serbian aggression forced the Croats and Muslims to form alliances, temporarily at least[279]. In fact, they were allies only when it served Croatian interests as for example in the Biha} pocket[280]. Following pressure exerted by the international community, the official declarations of the Croatian government admittedly tended to make it appear that Croatia was respecting the territorial integrity of Bosnia-Herzegovina[281] and sought to demonstrate that the Croats and Muslims were co-operating. Croatia thus always denied that its troops were in the territory of Bosnia-Herzegovina which the Security Council had nonetheless noted and deplored. At the same time, it supported gathering the Bosnian Croats into a distinct community parallel to the legitimate governmental authorities. To this end, during the conflict between the HVO and the ABiH in 1993, it stopped supplying the Bosnian Muslims[282], behaviour which runs contrary to that of an ally.

141. On the Bosnian side there was no doubt as to what was unfolding in Bosnia. The commander of the ABiH, Arif Pa{ali}, said on the subject of the HVO-ABiH conflict: "This

[276] Witness Degan, PT p. 16169.
[277] Witness Degan, PT p. 16134; D572.
[278] See above P556.
[279] Witness Donia, PT pp. 202-203.
[280] Witness DT, PT pp. 16395-16397.
[281] Witness II, PT p. 7281.

is not some local squabble. This is the implementation of a plan, a policy coming from Grude and Mate Boban"[283]. The division and conflict between the Bosnian Croats and Muslims were reproduced in Vitez, Novi Travnik and other locations in central Bosnia[284]. The intervention of the HV against the ABiH was characterised by a Defence witness as "unlawful armed intervention"[285]. On 8 May 1992, General Roso issued an order which outlawed the legitimate ABiH armed forces[286], an act which is not one of a co-belligerent. The Bosnian Croats who wished to co-operate with the ABiH faced internal opposition. For example, in autumn 1992, in Vare{, the local HVO attempted to co-operate with the Muslim army but Ivica Raji}, Tihomir Bla{ki}'s successor at the head of the Kiseljak HVO, sent troops to prevent the Croatian leaders from co-operating with the Muslims[287]. In Travnik, Colonel Filipovi} of the HVO declared that Mate Boban and Colonel Bla{ki} had exerted considerable pressure on him not to ally with the Muslims[288].

142. In any case, it seems obvious if only from the number of casualties they inflicted on each other that the ABiH and the HVO did not act towards each other within the CBOZ in the manner that co-belligerent States should[289].

143. In summary, the Trial Chamber deems it established that, in the conflict in central Bosnia, Croatia and Bosnia-Herzegovina were not co-belligerent States within the meaning of the Fourth Geneva Convention.

b. Reasoning of Article 4 of the Fourth Geneva Convention

144. The Trial Chamber adjudges a final observation appropriate. The Commentary of the Fourth Geneva Convention reaffirms that the nationals of co-belligerent States are not regarded as protected persons so long as the State of which they are nationals has normal diplomatic representation in the other co-belligerent State[290]. The reasoning which underlies

[282] P558 (under seal), Prosecutor's Brief, book 1, p. 170, para. 6.104.
[283] Witness Vulliamy, PT pp. 7766-7767.
[284] Witness Vulliamy, PT pp. 7768-7769.
[285] Witness Degan, PT p. 16181.
[286] P584.
[287] Witness Vulliamy, PT pp. 8556-8557.
[288] Witness Vulliamy, PT p. 7791 and pp. 8535-8539.
[289] D345, P462.
[290] Commentary, p. 49.

this exception is revealing: "It is assumed in this provision that the nationals of co-belligerent States, that is to say, of allies, do not need protection under the Convention"[291].

145. In those cases where this reasoning does not apply, one might reflect on whether the exception must nevertheless be strictly heeded. In this respect, it may be useful to refer to the analysis of the status of "protected person" which appears in the *Tadi}* Appeal Judgement. The Appeals Chamber noted that in the instances contemplated by Article 4(2) of the Convention:

> those nationals are not "protected persons" as long as they benefit from the normal diplomatic protection of their State; when they lose it or in any event do not enjoy it, the Convention automatically grants them the status of "protected persons"[292].

Consequently, in those situations where civilians do not enjoy the normal diplomatic protection of their State, they should be accorded the status of protected person.

146. The legal approach taken in the *Tadi}* Appeal Judgement to the matter of nationality hinges more on actual relations than formal ties. If one bears in mind the purpose and goal of the Convention, the Bosnian Muslims must be regarded as protected persons within the meaning of Article 4 of the Convention since, in practice, they did not enjoy any diplomatic protection.

iii) Prisoners of war

147. In accordance with the Third Geneva Convention, those persons defined in Article 4 are protected "from the time they fall into the power of the enemy and until their final release and repatriation"[293]. The Prosecution contended that all the Bosnian Muslim combatants held by the HVO suffered inhumane treatment and were used as human shields as alleged in counts 15 and 19 of the indictment, had the status of protected persons within the meaning of the Third Geneva Convention[294]. The Trial Chamber is of the view that all the persons identified as prisoners of war did enjoy the protection accorded by the Third Geneva Convention and points out that those who did not enjoy this protection were civilians and thereby enjoyed the protection accorded by the Fourth Geneva Convention. However, the Trial Chamber cannot envisage that the Third Geneva Convention may apply in respect of

[291] Commentary, p. 49.
[292] *Tadi}* Appeal Judgement, para. 165.
[293] Third Geneva Convention, Article 5.
[294] Prosecutor's Brief, book 1, p. 156, para. 6.66.

count 19 as the indictment specifies only Muslim *civilians*[295]. Nonetheless, the provisions of the Fourth Convention still remain applicable.

iv) Protected property

148. Pursuant to Article 53 of the Fourth Geneva Convention, the extensive destruction of property by an occupying Power not justified by military necessity is prohibited. According to the Commentary on the Fourth Geneva Convention, this protection is restricted to property within occupied territories:

> In order to dissipate any misconception in regard to the scope of Article 53 it must be pointed out that the property referred to is not accorded general protection; the Convention merely provides here for its protection in occupied territory[296].

149. The Prosecution maintained that the property of the Bosnian Muslims was protected because it was in the hands of an occupying Power[297]. The occupied territory was the part of BH territory within the enclaves dominated by the HVO, namely Vitez, Busova~a and Kiseljak. In these enclaves, Croatia played the role of occupying Power through the overall control it exercised over the HVO, the support it lent it and the close ties it maintained with it. Thus, by using the same reasoning which applies to establish the international nature of the conflict, the overall control exercised by Croatia over the HVO means that at the time of its destruction, the property of the Bosnian Muslims was under the control of Croatia and was in occupied territory. The Defence did not specifically address this issue.

150. Following to a large extent the reasoning of the Trial Chamber in the *Raji}* Decision[298], this Trial Chamber subscribes to the reasoning set out by the Prosecution.

c) The elements of the grave breaches

151. Once it has been established that Article 2 of the Statute is applicable in general, it becomes necessary to prove the ingredients of the various crimes alleged. The indictment contains six counts of grave breaches of the Geneva Conventions which refer to five sub-headings of Article 2 of the Statute.

---

[295] Amended indictment, para. 16.
[296] Commentary, p. 301.
[297] Prosecutor's Summary, p. 7, para. 1.9.
[298] Review of the indictment pursuant to Rule 61 of the Rules of Procedure and Evidence, *The Prosecutor v. Raji}*, Case no. IT-95-95-12-R61, 13 September 1996, para. 42.

152. The Defence claimed that it is not sufficient to prove that an offence was the result of reckless acts. However, according to the Trial Chamber, the *mens rea* constituting all the violations of Article 2 of the Statute includes both guilty intent and recklessness which may be likened to serious criminal negligence. The elements of the offences are set out below.

i) Article 2(a) – wilful killing (count 5)

153. The Trial Chamber hearing the *^elebi}i* case[299] defined the offence of wilful killing in its Judgement. For the material element of the offence, it must be proved that the death of the victim was the result of the actions of the accused as a commander. The intent, or *mens rea*, needed to establish the offence of wilful killing exists once it has been demonstrated that the accused intended to cause death or serious bodily injury which, as it is reasonable to assume, he had to understand was likely to lead to death.

ii) Article 2(b) – inhuman treatment (counts 15 and 19)

154. Article 27 of the Fourth Geneva Convention states that protected persons "shall at all times be humanely treated". The *^elebi}i* Judgement analysed in great detail the offence of "inhuman treatment"[300]. The Trial Chamber hearing the case summarised its conclusions in the following manner:

> inhuman treatment is an intentional act or omission, that is an act which, judged objectively, is deliberate and not accidental, which causes serious mental harm or physical suffering or injury or constitutes a serious attack on human dignity [...]. Thus, inhuman treatment is intentional treatment which does not conform with the fundamental principle of humanity, and forms the umbrella under which the remainder of the listed "grave breaches" in the Conventions fall. Hence, acts characterised in the Conventions and Commentaries as inhuman, or which are inconsistent with the principle of humanity, constitute examples of actions that can be characterised as inhuman treatment.[301]

155. The Trial Chamber further concluded that the category "inhuman treatment" included not only acts such as torture and intentionally causing great suffering or inflicting serious injury to body, mind or health but also extended to other acts contravening the fundamental principle of humane treatment, in particular those which constitute an attack on human dignity. In the final analysis, deciding whether an act constitutes inhuman treatment is a question of fact to be ruled on with all the circumstances of the case in mind[302].

---

[299] Hereinafter the "*^elebi}i* Trial Chamber".
[300] *^elebi}i* Judgement, paras. 512 to 544.
[301] *^elebi}i* Judgement, para. 543.
[302] *^elebi}i* Judgement, para. 544.

iii) Article 2(c) – wilfully causing great suffering or serious injury to body or health (count 8)

156. This offence is an intentional act or omission consisting of causing great suffering or serious injury to body or health, including mental health. This category of offences includes those acts which do not fulfil the conditions set for the characterisation of torture, even though acts of torture may also fit the definition given[303]. An analysis of the expression "wilfully causing great suffering or serious injury to body or health" indicates that it is a single offence whose elements are set out as alternative options[304].

iv) Article 2(d) – extensive destruction of property (count 11)

157. An occupying Power is prohibited from destroying movable and non-movable property except where such destruction is made absolutely necessary by military operations. To constitute a grave breach, the destruction unjustified by military necessity must be extensive, unlawful and wanton. The notion of "extensive" is evaluated according to the facts of the case – a single act, such as the destruction of a hospital, may suffice to characterise an offence under this count[305].

v) Article 2(h) – taking civilians as hostages (count 17)

158. Within the meaning of Article 2 of the Statute, civilian hostages are persons unlawfully deprived of their freedom, often arbitrarily and sometimes under threat of death[306]. However, as asserted by the Defence[307], detention may be lawful in some circumstances, *inter alia* to protect civilians or when security reasons so impel. The Prosecution must establish that, at the time of the supposed detention, the allegedly censurable act was perpetrated in order to obtain a concession or gain an advantage. The elements of the offence are similar to those of Article 3(b) of the Geneva Conventions covered under Article 3 of the Statute.

---

[303] *^elebi}i* Judgement, para. 511.
[304] *^elebi}i* Judgement, para. 506.
[305] Commentary, p. 601.
[306] Commentary, pp. 600-601.
[307] Defence Brief, pp. 58-59.

C. Article 3 of the Statute – Violations of the Laws or Customs of War

159. Article 3 of the Statute states that:

> The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include but not be limited to:
>
> (a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;
>
> (b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;
>
> (c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;
>
> (d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;
>
> (e) plunder of public or private property.

160. The two parties acknowledged that the existence of an armed conflict and a nexus between the alleged acts or omissions and that armed conflict set conditions for the implementation of Article 3 of the Statute. The Trial Chamber has set out its position on the matter above[308]. Nonetheless, the parties did not agree upon the nature of the conflict and the scope of Article 3 is contested. The Trial Chamber must therefore rule on the issue before examining the elements of the offences under this Article of the Statute[309].

a) Scope and conditions of applicability of Article 3 of the Statute

161. At the outset, it is appropriate to note that Article 3 of the Statute applies to both internal and international conflicts. This conclusion was reached in the *Tadi}* Appeal Decision and was not challenged by the parties:

> In the light of the intent of the Security Council and the logical and systematic interpretation of Article 3 as well as customary international law, the Appeals Chamber concludes that, under Article 3, the International Tribunal has jurisdiction over the acts alleged in the indictment, *regardless of whether they occurred within an internal or an international armed conflict*[310].

---

[308] See above, II, A.

[309] The Trial Chamber points out that the Prosecution expressly withdrew count 2 insofar as count 12 reproduces the charges therein (Prosecutor's Summary, para 8.2, p. 59).

[310] *Tadi}* Appeal Decision, para. 137 (emphasis added). *Cf.* also the Judgement, *The Prosecutor v. Anto Furund`ija*, Case no. IT-95-17/1-T, 10 December 1998 (hereinafter the "*Furund`ija* Judgement"), para. 132.

162. The Prosecution asserted that the enumeration of the laws or customs of war appearing in Article 3 of the Statute is illustrative and not exhaustive[311]. It also contended that Additional Protocol I bound the parties pursuant to a series of special agreements which they signed under the auspices of the ICRC and to customary international law which prohibits unlawful attacks upon civilians and civilian property whatever the nature of the conflict[312].

163. The Defence nevertheless maintained that Article 3 represented a limited body of customary and conventional law. It contested *inter alia* that some of the provisions of the Hague Convention of 1907 are contained therein[313] as the Convention allegedly acquires a customary aspect only in international armed conflicts. The Defence moreover deemed that Additional Protocol I did not apply to counts 3 and 4 because it did not constitute part of established customary international law[314]. It also challenged the applicability of Additional Protocol II to count 3 of the indictment since the HVO and the HZHB never formally agreed to the application of the whole of Additional Protocol II as conventional law and were not bound by the agreement that the Croatian and Bosnian authorities might have given to the said Protocol[315].

i) Customary international law and conventional law

164. In interpreting Article 3, it is appropriate to refer to the *Report of the Secretary-General*[316]. According to this Report, the Statute of the Tribunal should apply the rules of international humanitarian law which form part of customary law in order to account for the principle of *nullum crimen sine lege*[317]. The Report sets out that the part of conventional international humanitarian law which has "beyond doubt" become part of customary international law is:

> the law applicable in armed conflict as embodied in: the Geneva Conventions of 12 August 1949 for the Protection of War Victims; the Hague Convention (IV) respecting the Laws and Customs of War on Land and the regulations annexed thereto of 18 October 1907; the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948; and the Charter of the International Military Tribunal of 8 August 1945[318].

---

[311] Reaffirmed in the *Tadi}* Appeal Decision, par. 87; *^elebi}i* Judgement, para. 278; and *Furund`ija* Judgement, para. 133.
[312] Prosecutor's Brief, pp. 168 and 169, paras. 7.7 to 7.12.
[313] Defence Brief, p. 60.
[314] Defence Brief, p. 65.
[315] Defence Brief, pp. 62 and 63
[316] S/25704, 3 May 1993.
[317] Report of the Secretary-General, para. 34.
[318] Report of the Secretary-General, para. 35.

165. The Security Council subsequently approved the Report and, thereby, the term adopted by the Secretary-General to define those rules which constitute international customary humanitarian law. That law allows perpetrators of violations of the rules to be prosecuted without risking infringing the principle of *nullum crimen sine lege*.

166. Common Article 3 must be considered a rule of customary international law[319]. The *^elebi}i* Judgement points this out very explicitly and sets forth *inter alia* that:

> While in 1949 the insertion of a provision concerning internal armed conflicts into the Geneva Conventions may have been innovative, there can be no question that the protections and prohibitions enunciated in that provision have come to form part of customary international law[320].

The *Akayesu* Judgement rendered by the International Criminal Tribunal for Rwanda, expresses the same viewpoint:

> It is today clear that the norms of Common Article 3 have acquired the status of customary law in that most States, by their domestic penal codes, have criminalized acts which if committed during internal armed conflict, would constitute violations of Common Article 3[321].

167. It is important to note that Common Article 3 lays down minimum criteria that the parties must respect during a conflict, expressing "the fundamental principle underlying the four Geneva Conventions", that is, humane treatment[322].

168. Further, the Trial Chamber must take note of the very explicit terms of Article 3 of the Statute in which violations of the laws or customs of war are in no manner enumerated as a closed list. The Trial Chamber is of the opinion that it is the Hague Convention (IV) of 1907 respecting the Laws and Customs of War on Land (hereinafter "the Regulations of The Hague"), as interpreted and applied by the Nuremberg Tribunal, which is the basis for Article 3 of the Statute[323]. Hence, although Article 3 of the Statute subsumes Common Article 3[324], it nevertheless remains a broader provision inasmuch as it is also based on the

---

[319] Report of the Secretary-General; paras. 98, 102 and 134 of the *Tadi}* Appeal Decision; paras. 609-611 of the *Tadi}* Judgement and para. 218 in the *Nicaragua* case.
[320] *^elebi}i* Judgement, para. 301.
[321] *Akayesu* Judgement, para. 608.
[322] Commentary, p. 38: "With Common Article 3 representing, as it does, the minimum which must be applied in the least determinate of conflicts, its terms must *a fortiori* be respected in the case of international conflicts proper, when all the provisions of the Convention are applicable". *Cf.* also the *Akayesu* Judgement, para. 601; the *Tadi}* Appeal Decision, para. 102; *Nicaragua* case, para. 218.
[323] Report of the Secretary-General, paras. 41-44; *Tadi}* Appeal Decision, para. 86.
[324] *Tadi}* Appeal Decision, para. 87; *^elebi}i* Judgement, para. 298.

Regulations of The Hague which, in the opinion of the Trial Chamber, also undoubtedly form part of customary international law. As the Secretary-General noted in his Report:

> The Hague Regulations cover aspects of international humanitarian law which are also covered by the 1949 Geneva Conventions. However, the Hague Regulations also recognise that the right of belligerents to conduct warfare is not unlimited and that resort to certain methods of waging war is prohibited under the rules of land warfare[325].

169. The Report of the Secretary-General also states that the law applied by the Tribunal must be customary international law so that "the problem of adherence of some but not all States to specific conventions does not arise"[326]. In line with this reasoning, the Trial Chamber is also empowered to apply any agreement which incontestably bound the parties at the date the crime was perpetrated. Thus, the risk would not be run of infringing the principle of *nullum crimen sine lege* where a belligerent did not adhere to a particular treaty[327].

170. Taking into account the effect of the application of the fundamental principles of Article 3 of the Statute in this case, the Trial Chamber considers that it should not be necessary to rule on the applicability of Protocol I. The specific provisions of Article 3 of the Statute satisfactorily cover the provision of the said Protocol relating to unlawful attacks upon civilian targets. The specific provisions of Common Article 3 also satisfactorily cover the prohibition on attacks against civilians as provided for by Protocols I and II.

171. Taking into account the arguments of the parties on this point, and in particular of the Defence, the Trial Chamber will nonetheless deal rapidly with the issue of the Additional Protocols.

172. The Trial Chamber deems that Article 3 covers the violations of the agreements binding the parties to the conflict - agreements which are regarded as falling under conventional law, that is, which have not become customary international law[328]. The Trial Chamber is of the opinion that this applies to the Additional Protocols. There are at least two arguments for this. Firstly, Croatia ratified the two Protocols (and the four Geneva Conventions) on 11 May 1992. Bosnia-Herzegovina ratified them on 31 December 1992. Consequently, as of 1 January 1993, the two parties were bound by the provisions of the two Protocols, whatever their status within customary international law. Secondly, in an agreement signed on 22 May 1992 under the auspices of the ICRC, the two parties expressly

[325] Report of the Secretary-General, para. 43.
[326] Report of the Secretary-General, para. 34.
[327] *Tadi}* Appeal Decision, para. 143.

agreed that they would be bound during the conflict by provisions 51 and 52 of Additional Protocol I[329].

173. The Defence's argument that Additional Protocol I is not part of customary international law is therefore not relevant. Finally, once it has been established that Protocol I applies, the application of Additional Protocol II is excluded pursuant to Article 1 of this Protocol[330].

174. Lastly, a violation of the laws or customs of war within the meaning of Article 3 of the Statute is a serious violation of international humanitarian law within the meaning of the Statute which the Tribunal was *ipso facto* established to prosecute and punish. Still to be verified is whether the violation in question entails individual criminal responsibility and whether, as regards the counts based on Common Article 3, the violations were committed against persons protected by the said article.

ii) Individual criminal responsibility

175. The Prosecution contended that the provisions of the Regulations annexed to the Hague Convention IV of 1907 constitute international customary rules which were restated in Article 6(b) of the Nuremberg Statute. Violations of these provisions incur the individual criminal responsibility of the person violating the rule[331]. Conversely, the Defence did not acknowledge that violations of the laws or customs of war within the meaning of Common Article 3 of the Geneva Conventions had ever been upheld to impose criminal sanctions upon individuals[332].

176. The Trial Chamber recalls that violations of Article 3 of the Statute which include violations of the Regulations of The Hague and those of Common Article 3 are by definition serious violations of international humanitarian law within the meaning of the Statute. They are thus likely to incur individual criminal responsibility in accordance with Article 7 of the Statute. The Trial Chamber observes moreover that the provisions of the criminal code of the

---

[328] Prosecutor's Brief, p. 167, para. 7.4.
[329] P786, para. 2.5.
[330] "This Protocol [...] shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) ...".
[331] Prosecutor's Brief, pp. 171-173, paras. 7.24-7.32.
[332] Defence Brief, p. 61.

SFRY[333], adopted[334] by Bosnia-Herzegovina in April 1992, provide that war crimes committed during internal or international conflicts incur individual criminal responsibility[335]. The Trial Chamber is of the opinion that, as was concluded in the *Tadi}* Appeal Decision, customary international law imposes criminal responsibility for serious violations of Common Article 3[336].

iii) Protected persons (Common Article 3)

177. Where the charges are specifically based on Common Article 3[337], it is necessary to show that the violations were committed against persons not directly involved in the hostilities[338]. The criterion applied in the *Tadi}* Judgement comes down to asking:

> whether, at the time of the alleged offence, the alleged victim of the proscribed acts was directly taking part in hostilities, being those hostilities in the context of which the alleged offences are said to have been committed. If the answer to that question is negative, the victim will enjoy the protection of the proscriptions contained in Common Article 3[339].

178. The conclusions grounded on this criterion will depend on an analysis of the facts rather than the law.

b) The elements of the offences

179. Having determined that Article 3 is applicable, it must still be proved that one of the particular offences enumerated therein has occurred. The indictment alleges nine offences under Article 3 in ten counts. The Prosecutor maintained that the *mens rea* which characterises all the violations of Article 3 of the Statute, as well as the violations of Article 2, is the intentionality of the acts or omissions, a concept containing both guilty intent and recklessness likeable to serious criminal negligence[340]. The elements of the offences which must be proved are set forth below.

i) Unlawful attack against civilians (count 3); attack upon civilian property (count 4)

---

[333] Ed. 1990, Articles 142 and 143.
[334] Subject to certain amendments.
[335] *^elebi}i* Judgement, para. 312.
[336] *Tadi}* Appeal Decision, para. 134. In this instance, the position is supported by the Prosecution (Prosecutor's Brief, p. 170, para. 7.17).
[337] Counts 6, 9, 16, 18 and 20.
[338] Having set out above that the violations must have been committed within the context of an armed conflict and that there is a close nexus between them and the said conflict.
[339] *Tadi}* Judgement, para. 615.
[340] Prosecutor's Brief, pp. 35-36, paras. 4.33-4.36.

180. As proposed by the Prosecution[341], the Trial Chamber deems that the attack must have caused deaths and/or serious bodily injury within the civilian population or damage to civilian property. The parties to the conflict are obliged to attempt to distinguish between military targets and civilian persons or property. Targeting civilians or civilian property is an offence when not justified by military necessity. Civilians within the meaning of Article 3 are persons who are not, or no longer, members of the armed forces. Civilian property covers any property that could not be legitimately considered a military objective. Such an attack must have been conducted intentionally in the knowledge, or when it was impossible not to know, that civilians or civilian property were being targeted not through military necessity.

ii) Murder (count 6)

181. The content of the offence of murder under Article 3 is the same as for wilful killing under Article 2[342].

iii) Violence to life and person (count 9)

182. This offence appears in Article 3(1)(a) common to the Geneva Conventions. It is a broad offence which, at first glance, encompasses murder, mutilation, cruel treatment and torture and which is accordingly defined by the cumulation of the elements of these specific offences. The offence is to be linked to those of Article 2(a) (wilful killing), Article 2(b) (inhuman treatment) and Article 2(c) (causing serious injury to body) of the Statute. The Defence contended that the specific intent to commit violence to life and person must be demonstrated. The Trial Chamber considers that the *mens rea* is characterised once it has been established that the accused intended to commit violence to the life or person of the victims deliberately or through recklessness.

iv) Devastation of property (count 12)

183. Similar to the grave breach constituting part of Article 2(d) of the Statute, the devastation of property is prohibited except where it may be justified by military necessity. So as to be punishable, the devastation must have been perpetrated intentionally or have been the foreseeable consequence of the acts of the accused.

v) Plunder of public or private property (count 13)

[341] Prosecutor's Summary, annex 1, pp. 1-2.

184. The prohibition on the wanton appropriation of enemy public or private property extends to both isolated acts of plunder for private interest and to the "organized seizure of property undertaken within the framework of a systematic economic exploitation of occupied territory". Plunder "should be understood to embrace all forms of unlawful appropriation of property in armed conflict for which individual criminal responsibility attaches under international law, including those acts traditionally described as 'pillage'"[343].

vi) Destruction or wilful damage to institutions dedicated to religion or education (count 14)

185. The damage or destruction must have been committed intentionally to institutions which may clearly be identified as dedicated to religion or education and which were not being used for military purposes at the time of the acts. In addition, the institutions must not have been in the immediate vicinity of military objectives.

vii) Cruel treatment (count 16 and 20)

186. The Defence asserted *inter alia* that using human shields and trench digging constituted cruel treatment only if the victims were foreigners in enemy territory, inhabitants of an occupied territory or detainees[344]. The Trial Chamber is of the view that treatment may be cruel whatever the status of the person concerned. The Trial Chamber entirely concurs with the *^elebi}i* Trial Chamber which arrived at the conclusion that cruel treatment constitutes an intentional act or omission "which causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity. As such, it carries an equivalent meaning and therefore the same residual function for the purposes of Common article 3 of the Statute, as inhuman treatment does in relation to grave breaches of the Geneva Convention"[345].

viii) Taking of hostages (count 18)

187. The taking of hostages is prohibited by Article 3(b) common to the Geneva Conventions which is covered by Article 3 of the Statute. The commentary defines hostages as follows:

---

[342] As decided by the Trial Chamber in the *^elebi}i* Judgement, para. 422.
[343] *^elebi}i* Judgement, paras. 590-591.
[344] PT, submission, p. 25290; Defence Brief, p. 68.
[345] *^elebi}i* Judgement, para. 552.

> hostages are nationals of a belligerent State who of their own free will or through compulsion are in the hands of the enemy and are answerable with their freedom or their life for the execution of his orders and the security of his armed forces[346].

Consonant with the spirit of the Fourth Convention, the Commentary sets out that the term "hostage" must be understood in the broadest sense[347]. The definition of hostages must be understood as being similar to that of civilians taken as hostages within the meaning of grave breaches under Article 2 of the Statute, that is - persons unlawfully deprived of their freedom, often wantonly and sometimes under threat of death. The parties did not contest that to be characterised as hostages the detainees must have been used to obtain some advantage or to ensure that a belligerent, other person or other group of persons enter into some undertaking. In this respect, the Trial Chamber will examine the evidence as to whether the victims were detained or otherwise deprived of their freedom by the Croatian forces (HVO or others).

D. Article 5 of the Statute: crimes against humanity

188. The provisions of Article 5 of the Statute, entitled "Crimes against humanity", grant the Tribunal jurisdiction to:

> "[..] prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:
>
> (a) murder
>
> (b) extermination
>
> (c) enslavement
>
> (d) deportation
>
> (e) imprisonment
>
> (f) torture
>
> (g) rape
>
> (h) persecutions on political, racial and religious grounds
>
> (i) other inhumane acts.

[346] Commentary, p. 229.
[347] Commentary, p. 230.

This text primarily draws on Article 6(c) of the Statute of the Nuremberg Tribunal of 8 August 1945[348] which constitutes the benchmark definition of a crime against humanity and is also the source of the provisions of Article 3 of the Statute of the Tribunal for Rwanda (hereinafter the "ICTR") and Article 7 of the Statute of the International Criminal Court.

1. The Arguments of the Parties

189. The Trial Chamber will present in brief the legal arguments of the Prosecutor and the Defence as they appear in their respective final briefs.

a) The Prosecution

190. Firstly, the Prosecutor contended that a crime against humanity must be committed within the context of a widespread or systematic operation[349]. She also considered that for the crime to be ascribed to the accused he must be aware of this context[350]. Finally, she asserted that it must be committed as part of an armed conflict[351].

191. The Prosecutor alleged first that the two characteristics "widespread nature" and "systematic nature" of the "widespread or systematic attack against a civilian population" are not cumulative[352]. She noted that the first characteristic relates to the scale of the criminal acts and to the number of victims[353]. She then stated that the second refers to the plan or policy according to which the crimes are committed[354] which must not necessarily be expressly set out and may be inferred from the factual circumstances particular to the case in hand[355].

192. Moreover, the Prosecutor was of the view that the notion of "civilian population" must be defined broadly and include, *inter alia*, persons taking no active part in the hostilities[356] or who are not fit for combat[357]. She drew attention in this respect to the fact that

[348] Annex to the Agreement for the Prosecution and Punishment of Major War Criminals of the European Axis, signed in London on 8 August 1945, 85 "*Recueil des traités des Nations Unies /United Nations Treaty Series/*", (p. 251 in the French /no English version has been locatable/).
[349] Prosecutor's Brief, book 1, paras. 5.10–5.20.
[350] *Ibid.*, para. 5.4.
[351] *Ibid.*, paras. 5.6–5.9.
[352] *Ibid.*, paras. 5.10–5.11.
[353] *Ibid.*, paras. 5.13–5.16.
[354] *Ibid.*, paras. 5.13–5.16.
[355] *Ibid.*, para. 5.14.
[356] *Ibid.*, para. 5.269.
[357] *Ibid.*, para. 5.267.

the presence of resistance fighters or soldiers amongst the civilian population does not alter the civilian nature of that population[358].

193. As regards the *mens rea*, the Prosecutor deemed it sufficient to demonstrate that the perpetrator of a crime against humanity is aware of the general context within which his act is framed at the instant that he commits the crimes[359]. Moreover, the Prosecutor argued that it need not be proved that the perpetrator was motivated by discriminatory intent except, however, for the crime of persecution[360]. To be found guilty of persecution the accused must know that his act forms part of a discriminatory attack against a civilian population[361]. She noted in this respect that persecution may encompass acts enumerated in the Statute under Articles 2, 3 and 5 and all other violations of fundamental human rights[362].

b) The Defence

194. The Defence did not accept the same interpretation of either the material elements or the *mens rea* of a crime against humanity.

195. It considered that the two criteria of the "widespread or systematic attack against a civilian population" are cumulative[363]. It also noted that a crime against humanity must be committed as part of an official policy of a State or organisation[364].

196. In addition, the Defence asserted that the population targeted by the perpetrator of the crime must be civilian[365]. It noted in this respect that the criterion which allows a distinction to be made between a civilian population and an "organised defence" is not the number of civilians involved but the objective of the organised defence[366].

197. In respect of the *mens rea*, the Defence maintained that the perpetrator of the crime must intend to implement the official policy of the State or organisation concerned[367]. It submitted in this regard that persecution requires proof of a clearly defined *mens rea*, that is,

---

[358] *Ibid.*, para. 5.267.
[359] *Ibid.*, para. 5.4 and paras. 5.278–5.282.
[360] *Ibid.*, paras. 5.283–5.284.
[361] Prosecutor's Brief, book 3, para. 2.16.
[362] *Ibid.*, paras. 2.2–2.13.
[363] Defence Brief, book 2, E, pp. 75-77.
[364] *Ibid.*, pp. 77-78.
[365] *Ibid.*, pp. 74-75.
[366] *Ibid.*, p. 75.
[367] *Ibid.*, pp. 78-80.

the intent to carry out the discriminatory State policy[368]. More specifically, it put forth that the accused may not be found guilty of persecution for crimes such as the forcible transfer of civilians or the plunder of property[369].

2. Discussion and conclusions

198. A preliminary comment is appropriate before examining the constituent elements of a crime against humanity as they stood in customary international law prevailing at the time the crimes imputed to the accused were allegedly committed[370] and, more specifically, in both texts and international and national case-law. The sub-characterisations specified in the indictment brought against General Bla{ki} – that is murder, persecutions and other inhumane acts – will be integrated into the examination of the legal and factual elements of a crime against humanity. However, for the "underlying crimes", each with its own characteristics, to be characterised as a crime against humanity, they must be part of a single category - that of a widespread or systematic attack against a civilian population - which gives this offence its specificity and distinguishes it fundamentally from other violations of humanitarian law defined by the Statute[371]. As stated by the International Law Commission (hereinafter the "ILC"),

> "[t]he particular forms of unlawful act (murder, enslavement, deportation, torture, rape, imprisonment etc.) are less crucial to the definition than the factors of scale and deliberate policy, as well as in their being targeted against the civilian population in whole or in part"[372].

a) The legal and factual elements

199. Two essential elements derive from the definition of a crime against humanity - firstly, a material criterion, which consists of the commission of one of the enumerated

---

[368] *Ibid.*, p. 80.
[369] *Ibid.*, pp. 81-84.
[370] The customary character of the provisions of Article 5 of the Statute and of the individual criminal responsibility of the perpetrators of crimes against humanity has been recognised by the Trial Chamber Judges in the *Tadi}* Judgement (para. 623) and the *Tadi}* Appeal Decision (para. 141). In the assessment of the Appeals Judges, "There is no question, however, that the definition of crimes against humanity adopted by the Security Council in Article 5 comports with the principle of *nullum crimen sine lege*". The Trial Chamber itself noted that "[...] since the Nürnberg Charter, the customary status of the prohibition against crimes against humanity [...] ha[s] not been seriously questioned".
[371] According to the report of the International Law Commission (hereinafter the "ILC") on the work of its 43rd session "*each of the subparagraphs* concerning the criminal acts *should be read in conjunction with the chapeau of the article*, under which they are a crime only if they constitute systematic or mass violations of human rights" (emphasis added) (Report of the ILC on the work of its 43rd session, 29 April – 19 July 1991, supplement no. 10 (A/46/10) (hereinafter the "1991 ILC Report"), p. 266).
[372] Report of the ILC on the work of its 46th session, 2 May – 22 July 1994, supplement no. 10 (A/49/10) (hereinafter the "1994 ILC Report"), p. 76.

crimes as part of a widespread or systematic attack against a civilian population and, secondly, a mental criterion, that is, awareness of participating in this attack.

i) The material element

200. Having presented the general conditions of the offence, the Trial Chamber will define the three sub-characterisations imputed to General Bla{ki}.

a. The widespread or systematic attack against any civilian population

201. A crime against humanity is made special by the methods employed in its perpetration (the widespread character) or by the context in which these methods must be framed (the systematic character) as well as by the status of the victims (*any* civilian population).

i. A widespread or systematic attack

202. The "widespread or systematic" character of the offence does not feature in the provisions of Article 5 of the Statute which mention only acts "directed against any civilian population". It is appropriate, however, to note that the words "directed against any civilian population"[373] and some of the sub-characterisations set out in the text of the Statute imply, both by their very nature and by law, an element of being widespread or organised, whether as regards the acts or the victims. "Extermination", "enslavement" and "persecutions" do not refer to single events.

Moreover, the assertion that the "widespread or systematic" character is a constituent element of a crime against humanity is found in Article 3 of the Statute of the ICTR[374] and Article 7 of the Statute of the International Criminal Court[375]. The Appeals Chamber in the *Tadi}* Appeal Judgement[376] rendered consequent to the Judgement of Trial Chamber II of the ICTY dated 7 May 1997 and Trial Chambers I and II of the ICTR in their Judgements pronounced

[373] *Tadi}* Appeal Judgement, para. 248. The Appeal Judges maintained that "[...] it may be inferred from the words "directed against any civilian population" in Article 5 of the Statute that the acts of the accused must comprise part of a pattern of widespread and systematic crimes directed against a civilian population and that the accused must have *known* that his acts fit into such a pattern".

[374] Article 3 of the Statute of the ICTR characterises inhumane acts "committed as part of a *widespread or systematic attack* against any civilian population" as crimes against humanity (emphasis added).

[375] Within the terms of Article 7 of the Statute of the International Criminal Court (PCMICC/1999/INF/3), a crime against humanity means "any of the following acts when committed as part of a *widespread or systematic attack* directed against any population, with knowledge of the attack" (emphasis added).

[376] *Tadi}* Judgement, para. 648. According to the Judgement "It is therefore the desire to exclude isolated or random acts from the notion of crimes of humanity that led to the inclusion of the requirement that the acts must be directed against a civilian "population", and either a finding or widespreadness, which refers to the number of victims, or systematicity, indicating that a pattern or methodical plan is evident, fulfils this requirement".

on 2 September 1998 and 21 May 1999 in the cases *The Prosecutor v. Jean-Paul Akayesu*[377] and *The Prosecutor v. Clément Kayishema and Obed Ruzindana*[378] respectively all made the widespread or systematic characteristic an essential element of the offence. That being the case, there can be no doubt that inhumane acts constituting a crime against humanity must be part of a systematic or widespread attack against civilians.

203. The systematic character refers to four elements which for the purposes of this case may be expressed as follows:

- the existence of a political objective, a plan pursuant to which the attack is perpetrated or an ideology, in the broad sense of the word, that is, to destroy, persecute or weaken a community[379];

- the perpetration of a criminal act on a very large scale against a group of civilians or the repeated and continuous commission of inhumane acts linked to one another[380];

- the preparation and use of significant public or private resources, whether military or other[381];

- the implication of high-level political and/or military authorities in the definition and establishment of the methodical plan.

---

[377] *Akayesu* Judgement, paras. 579-581. Paragraph 579 commences with the affirmation: "The Chamber considers that it is a prerequisite that the act must be committed as part of a widespread or systematic attack and not just a random act of violence" (emphasis added).

[378] *Kayishema-Ruzindana* Judgement, para. 123.

[379] The case-law of both this Tribunal, in the *Tadi}* Judgement, (para. 648), and the ICTR, in the *Akayesu* (para. 580) and *Kayishema-Ruzindana* Judgements (para. 123), refer to the plan or policy in order to define the element of "systematicity".
In the case *The Prosecutor v. Menten* the Dutch Supreme Court evoked the condition of "systematicity" in reference particularly to a policy consciously directed against a group of persons (75, *International Law Report*, (hereinafter the "ILR"), 1987, pp. 362-363): "The concept of crimes against humanity also requires – although this is not expressed in so many words in the [...] definition – that the crimes in question form part of a *system based on terror* or constitute a link in a consciously *pursued policy* directed against particular groups of people" (emphasis added).

[380] According to the Report of the ILC on the work of its 48th session, the term systematic means "pursuant to a preconceived plan or policy. The *implementation* of this plan or policy *could result in the repeated or continuous commission of inhumane acts*" (emphasis added) (Report of the ILC on the work of its 48th session, 6 May – 26 July 1996, supplement no. 10 (A/51/10) (hereinafter the "1996 ILC Report"), p. 94).
This definition is in keeping with the preceding work of the ILC and, in particular, that of its 43rd session which created the offence of "Systematic or mass violations of human rights" under Article 21 and which stated that the systematic characteristic related to *a "constant practice or to a methodical plan to carry out [...] violations of human rights"* (emphasis added) (1991 ILC Report, p. 266).

[381] In the *Akayesu* Judgement, the Judges referred to the concerted policy and use of "substantial public or private resources" to characterise the systematic nature (para. 580).

204. This plan, however, need not necessarily be declared expressly or even stated clearly and precisely [382]. It may be surmised from the occurrence of a series of events[383], *inter alia*:

- the general historical circumstances and the overall political background against which the criminal acts are set;

- the establishment and implementation of autonomous political structures at any level of authority in a given territory;

- the general content of a political programme, as it appears in the writings and speeches of its authors;

- media propaganda;

- the establishment and implementation of autonomous military structures;

- the mobilisation of armed forces;

- temporally and geographically repeated and co-ordinated military offensives;

- links between the military hierarchy and the political structure and its political programme;

- alterations to the "ethnic" composition of populations;

- discriminatory measures, whether administrative or other (banking restrictions, laissez-passer,...)

- the scale of the acts of violence perpetrated – in particular, murders and other physical acts of violence, rape, arbitrary imprisonment, deportations and expulsions or the destruction of non-military property, in particular, sacral sites.

---

[382] Cf. especially, the *Tadi}* Judgement, para. 653.

[383] Review of the Indictments Pursuant to Article 61 of the Rules of Procedure and Evidence, *The Prosecutor v. Radovan Karad`i} and Ratko Mladi}*, Case no. IT-95-5-R61, 11 July 1996, (hereinafter "Article 61 *Karad`i}* and *Mladi}*"), para. 43; Review of the Indictment Pursuant to Article 61 of the Rules of Procedure and Evidence, *The Prosecutor v. Dragan Nikoli}*, Case no. IT-94-2-R61, 20 October 1995, (hereinafter "Article 61 *Nikoli}*"), para. 27; Review of the Indictment Pursuant to Article 61 of the Rules of Procedure and Evidence, *The Prosecutor v. Milan Marti}*, Case no. IT-95-11-R61, 8 March 1996, para. 27.

205. Nor must the plan necessarily be conceived at the highest level of the State machinery. Trial Chambers I and II of both this Tribunal[384] and the ICTR[385] have constantly refused to characterise a crime against humanity as an "act of criminal sovereignty"[386]. To support the argument they relied *inter alia* upon the opinion of the ILC on the work of its 43rd session according to which individuals "with *de facto* power or organized in criminal gangs" are just as capable as State leaders of implementing a large-scale policy of terror and committing mass acts of violence[387]. As pointed out by Advocate-General Dontenwille at the end of his application to the French *Cour de Cassation* in the case *Fédération nationale des déportés et internés résistants et patriotes et autres v. Barbie* (hereinafter the "Barbie Case"),

> "Are there not forces and organizations whose powers might be greater and whose actions might be more extensive than those of certain countries represented institutionally at the United Nations? Care is required because other methods of total abuse of the human condition could equal in horror, albeit from other aspects, those of which we have just spoken."[388]

Moreover, Article 18 of the Draft ILC Code defined a crime against humanity as committing crimes "in a systematic manner or on a large scale and *instigated or directed by a government or by any organization or group*"[389] .

The texts of the Statute of the International Criminal Court adopted by 120 States of the international community confirm this interpretation. They hold that criminal acts must be committed "pursuant to or in furtherance of a State or *organizational* policy [...]".[390]

206. The widespread characteristic refers to the scale of the acts perpetrated and to the number of victims. According to the draft Code of the ILC, to which Trial Chamber II explicitly refer in the case *The Prosecutor v. Du{ko Tadi}*,

> "inhumane acts [must] be committed on a large scale meaning that the acts are directed[391] against a multiplicity of victims. This requirement excludes an isolated inhumane act

---

[384] Article 61 *Nikoli}*, para. 26 and *Tadi}* Judgement, para. 654. According to the Judgement "As the first international tribunal to consider charges of crimes against humanity alleged to have occurred after the Second World War, the International Tribunal is not bound by past doctrine but must apply customary international law as it stood at the time of the offences. In this regard *the law in relation to crimes against humanity has developed to take into account forces which, although not those of a legitimate government*, have *de facto* control over, or are able to move freely within, defined territory" (emphasis added).
[385] *Kayishema-Ruzindana* Judgement, para. 126 and *Akayesu* Judgement, para. 580. Within the terms of the *Akayesu* Judgement "There is no requirement that this policy must be adopted formally as the policy of a state."
[386] J.Graven, "*Les crimes contre l'humanité*", *Recueil des cours de l'Académie de droit international*, 1950, p. 566. Translated from the French: "... acte de souveraineté criminel...".
[387] 1991 ILC Report, p. 266.
[388] Vol. 78, *ILR*, 1988, p. 147.
[389] 1996 ILC Report, p. 93 (emphasis added).
[390] Article 7(1)(a) of the Statute of the International Criminal Court (emphasis added).

committed by a perpetrator acting on his own initiative and directed against a single victim"[392].

A crime may be widespread or committed on a large-scale by "the cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude"[393].

207. As asserted by Trial Chambers I and II of the ICTY and ICTR in the cases *The Prosecutor v. Mile Mrk{i}, Miroslav Radi} and Veselin [Ijivan~anin*[394], *Tadi}*[395], *Akayesu*[396] and *Kayishema and Ruzindana*[397] and as it appears in the Report of the Secretary-General[398], the Statute of the International Criminal Court[399] and the work of the ILC[400], the conditions of scale and "systematicity" are not necessarily cumulative. This means that for inhumane acts to be characterised as crimes against humanity it is sufficient that one of the conditions be met. The fact still remains however that, in practice, these two criteria will often be difficult to separate since a widespread attack targeting a large number of victims generally relies on some form of planning or organisation. The quantitative criterion is not objectively definable as witnessed by the fact that neither international texts nor international and national case-law set any threshold starting with which a crime against humanity is constituted.

ii. A civilian population

208. The contention that acts of violence perpetrated systematically or on a widespread basis against a population must not be characterised as a crime against humanity on the sole ground that the victims were soldiers and regardless of the fact that they were not combatants when the crimes were perpetrated is not in conformity with either the letter or spirit of Article 5 of the Statute. The terms of this provision are in no manner restrictive in this respect since a

---

[391] The term "directed" appears to refer more to the intention of the perpetrator of the crime to commit a massive or widespread crime than the physical result of his action.
[392] 1996 ILC Report, pp. 94-95.
[393] *Ibid.* p. 95.
[394] Review of the Indictment Pursuant to Article 61 of the Rules of Procedure and Evidence, *The Prosecutor v. Mile Mrk{i}, Miroslav Radi} and Veselin [Ijivan~anin*, Case no. IT-95-13-R61, 3 April 1996, (hereinafter "Article 61 *Mrk{i}, Radi} and [Ijivan~anin*") para. 30.
[395] *Tadi}* Judgement, paras. 646-647
[396] *Akayesu* Judgement, para. 579.
[397] *Kayishema-Ruzindana* Judgement, para 123.
[398] Report of the Secretary-General, para 48.
[399] Article 7(1) of the Statute of the International Criminal Court.
[400] Cf. 1996 ILC Report, pp. 94-95: "The opening clause of this definition [of crimes against humanity] establishes the two general conditions which must be met for one of the prohibited acts to qualify as a crime against humanity covered by the present Code. The first condition requires that the act was "committed in a systematic manner or on a large scale". This condition consists of *two alternative requirements* ... Consequently, an act could constitute a crime against humanity if either of these conditions is met" (emphasis added).

crime against humanity applies to acts "directed[401] against *any* civilian population". As far as the spirit of the text is concerned, it must be remembered that the specificity of a crime against humanity results not from the status of the victim but the scale and organisation in which it must be committed.

209. In this spirit, it is appropriate to state that Article 3 common to the Geneva Conventions, whose customary nature was recognised, in particular, by the Appeals Chamber in the *Tadi}* Appeal Decision, protects not only persons taking no active part in the hostilities but also members of armed forces who have laid down their arms and persons placed *hors de combat* by sickness, wounds, detention or any other cause. Moreover, Trial Chamber I of the ICTR which heard the *Akayesu* case[402] relied on this provision to classify as civilians within the meaning of Article 3 of the ICTR Statute persons who for one reason or another were no longer directly involved in fighting.

210. The case-law of this Tribunal in the cases *Mrk{i}, Radi} and [ljivan-anin*[403] and *Tadi}*[404] has also interpreted broadly the notion of a civilian population, adjudging that it must include persons involved in resistance movements[405].

211. Moreover, relying on the provisions of paragraph 3 of Article 50(3) of Protocol I, Trial Chamber II of this Tribunal[406] and Trial Chambers I[407] and II[408] of the ICTR stated that "[t]he presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character". Very recently, Trial Chamber II hearing the *Kupreski}* case also considered that:

---

[401] The term "directed" indicates that international legislation seems to have placed more importance on the intention of the agent responsible for the widespread or systematic attack than on the physical result of the attack. In other words, if it is demonstrated that the perpetrator of the acts of violence had the primary intention of inflicting injury upon a civilian population, he could be found guilty of a crime against humanity even if the attack caused military casualties as well as civilian victims.
[402] *Akayesu* Judgement, para. 582.
[403] Article 61 *Mrk{i}, Radi} and [ljivan-anin*, paras. 29-32.
[404] *Tadi}* Judgement, paras. 636-647.
[405] The Supreme Court in the British zone broadly interpreted Law No. 10 by accepting that the characterisation of crime against humanity was applicable to acts whose victims were soldiers (cf. *inter alia* the case *P et al.*, 7 December 1948 (S. Sts 111/148), O.G.H. br. Z. I, p. 228 and the case *H*, 10 October 1949, (S. Sts 309/49) O.G.H. br. Z. II, pp. 223-238). As stated by the Appeals Chamber in the *Tadi}* Appeal Judgement, "the [...] court gave a very liberal interpretation to the notion of crimes against humanity as laid down in Control Council Law No. 10, extending it among other things to inhumane acts committed against members of the military" (*Tadi}* Appeal Judgement, note 351).
[406] *Tadi}* Judgement, para. 639.
[407] *Akayesu* Judgement, para. 582.
[408] *Kayishema-Ruzindana* Judgement, para. 128.

> [...] the presence of those actively involved in the conflict should not prevent the characterization of a population as civilian and those actively involved in a resistance movement can qualify as victims of crimes against humanity.[409]

212. In the *Barbie* case, the Criminal Chamber of the French *Cour de Cassation* also maintained that resistance fighters could rely on the judicial regime relating to the provisions for crimes against humanity[410]. Following this line of reasoning, French law recently incorporated under crimes against humanity inhumane acts committed as part of a concerted plan against those fighting the regime in whose name the said crimes were perpetrated[411].

213. Lastly, the Commission of Experts established pursuant to Security Council resolution 780 (hereinafter the "Commission of Experts") extended the status of civilian to persons who strictly speaking did not carry out military operations although they did bear arms.

> "It seems obvious that article 5 applies first and foremost to civilians, meaning people who are not combatants. This, however, should not lead to any quick conclusions concerning people who at one particular point in time did bear arms. A head of family who under such circumstances tries to protect his family gun-in-hand does not thereby lose his status as a civilian. Maybe the same is the case for the sole policeman or local defence guard doing the same, even if they joined hands to try to prevent the cataclysm"[412].

214. Crimes against humanity therefore do not mean only acts committed against civilians in the strict sense of the term but include also crimes against two categories of people: those who were members of a resistance movement and former combatants - regardless of whether they wore wear uniform or not – but who were no longer taking part in hostilities when the crimes were perpetrated because they had either left the army or were no longer bearing arms or, ultimately, had been placed *hors de combat*, in particular, due to their wounds or their being detained. It also follows that the specific situation of the victim at the moment the crimes were committed, rather than his status, must be taken into account in determining his standing as a civilian. Finally, it can be concluded that the presence of soldiers within an intentionally targeted civilian population does not alter the civilian nature of that population.

---

[409] Judgement, *The Prosecutor v. Kupre{ki}*, case no. IT-95-16-T, 14 January 2000 (hereinafter the "*Kupre{ki}* Judgement, para. 549.
[410] *Barbie* Case, Cass. Crim., 20 December 1985.
[411] Article 212-2 of the French Criminal Code.
[412] Final Report of the Commission of Experts established pursuant to Security Council resolution 780 (1992), S/1994/674, (hereinafter the "Final Report of the Commission of Experts") para. 78.

b. The sub-characterisations

215. The sub-characterisations with which the accused is charged, that is, murder, persecutions and other inhumane acts[413], must be defined individually because, beyond any possible common link with a widespread or systematic attack, each has its own nature and specificity.

i. Murder

216. It is appropriate to point out first that the French version of the Statute uses the term "*assassinat*" – a crime with a very precise meaning in French national law[414] - whilst the English version adopts the word "murder" which translates in French as "*meurtre*". Relying on Article 7(1)(a) of the Statute of the International Criminal Court, Article 18 of the ILC Code of Crimes Against the Peace and Security of Mankind[415] and the assertions of Trial Chamber I of the ICTR in the *Akayesu* case[416] which all refer to murder ("*meurtre*"), the Trial Chamber is of the view that it is murder ("*meurtre*") and not premeditated murder ("*assassinat*") which must be the underlying offence of a crime against humanity.

217. Guided by the work of the ILC[417], the Trial Chamber will refer to the legal and factual elements of the offence as commonly recognised in national law to define murder, that is:

- the death of the victim;

- the death must have resulted from an act of the accused or his subordinate

- the accused or his subordinate must have been motivated by the intent to kill the victim or to cause grievous bodily harm in the reasonable knowledge that the attack was likely to result in death[418].

ii. Persecution

218. Unlike the sub-characterisation of murder which represents only one crime, that of "persecution" may assume several different criminal forms. The indictment against General

[413] Second amended indictment, counts 1, 7 and 10.
[414] According to Article 221-3 of the French Criminal Code, an "assassinat" means a premeditated murder - "meurtre commis avec prémeditation".
[415] 1996 ILC Report, p. 93.
[416] *Akayesu* Judgement, para. 588.
[417] According to the ILC, "Murder is a crime that is clearly understood and well defined in the national law of every State. This prohibited act does not require any further explanation" (1996 ILC Report, p. 96).

Blaškić specifies physical and mental injury (murders and other forms of bodily harm[419] including the use of civilians as human shields[420] and forcing them to dig trenches[421]), infringements upon individual freedom (arbitrary arrest and detention[422] and forcible transfer of civilians[423]) and attacks against property (destruction and plunder of property[424]), all directed against the "Bosnian Muslim civilian population"[425].

219. Although the Statute of the Nuremberg Tribunal and those of the Tribunals for the former Yugoslavia and Rwanda all sanction persecutions on political, racial and religious grounds under crimes against humanity, none defines this sub-characterisation or states which forms it may take. The Trial Chamber will therefore refer to customary international law to determine whether the violations covered in the indictment may constitute persecution and under what condition they may be characterised as such.

iii. Serious bodily and mental harm, infringements upon freedom and attacks against property as forms of persecution

220. There is no doubt that serious bodily and mental harm and infringements upon individual freedom may be characterised as persecution when, as will be indicated below, they target the members of a group because they belong to a specific community. The Trial Chamber considers that infringements of the elementary and inalienable rights of man, which are "the right to life, liberty and the security of person", the right not to be "held in slavery or servitude", the right not to "be subjected to torture or to cruel, inhuman or degrading treatment or punishment" and the right not to be "subjected to arbitrary arrest, detention or exile" as affirmed in Articles 3, 4, 5 and 9 of the Universal Declaration of Human Rights[426], by their very essence may constitute persecution when committed on discriminatory grounds.

221. This interpretation is reaffirmed by the established case-law of the Nuremberg Tribunal, the tribunals acting in accordance with Law No. 10 promulgated by the Allied

---

[418] *Akayesu* Judgement, para. 589.
[419] Second amended indictment, paras. 6.2, 6.5 and 6.7.
[420] *Ibid.*, para. 6.5.
[421] *Ibid.*, para. 6.5.
[422] *Ibid.*, paras. 6.4 and 6.5.
[423] *Ibid.*, paras. 6.6 and 6.7.
[424] *Ibid.*, para. 6.3.
[425] *Ibid.*, para. 5.2.
[426] The Universal Declaration of Human Rights was passed by the United Nations Security Council on 10 December 1948.

Control Council for Germany on 20 December 1945 (hereinafter "Law No. 10"),[427] the Supreme Court of Israel and the ILC reports.

222. In the part of the Judgement of the major war criminals specifically devoted to the persecution of the Jews, the Nuremberg Tribunal affirmed that the murder of the Jews, the brutal acts which they suffered, their confinement in ghettos and their being used to perform forced labour were all forms of persecution[428]. The Nuremberg Tribunal thus noted *inter alia* that:

> "The Nazi *persecution of Jews* in Germany before the war, severe and repressive as it was, cannot compare, however, with the policy pursued during the war in the occupied territories [...][429].
>
> In the summer of 1941, however, plans were made for the "final solution" of the Jewish question in Europe. This "final solution" meant the *extermination* of the Jews [...]"[430].
>
> "*Beating, starvation, torture and killing* were general. The inmates were subjected to cruel experiments [...]"[431].

In the paragraphs describing the role played by SS units in the persecution of the Jews, that Tribunal also brought out the fact that the units had participated in their deportation and extermination[432]. Furthermore, in its analysis of the individual responsibility of the accused Frank, it pointed out that:

> "The persecution of the Jews was immediately begun in the General government. The area originally contained from 2½ million to 3½ million Jews. They were *forced into ghettos*, subjected to discriminatory laws, *deprived of the food necessary to avoid starvation*, and finally systematically and brutally *exterminated*"[433].

As regards the accused Bormann, the Judges also stated that:

> "Bormann was extremely active in the persecution of the Jews, not only in Germany but also in the absorbed and conquered countries. *He took part in the discussions which led to the removal* of 60,000 Jews from Vienna to Poland in co-operation with the SS and the Gestapo. *He signed the decree of 31 May 1941* extending the Nuremberg Laws to the annexed Eastern territories. In an order of 9 October 1942 *he declared that the permanent elimination of Jews in Greater German territory* could no longer be solved by emigration, but only by applying "ruthless force" in the special camps in the East. On 1 July 1943 *he*

---

[427] *Law Reports of Trials of War Criminals*, London, H.M.S.O., 1946-1949, (hereinafter the "LRTWC"), vol. XV, p. 41.
[428] Trial of Major War Criminals before the International Military Tribunal, Nürnberg, 14 November 1945 – 1 October 1946, Judgement, 1947 (hereinafter the "Nürnberg Judgement"), pp. 249-253.
[429] *Ibid.*, p. 249 (emphasis added).
[430] *Ibid.*, p. 250.
[431] *Ibid.*, p. 252. (emphasis added)
[432] *Ibid.*, p. 271.
[433] *Ibid.*, pp. 297-298. (emphasis added)

signed an ordinance withdrawing Jews from the protection of the law courts and placing them under the exclusive jurisdiction of Himmler's Gestapo"[434].

223. In line with the Nuremberg Tribunal, the Supreme National Tribunal of Poland[435] and the Netherlands Special Court in Amsterdam[436], both acting in accordance with Law No. 10, categorised physical and mental injury and infringements upon freedom, in particular, murder, wounding and deportations, as persecutions.

224. The Supreme Court of Israel found Eichmann guilty of persecution for *inter alia* the "murder, extermination, enslavement, starvation and deportation of the civilian Jewish population"[437].

225. Lastly, the ILC report on the work of its 48th session explicitly specified that "persecution may take many forms with its common characteristic being the *denial of the human rights and fundamental freedoms to which every individual is entitled without distinction*"[438] and which by their very nature incorporate a person's right to life and respect for his physical and mental well-being.

226. The *Kupre{ki}* Trial Chamber reached a similar conclusion when it considered that the crime of persecution could include attacks on persons such as murder, extermination or torture.[439]

227. However, persecution may take forms other than injury to the human person, in particular those acts rendered serious not by their apparent cruelty but by the discrimination they seek to instil within humankind. As put forward by the Prosecutor in the indictment against the accused[440], persecution may thus take the form of confiscation or destruction of private dwellings or businesses, symbolic buildings or means of subsistence belonging to the Muslim population of Bosnia-Herzegovina.

228. The Nuremberg International Tribunal expressly recognised that, as of autumn 1938, the persecution of the Jews was designed to exclude them from German life and was particularly apparent in the "[p]ogroms [which] were organized, which included the burning

---

[434] *Ibid.*, pp. 339-340. (emphasis added)
[435] *LRTWC*, vol. XIII, 1949, p. 105.
[436] *LRTWC*, vol. XIV, 1949, p. 141.
[437] *Eichmann* Case, 29 May 1962, 36, *ILR*, 1968, count 5, p. 277.
[438] 1996 ILC Report, p. 98 (emphasis added).
[439] *Kupre{ki}* Judgement, paras. 600 and 615.
[440] Second amended indictment, para. 6.3.

and demolishing of synagogues, the looting of Jewish businesses, and the arrest of prominent Jewish business men"[441] and the imposition of a billion mark fine[442]. Furthermore, the Nuremberg Tribunal found Göring guilty of crimes against humanity, in particular, for being " [...] the active authority in the spoliation of conquered territory"[443] and for having imposed the fine of a billion reichsmarks on the Jews[444]. It added that:

> "Göring persecuted the Jews [...] not only in Germany [...] but in the conquered countries. His own utterances then and his testimony now shows this interest was primarily economic – how to *get their property* and how to *force them out of the economic life* of Europe"[445].

Rosenberg too was convicted of war crimes and crimes against humanity for "a system of organised plunder of both public and private property throughout the invaded countries of Europe". The Judgement also noted in this respect that:

> "[a]cting under Hitler's orders of January 1940 to set up the "Hohe Schule", he organized and directed the "Einsatzstab Rosenberg", which plundered museums and libraries, confiscated art treasures and collections, and pillaged private houses"[446].

In addition, the Nuremberg Tribunal found the accused Streicher guilty of crimes against humanity *inter alia* for the boycott on Jewish businesses and the fire at the Nuremberg synagogue[447].

229. Although the Tribunals acting pursuant to Law No. 10[448] proved less definite on this matter, they explicitly declared that the collective fine of a billion marks was a "typical piece of the persecution to which German Jews were subjected"[449]. Lastly, they maintained that the confiscation and liquidation of property belonging to German Jews by the Reich comprised part of a programme to persecute the Jews in Germany[450].

---

[441] Nürnberg Judgement, p. 248.
[442] *Ibid.*, p. 248.
[443] *Ibid.*, p. 281.
[444] *Ibid.*, p. 282.
[445] *Ibid.*, p. 282.
[446] *Ibid.*, p. 295.
[447] *Ibid.*, p. 302.
[448] In the cases *Flick* (*Trials of War Criminals* (hereinafter "TWC"), vol VI, pp. 1215-1216) and *Farben* (TWC, vol VIII, part 2, pp. 1129-1130), the Judgements of the American military tribunals refused to have crimes against property characterised as crimes against humanity.
[449] *Ibid.*, p. 676.
[450] *Ibid.*, p. 678.

230. The Jerusalem District Court confirmed this interpretation. It stated in the *Eichmann* case that from the moment Hitler came to power[451] the persecution of the Jews became manifest in the systematic destruction of the synagogues[452] and the boycott of their businesses and shops[453].

231. The 1991 and 1996 ILC reports similarly asserted that "persecution may take many forms"[454]. The first expressly cited the example of the "systematic destruction of monuments or buildings representative of a particular social, religious, cultural or other group"[455].

232. Lastly, the *Kupre{ki}* Trial Chamber ruled that persecution includes a variety of other discriminatory acts involving attacks on political, social, and economic rights.[456]

233. The Trial Chamber finds from this analysis that the crime of "persecution" encompasses not only bodily and mental harm and infringements upon individual freedom but also acts which appear less serious, such as those targeting property, so long as the victimised persons were specially selected on grounds linked to their belonging to a particular community.

iv. Legal and factual elements of the forms of persecution specified in the indictment

234. The Trial Chamber will now deal with the legal and factual elements of the forms of persecution specified in the indictment – the destruction and plunder of property, unlawful detention and the forcible transfer of civilians – except for murder and physical and mental injury which are defined in paragraphs 224 and 250 of this Judgement.

- The destruction and plunder of property. In the context of the crime of persecution, the destruction of property must be construed to mean the destruction of towns, villages and other public or private property belonging to a given civilian population or extensive

[451] According to the Jerusalem District Court: "With the rise of Hitler to power, the persecution of Jews became official policy and assumed the *quasi-legal form of laws and regulations published by the government* of the Reich in accordance with legislative powers delegated to it by the Reichstag on March 24, 1933 *and of direct acts of violence organised by the regime against the persons and property of Jews.* The purpose of these acts carried out in the first stage was *to deprive the Jews of citizens rights,* to degrade them and strike fear into their hearts, *to separate them from the rest of the inhabitants, to oust them from the economic and cultural life of the State* and to close to them the source of livelihood" (emphasis added) (District Court Judgment, *Eichmann* case, 36 *ILR*, 1968, para. 56.
[452] *Ibid.*, para. 57.
[453] *Ibid.*, para. 57.
[454] 1996 ILC Report, p. 98.
[455] 1991 ILC Report, p. 268.
[456] *Kupre{ki}* Judgement, para. 615.

devastation not justified by military necessity and carried out unlawfully, wantonly and discriminatorily[457]. In the same context, the plunder of property is defined as the unlawful, extensive and wanton appropriation of property[458] belonging to a particular population, whether it be the property of private individuals or of state or "quasi-state" public collectives[459].

- The unlawful detention of civilians. The unlawful detention of civilians, as a form of the crime of persecution, means unlawfully depriving a group of discriminated civilians of their freedom.

- The deportation or forcible transfer of civilians. The deportation or forcible transfer of civilians means "forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law"[460].

v. Discrimination

235. The underlying offence of persecution requires the existence of a *mens rea* from which it obtains its specificity. As set down in Article 5 of the Statute, it must be committed for specific reasons whether these be linked to political views, racial background or religious convictions. It is the specific intent to cause injury to a human being because he belongs to a particular community or group[461], rather than the means employed to achieve it, that bestows on it its individual nature and gravity and which justifies its being able to constitute criminal acts which might appear in themselves not to infringe directly upon the most elementary rights of a human being, for example, attacks on property[462]. In other words, the perpetrator of the acts of persecution does not initially target the individual but rather membership in a specific racial, religious or political group.

---

[457] *Cf. inter alia* paragraphs 2(d) of the Statute, 6(b) of the Statute of the Nuremberg Tribunal and 2(1)(b) of Law No. 10 and Articles 50 of Protocol I, 51 of Protocol II and 147 of the I[st] Geneva Convention and the *^elebi}i* Judgement, paras. 584-592.
[458] *Cf. inter alia* Articles 50 of Protocol I, 51 of Protocol II and 147 of the IVth Geneva Convention.
[459] *Ibid.*
[460] Article 7(2)(d) of the Statute of the International Criminal Court (*Cf.* in particular the 1996 ILC Report, pp. 100-101).
[461] As affirmed by Trial Chamber II in the case *Kupre{ki} et al*, it is the discrimination which distinguishes persecution from the other crimes (*Kupre{ki}* Judgement, para. 607)
[462] *Cf.* (b) The *Mens Rea*.

236. The Trial Chamber notes in this respect the negative definition of the persecution "victim group" provided by the *Tadi}* Trial Chamber[463], that is, the one of which the perpetrator of the crimes is not a member.

vi. Other inhumane acts

237. As with the underlying crime of "persecution" the sub-characterisation "other inhumane acts" laid down in Article 5(i) of the Statute is a generic charge which encompasses a series of criminal activities not explicitly enumerated. Indeed, as the commentary on Article 3 common to the Geneva Conventions states regarding the notion of "humane treatment",

> "[...] it is always dangerous to try to go into too much detail – especially in this domain. However much care were taken in establishing a list of all the various forms of infliction, one would never be able to catch up with the imagination of future torturers who wished to satisfy their bestial instincts; and the more specific and complete a list tries to be, the more restrictive it becomes"[464].

238. The indictment characterises as inhumane acts under crimes against humanity the "assault causing injury", excluding murder, which the Muslim population of Bosnia-Herzegovina allegedly suffered - in this instance "the wilful infliction of serious injury and great suffering, both physically and mentally, to civilians"[465].

vii. Serious physical and mental injury as "other inhumane acts"

239. As shown by the case-law of the ICTR, the provisions of Article 7 of the Statute of the International Criminal Court and the ILC Draft Code of Crimes Against the Peace and Security of Mankind, serious physical and mental injury – excluding murder – is without doubt an "inhumane act" within the meaning of Article 5 of the Statute and may, on this ground and if it fits into a widespread or systematic context, assume the characterisation of a crime against humanity.

240. Trial Chamber II of the ICTR expressly asserted in the *Kayishema and Ruzindana* case that inhumane acts were, *inter alia*, acts or omissions intended to cause deliberate mental or physical suffering to the individual[466].

---

[463] *Tadi}* Judgement, para. 714.
[464] Jean Pictet, *Commentary on the I^st^ Geneva Convention of 12 August 1949*, Geneva, 1952, p. 54.
[465] Second amended indictment, para. 9.
[466] *Kayishema-Ruzindana* Judgement, para 151.

241. According to Article 7 of the Statute of the International Criminal Court "other inhumane acts" are those "of a similar nature intentionally causing great suffering, or *serious injury to body or* to mental or physical *health*".[467]

242. Article 18(k) of the ILC Draft Code of Crimes Against the Peace and Security of Mankind also clearly permits this interpretation by making "other inhumane acts which *severely damage physical or mental integrity*, health or human dignity, such as mutilation or severe bodily harm" an offence under "crimes against humanity."[468] The ILC adds in its commentary that:

> "[...] the notion of other inhumane acts is circumscribed by two requirements. First, this category of acts is intended to include only additional acts that are similar in gravity to those listed in the preceding subparagraphs. Second, the act must in fact cause injury to a human being in terms of physical or mental integrity, health or human dignity"[469].

Serious physical and mental injury not constituting murder obviously fulfils these conditions.

viii. Legal and factual elements of serious bodily or mental harm

243. In defining serious bodily and mental harm, the Trial Chamber will refer to the legal and factual elements of the offence as unanimously recognised in national law, that is:

- the victim must have suffered serious bodily or mental harm; the degree of severity must be assessed on a case by case basis with due regard for the individual circumstances;

- the suffering must be the result of an act of the accused or his subordinate;

- when the offence was committed, the accused or his subordinate must have been motivated by the intent to inflict serious bodily or mental harm upon the victim.

ii) Mens Rea

244. For the underlying crimes to be constituted, a mental factor specific to crimes against humanity must be adjoined to the required criminal intent. The perpetrator must knowingly participate in a widespread or systematic attack against a civilian population. However, to be

[467] Emphasis added.
[468] Emphasis added.
[469] ILC 1996 Report, p. 103.

judged guilty of crimes against humanity, except in the case of persecution, he must not have had the intent of targeting civilians because of their race or their religious or political beliefs.

a. Knowledge of the widespread or systematic attack

245. The provisions of Article 3 of the Statute of the Tribunal for Rwanda and of Article 5 of the Statute of the Tribunal for the former Yugoslavia do not state the nature of the *mens rea* of a crime against humanity. Only Article 7 of the Statute of the International Criminal Court provides that criminal acts must be perpetrated "in the knowledge" of the widespread or systematic attack[470].

246. For this reason, *for the purposes of this case*, three aspects of the *mens rea*, as they derive from international and national case-law, must be borne in mind:

i. Knowledge of the context

247. The accused must first have knowledge of the general context in which his acts occur and then of the nexus between his action and that context.

248. This contention relies on the Judgement rendered by the Trial Chamber hearing the *Tadi}* case which stated that "the perpetrator must know of the broader context in which his act occurs"[471], which relies in particular on the Decision of the Supreme Court of Canada in the case *Regina v. Finta*[472].

249. It is also based upon the Decision rendered by the ICTR Trial Chamber hearing the *Kayishema and Ruzindana* case which considered that the *mens rea* contained two parts, that is, knowledge of the attack and its widespread or systematic character and awareness of the fact that the criminal activity constitutes part of the attack:

> "[...] to be guilty of crimes against humanity the perpetrator must know that there is an attack on a civilian population and that his act is part of the attack"[473].

The Trial Chamber thus stated that:

---

[470] According to the *Tadi}* Appeal Judgement "Article 7(1) of the Statute of the International Criminal Court thus articulates a definition of crimes against humanity based solely upon the interplay between the *mens rea* of the defendant and the existence of a widespread or systematic attack directed against a civilian population" (note 354).
[471] *Tadi}* Judgement, para. 656.
[472] *Regina v. Finta*, (1994) 1, *Recueil de la Cour Suprême*, 701, p. 819.
[473] *Kayishema-Ruzindana* Judgement, para. 133.

> "[p]art of what transforms an individual's act into a crime against humanity is the inclusion of the act within a greater dimension of criminal conduct; therefore *an accused should be aware of this greater dimension* in order to be culpable thereof. Accordingly, *actual or constructive knowledge of the broader context of the attack*, meaning that the accused must know that his act is part of a widespread or systematic attack on a civilian population and pursuant to some kind of policy or plan, is necessary to satisfy the requisite *mens rea* element of the accused"[474].

250. This assertion relies on the *Tadi}* Appeal Judgement which expressly recognises that:

> "[...] the acts of the accused must comprise part of a pattern of widespread or systematic crimes directed against a civilian population and that the accused must have *known* that his acts fit into such a pattern"[475].

ii. Knowing participation in the context

251. The accused need not have sought all the elements of the context in which his acts were perpetrated; it suffices that, through the functions he willingly accepted, he knowingly took the risk of participating in the implementation of that context.

252. This is what emerges from the spirit of the Statute, from the case-law of both this Tribunal and the ICTR and from the Judgement of the French *Cour de Cassation* rejecting Maurice Papon's appeal against the Judgement of the Indictments Chamber of the Bordeaux Appeals Court (hereinafter the "*Papon* case")[476].

253. As concerns the spirit of the Statute, the Trial Chamber is of the view that an accused who, in his capacity as a commander, participates in the commission of a mass crime must question the malevolent intentions of those defining the ideology, policy or plan in whose name the crime is perpetrated.

254. Moreover, the nexus with the institutional or *de facto* regime, on the basis of which the perpetrator acted, and the knowledge of this link, as required by the case-law of the Tribunal and the ICTR and restated above, in no manner require proof that the agent had the intent to support the regime or the full and absolute intent to act as its intermediary so long as proof of the existence of direct or indirect malicious intent or recklessness is provided. Indeed, the Trial Chambers of this Tribunal[477] and the ICTR[478] as well as the Appeals Chamber[479] required only that the accused "knew" of the criminal policy or plan, which in

---

[474] *Ibid.* para. 134. (emphasis added)
[475] *Tadi}* Appeal Judgement, para. 248. (emphasis added)
[476] *Papon* case, *Cass. Crim.*, 23 January 1997.
[477] *Tadi}* Judgement, para. 656.
[478] *Kayishema-Ruzindana* Judgement, para. 133.
[479] *Tadi}* Appeal Judgement, para. 248.

itself does not necessarily require intent on his part or direct malicious intent ("... the agent *seeks* to commit the sanctioned act which is either his *objective* or at least the method of achieving his objective"[480]). There may also be indirect malicious intent (the agent did not deliberately seek the outcome but knew that it would be the result[481]) or recklessness, ("the outcome is foreseen by the perpetrator as only a probable or possible consequence"[482]). In other words, knowledge also includes the conduct "of a person taking a deliberate risk in the hope that the risk does not cause injury"[483].

255. The person who has "knowledge' of the plan, policy or organisation as part of which the crimes take place is not only the one who fully supports it but also the one who, through the political or military functions which he willingly performed and which resulted in his periodic collaboration with the authors of the plan, policy or organisation and in his participation in its execution, implicitly accepted the context in which his functions, collaboration and participation must most probably have fit.

256. In the *Papon* case, the French *Cour de Cassation* confirmed this approach and maintained that Article 6 of the Nuremberg Statute did not require that an aider and abettor to a crime against humanity necessarily support the policy set by the principal perpetrators. The Criminal Chamber of the Court stated:

> "the last sub-paragraph of Article 6 of the International Military Tribunal [...] does not require that the accomplice to a crime against humanity support the policy of ideological hegemony of the principal perpetrators [...]"[484].

257. It follows that the *mens rea* specific to a crime against humanity does not require that the agent be identified with the ideology, policy or plan in whose name mass crimes were perpetrated nor even that he supported it. It suffices that he knowingly took the risk of participating in the implementation of the ideology, policy or plan. This specifically means that it must, for example, be proved that:

---

[480] C. Hennau, J. Verhaegen, *Droit pénal général*, Brussels, 1991, p. 270. Translated from the French: "l'agent recherche la réalisation du fait incriminé dont il fait son objectif".
[481] *Ibid.*, p. 271.
[482] J. Pradel, *Droit pénal général*, 11th edition, 1997, no. 471. Translated from the French: "le résultat n'est qu'une conséquence probable ou possible, envisagé par l'auteur".
[483] F. Desportes, F. Le Gunehec, *Le nouveau droit pénal*, Economica, Paris, 1996, p. 384. Translated from the French: "de la personne qui prend un risque de façon délibérée, tout en espérant que ce risque ne provoque aucun dommage".
[484] *Papon* case, *Cass. Crim.*, 23 January 1997. Translated from the French: "[l]e dernier alinéa de l'article 6 du statut du tribunal militaire international [...] n'exige pas que le complice de crimes contre l'humanité ait adhéré à la politique d'hégémonie idéologique des auteurs principaux [...]".

- the accused willingly agreed to carry out the functions he was performing;

- that these functions resulted in his collaboration with the political, military or civilian authorities defining the ideology, policy or plan at the root of the crimes;

- that he received orders relating to the ideology, policy or plan; and lastly

- that he contributed to its commission through intentional acts or by simply refusing of his own accord to take the measures necessary to prevent their perpetration.

iii. The evidence

258. The Judges will seek evidence of the *mens rea* required by the charges in the circumstances of the case.

259. As the Trial Chambers of this Tribunal and the ICTR have already asserted in respect of the *mens rea* of the crime of genocide in the Rule 61 *Karad`i} and Mladi}* proceedings[485] and in the *Akayesu* case,[486] and as Trial Chamber II of this Tribunal stated regarding the *mens rea* of a crime against humanity in the *Tadi}*[487] case, knowledge of the political context in which the offence fits may be surmised from the concurrence of a number of concrete facts. Principally, these are:

- the historical and political circumstances in which the acts of violence occurred;

- the functions of the accused when the crimes were committed;

- his responsibilities within the political or military hierarchy;

- the direct and indirect relationship between the political and military hierarchy;

- the scope and gravity of the acts perpetrated;

---

[485] Article 61 *Karad`i} and Mladi}*, para. 94. According to the Trial Chamber, the specific intention of a crime of genocide may "be inferred from a certain number of facts such as the general political doctrine which gave rise to the acts possibly covered by the definition in Article 4, or the repetition of destructive or discriminatory acts. The intent may also be inferred from the perpetration of acts which violate, or which the perpetrators themselves consider to violate, the very foundation of the group – acts which are not in themselves covered by the list in Article 4(2) but which are committed as part of the same pattern of conduct".

[486] *Akayesu* Judgement, paras. 523-524.

[487] *Tadi}* Judgement, para. 657. According to the Trial Chamber "[w]hile knowledge is thus required, it is examined on an objective level and factually can be *implied from the circumstances*" (emphasis added) (*cf.* also

- the nature of the crimes committed and the degree to which they are common knowledge.

b. Exclusion of discriminatory intent

260. It ensues from the *Tadi}* Appeal Judgement that for a widespread or systematic attack and the resultant crimes – murder, extermination, enslavement, deportation, imprisonment, torture, rape or other inhumane acts with the exception of persecution – to be characterised as crimes against humanity they need not have been perpetrated with the deliberate intent to cause injury to a civilian population on the basis of specific characteristics[488]. In other words, to be found guilty of such an offence, those responsible for the attack need not necessarily have acted with a particular racial, national, religious or political intent in mind.

E. Article 7 of the Statute: Individual Criminal Responsibility

261. The accused Tihomir Bla{ki} was prosecuted under Article 7(1) and 7(3) of the Statute of the Tribunal. The Trial Chamber will review successively these provisions and their application to the case in point taking into account in particular the position of command authority held by the accused at the time of the facts. The Trial Chamber notes that at issue is the criminal responsibility of a military commander. In this respect, it is appropriate to distinguish between the charges based on Article 7(1) of the Statute and those concurrently advanced by the Prosecution under Article 7(3). Whilst Article 7(1) deals with the commander's participation in the commission of a crime, Article 7(3) enshrines the principle of command responsibility in the strict sense which entails the commander's individual criminal responsibility if he did not prevent crimes from being committed by his subordinates or, where applicable, punish them.

1. Individual criminal responsibility under Article 7(1) of the Statute

a) Introduction

262. The Prosecutor considers that all the crimes covered in the indictment entail the accused's individual criminal responsibility under Article 7(1) of the Statute, which provides that:

---

case no. 38, *Annual Digest and Reports of Public International Law Cases for the Year 1947*, London, 1951, pp. 100-101).

> [a] person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

263. In this respect, the Trial Chamber hearing the *^elebi}i* case held that

> [t]he principles of individual criminal responsibility enshrined in Article 7, paragraph 1, of the Statute reflect the basic understanding that individual criminal responsibility for the offences under the jurisdiction of the International Tribunal is not limited to persons who directly commit the crimes in question[489].

264. The Trial Chamber concurs with the views deriving from the Tribunal's case-law, that is, that individuals may be held responsible for their participation in the commission of offences under any of the heads of individual criminal responsibility in Article 7(1) of the Statute. This approach is consonant with the general principles of criminal law[490] and customary international law[491].

265. In the case in point, the accused was not prosecuted for having personally committed any of the alleged crimes, that is, for being the actual perpetrator of the *actus reus* of any of the crimes. However, he was held criminally responsible for the crimes committed by others, on the ground that he "ordered, planned, instigated or otherwise aided and abetted in the planning, preparation, or execution of those crimes"[492].

266. The Trial Chamber will therefore limit its analysis of Article 7(1) of the Statute to defining the legal elements of these particular modes of participation.

b) The arguments of the Parties

i) The Prosecution

267. To establish that the accused "ordered", "planned" or "instigated" crimes within the meaning of Article 7(1) of the Statute, the Prosecution submitted that the following elements must be proved: (i) the *actus reus* of the crime was committed by a person other than the accused; (ii) the conduct of that other person was in execution of an order or plan of the accused, or instigated by him; and (iii) the accused had the *mens rea* of the crime. To establish the *mens rea* of the superior who orders, plans or instigates, requires direct or

---

[488] *Tadi}* Appeal Judgement, paras. 273-305.
[489] *^elebi}i* Judgement, para. 319.
[490] *Ibid.*, para. 321.
[491] *Tadi}* Judgement, para. 669; *^elebi}i* Judgement, para. 321.
[492] Prosecutor's Brief, Part XI, para. 1.1.

indirect intent, it is necessary to prove his direct or indirect intent, the latter corresponding to the notion of recklessness in common law and the notion of *dolus eventualis* in civil law[493].

268. The Prosecution submits that "ordering" implies a superior-subordinate relationship between the person who orders and the one who carries it out. In other words, the person in authority uses that authority to cause another to commit an offence. This may be proved by circumstantial or direct evidence. There is no requirement as to the form of the order, which may be implied or express. Moreover, an order does not need to be issued by the accused directly to the person(s) who perform(s) the *actus reus* of the crime. Nor is it necessary that the order explicitly required the commission of the crime[494].

269. "Planning" implies that one or several persons plan, design or organise the commission of the *actus reus* of a crime. This may be proved by circumstantial evidence. It is not required that the planners intervene in the execution of the crime[495].

270. The essence of instigating is that the accused causes another person to commit a crime. Although it must be proved that the instigation was a clear contributing factor to the commission of the crime, it need not be a *conditio sine qua non*. Instigation can take many different forms; it can be express or implied, and entail both acts and omissions[496].

271. The Prosecution contended that although aiding and abetting both constitute acts of complicity, they are two different concepts. "Aiding" means giving assistance to someone whereas "abetting" assumes facilitating the commission of an offence. The conduct of the person who aids or abets (hereinafter "the aider and abettor"[497]) must have a "direct and substantial" effect on the commission of the crime, although the adjective "direct" adds little to the definition. The aiding and abetting need not have been a *conditio sine qua non* for the actual perpetration of the offence. Nor is a pre-existing plan between the aider and abettor and the perpetrator required. The assistance may be provided before, after (even without prior agreement) or during the commission of the crime. Proof is not required that the aider and abettor actually participated in or that he was present during the physical perpetration of the crime. Both acts and omissions may constitute a form of aiding and abetting, at least in circumstances where the omission is in breach of a duty to act. The aiding and abetting need

[493] *Ibid.*, paras. 1.3-1.14.
[494] *Ibid.*, paras. 1.15-1.19.
[495] *Ibid.*, paras. 1.20-1.25.
[496] *Ibid.*, paras. 1.26-1.28.
[497] And by reference, "complicity".

not assume the provision of tangible or practical assistance but may also consist in giving encouragement or moral or psychological support to the perpetrator of the crime through words or attitude or even by merely being present at the crime scene[498].

272. As to the *mens rea* requirement for aiding and abetting, the Prosecution submitted that it suffices that the aider and abettor knew that his conduct would assist the principal in the commission of the offence. This may be inferred from the relevant circumstances. It is not necessary that he knew the precise crime that was intended and which in the event was committed[499].

ii) The Defence

273. The Defence submitted that in order to establish the criminal responsibility of an accused within the meaning of Article 7(1) of the Statute, proof of the commission of a "deliberate act" by the accused is required, that is, proof that he planned, instigated, ordered or otherwise aided and abetted the planning, preparation or execution of crimes; proof of specific intent on the part of the accused to commit the deliberate act facilitating the commission of crimes; and, lastly proof that a causal link between the deliberate act and the crimes exists[500].

274. In addition, the Defence submitted that according to the *Tadic* Appeals Chamber Judgement, individual criminal responsibility under Article 7(1) of the Statute may be established through the active participation in a common design. Three situations may be distinguished: (a) all participants in the common design share the same criminal intent to commit a crime, (b) the requisite *mens rea* comprises knowledge of the nature of a system of ill-treatment and intent to further the common design of ill-treatment, and (c) the accused intends to take part in a joint criminal enterprise and to further individually and jointly the criminal purposes of that enterprise, whereas other members of the group commit offences that do not constitute the object of the common criminal purpose but were nonetheless foreseeable by the accused. Therefore, any form of common design liability requires at least proof of a criminal common design and the accused's intent to further this design[501].

---

[498] Prosecutor's Brief, Part XI, paras. 1.29-1.44.
[499] *Ibid.*, paras. 1.45-1.49.
[500] Defence Brief, p. 37.
[501] *Id.*

275. Finally, in the view of the Defence, the *mens rea* satisfying Article 7(1) is intent to commit an act facilitating offences. The deliberate act cannot be presumed even if the evidence were to satisfy the criminal omission element of Article 7(3) of the Statute[502].

c) Discussion and Findings

276. The Appeals Chamber in the *Tadi}* case and the Trial Chambers in other cases brought before both this Tribunal and the ICTR, notably the *Tadi}*, *Akayesu*, *^elebi}i* and *Furund`ija* cases[503], defined those legal elements which under customary international law refer to the various forms of individual criminal responsibility included in Article 7(1) of the Statute. This Trial Chamber will consider their findings in order to ascertain their applicability to the present case.

277. Following the approach taken by the Prosecution, the Trial Chamber will determine the *actus reus* and *mens rea* required for holding an accused individually criminally responsible for having "planned", "instigated", "ordered" or "aided and abetted" the offences alleged in the indictment.

i) Planning, instigating and ordering

278. The Trial Chamber holds that proof is required that whoever planned, instigated or ordered the commission of a crime possessed the criminal intent, that is, that he directly or indirectly intended that the crime in question be committed. However, in general, a person other than the person who planned, instigated or ordered is the one who perpetrated the *actus reus* of the offence. In so doing he must have acted in furtherance of a plan or order. In the case of instigating, as appears in the definition below, proof is required of a causal connection between the instigation and the fulfilment of the *actus reus* of the crime. In defining each of the forms of participation, the Trial Chamber concurs with the relevant findings of the Trial Chamber in the *Akayesu* case.

279. Accordingly, planning implies that "one or several persons contemplate designing the commission of a crime at both the preparatory and execution phases"[504]. The Trial Chamber is of the view that circumstantial evidence may provide sufficient proof of the existence of a plan.

---

[502] *Ibid.*, p. 38.
[503] *Tadi}* Judgement; *Akayesu* Judgement; *^elebi}i* Judgement; *Furund`ija* Judgement.
[504] *Akayesu* Judgement, para. 480.

280. Instigating entails "prompting another to commit an offence"[505]. The wording is sufficiently broad to allow for the inference that both acts and omissions may constitute instigating and that this notion covers both express and implied conduct. The ordinary meaning of instigating, namely, "bring about"[506] the commission of an act by someone, corroborates the opinion that a causal relationship between the instigation and the physical perpetration of the crime is an element requiring proof.

281. The *Akayesu* Trial Chamber was of the opinion that ordering

> implies a superior-subordinate relationship between the person giving the order and the one executing it. In other words, the person in a position of authority uses it to convince another to commit an offence[507].
>
> There is no requirement that the order be in writing or in any particular form; it can be express or implied. That an order was issued may be proved by circumstantial evidence.

It is not necessary that an order be given in writing or in any particular form. It can be explicit or implicit. The fact that an order was given can be proved through circumstantial evidence.

282. The Trial Chamber agrees that an order does not need to be given by the superior directly to the person(s) who perform(s) the *actus reus* of the offence[508]. Furthermore, what is important is the commander's *mens rea*, not that of the subordinate executing the order. Therefore, it is irrelevant whether the illegality of the order was apparent on its face.

ii) Aiding and abetting

283. As a starting point, the Trial Chamber concurs with the opinion of the Trial Chamber in the *Furund`ija* case which states that

> the legal ingredients of aiding and abetting in international criminal law to be the following: the *actus reus* consists of practical assistance, encouragement, or moral support which has a substantial effect on the perpetration of the crime. The *mens rea* required is the knowledge that these acts assist the commission of the offence[509].

---

[505] *Ibid*, para. 482.
[506] The Concise Oxford Dictionary, 10th edition (1999), p. 734.
[507] *Akayesu* Judgement, para. 483.
[508] As to criminal responsibility of commanders for passing on criminal orders, the Trial Chamber notes the *High Command* case in which the military tribunal considered that "to find a field commander criminally responsible for the transmittal of such an order, he must have passed the order to the chain of command and the order must be one that is criminal upon its face, or one which he is shown to have known was criminal" (*U.S.A. v. Wilhelm von Leeb et al.*, in *Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10*, (hereinafter the "*Trials of War Criminals*") Vol. XI, p. 511)
[509] *Furund`ija* Judgement, para. 249.

284. The Trial Chamber holds that the *actus reus* of aiding and abetting[510] may be perpetrated through an omission, provided this failure to act had a decisive effect on the commission of the crime and that it was coupled with the requisite *mens rea*[511]. In this respect, the mere presence at the crime scene of a person with superior authority, such as a military commander, is a probative indication for determining whether that person encouraged or supported the perpetrators of the crime[512].

285. Proof that the conduct of the aider and abettor had a causal effect on the act of the principal perpetrator is not required[513]. Furthermore, participation may occur before, during or after the act is commnitted and be geographically separated therefrom[514].

286. As to the *mens rea* requirement for aiding and abetting, a distinction is to be made between "knowledge" and "intent"[515]. As held earlier in this Judgement, the *mens rea* required for establishing the responsibility of an accused for one of the crimes in Articles 2, 3 and 5 of the Statute is "willingness", comprising both direct and indirect intent. In the case of aiding and abetting, the Prosecution relies on *inter alia* the *Furund`ija* Judgement and argues that the applicable *mens rea* applicable to the aider and abettor is "knowledge" that his acts assist the commission of the offence. In the submission of the Defence, however, Article 7(1) of the Statute requires proof of the specific intent on the part of the accused to commit the deliberate act to facilitate the commission of a crime[516]. The Trial Chamber is of the view that in addition to knowledge that his acts assist the commission of the crime, the aider and

---

[510] The Trial Chamber notes that in the *Akayesu* Judgement, the Trial Chamber distinguished between, on the one hand, aiding and, on the other, abetting, as constituting two different heads of individual criminal responsibility. The *Akayesu* Trial Chamber held that whereas the prior means giving assistance, the latter entails the facilitation of an act by being sympathetic thereto. *See Akayesu* Judgement, para. 484. In this respect, the Trial Chamber further takes note of Article 25(3)(c) of the Statute of the International Criminal Court, where aiding and abetting appear to be considered two separate forms of assistance to the commission of a crime. Likewise, the 1996 ILC Report, p. 24.

[511] *Tadi}* Judgement, para. 686; *^elebi}i* Judgement, para. 842; *Akayesu* Judgement, para. 705.

[512] Judgement, *The Prosecutor v. Zlatko Aleksovski*, Case no. IT-95-14/1-T, 25 June 1999, (hereinafter the "*Aleksovski* Judgement"), para. 65; *Akayesu* Judgement, para. 693.

[513] *Furund`ija* Judgement, para. 233; *Aleksovski* Judgement, para. 61.

[514] *Aleksovski* Judgement, para. 62.

[515] The Trial Chamber takes note of Article 30 ("mental element"), paragraph 1, of the Rome Statute of the International Criminal Court, which applies to any form of criminal responsibility under that Statute: "Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with *intent* and *knowledge*" (emphasis added).

[516] Defence Brief, p. 37. In fact, this also appears to be the Prosecution's view: "If the aider and abettor is aware that one of a number of crimes will probably be committed, and one of those crimes is in fact committed, he or she has *intended to facilitate the commission* of that crime" (Prosecutor's Brief, Part XI, para. 1.46 (emphasis added))

abettor needs to have intended to provide assistance, or as a minimum, accepted that such assistance would be a possible and foreseeable consequence of his conduct[517].

287. Finally, the Trial Chamber concurs with the following finding in the *Furund`ija* Judgement:

> [I]t is not necessary that the aider and abettor should know the precise crime that was intended and which in the event was committed. If he is aware that one of a number of crimes will probably be committed, and one of those crimes is in fact committed, he has intended to facilitate the commission of that crime, and is guilty as an aider and abettor[518].

288. The Trial Chamber deems it appropriate to point out that a distinction is to be made between aiding and abetting and participation in pursuance of a purpose or common design to commit a crime[519]. In the case in point, it notes that the only question raised is the question of aiding and abetting.

2. Individual Criminal Responsibility Within the meaning of Article 7(3)

a) Introduction

289. The accused faces concurrent charges under Article 7(3) of the Statute, which provides that

> [t]he fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

290. As found by the Trial Chamber in the *^elebi}i* case[520], the Trial Chamber first holds that the principle of command responsibility *strictu sensu* forms part of customary international law.

291. The Prosecution submitted that for an accused to be held criminally responsible within the meaning of Article 7(3) of the Statute, proof is required that: an offence was committed; the accused exercised superior authority over the perpetrator of the offence or over his or her superiors; the accused knew or had reason to know that the subordinate was

---

[517] In *Tadic* it was held that "intent [...] involves awareness of the act of participation coupled with a conscious decision to participate by planning, instigating, ordering, committing, or otherwise aiding and abetting in the commission of a crime" (*Tadi}* Judgement, para. 674). This was corroborated in the *^elebi}i* Judgement, para. 326, and the *Aleksovski* Judgement, para. 61.
[518] *Furund`ija* Judgement, para. 246.
[519] *Cf. Tadic* Appeal Judgement, paras. 178-229.

about to commit a crime or had done so; and the accused failed to take the necessary and reasonable measures to prevent the offence or to punish the perpetrator[521].

292. The Defence, however, submitted that Article 7(3) of the Statute requires fulfilment of the following conditions: the commission of crimes by direct subordinates of the accused; the accused knew or had reasons to know that his subordinates were going to commit such crimes or had done so; the accused had the legal authority and actual ability to prevent or punish the acts committed by his subordinates; and the accused failed to prevent or punish the acts of his subordinates[522].

293. In the submission of the Defence, it needs to be additionally demonstrated that the commander's failure to act caused the crime, that is, that the crime was the direct result of the commander's omission, and that the commander foresaw or knew that the omission could reasonably and foreseeably lead to the crime[523].

294. As to the essential elements of command responsibility under Article 7(3) of the Statute, the Trial Chamber concurs with the views of the Trial Chambers in the *^elebi}i* and *Aleksovski* cases[524]. Accordingly, for a conviction under Article 7(3) of the Statute in the present case, proof is required that:

(1) there existed a superior-subordinate relationship between the commander (the accused) and the perpetrator of the crime;

(2) the accused knew or had reason to know that the crime was about to be or had been committed; and

(3) the accused failed to take the necessary and reasonable measures to prevent the crime or punish the perpetrator thereof.

b) The Superior-Subordinate Relationship

i) Arguments of the parties

---

[520] *^elebi}i* Judgement, para. 343. Corroborated in the *Kayishema-Ruzindana* Judgement, para. 209.
[521] Prosecutor's Brief, Part XIII, p. 125.
[522] Defence Brief, p. 37-38.
[523] *Ibid.*, p. 38 and p. 45.
[524] *^elebi}i* Judgement, para. 346; *Aleksovski* Judgement, para. 69.

295. The Prosecution submitted that the term "superior" is not limited to commanders who are above the perpetrators of crimes in the regular chain of command. The determining factor in the case in point is whether or not the commander exercised control over the acts of his subordinates. Proof is required that the superior has effective control over the persons committing the violations of international humanitarian law in question, that is, has the material ability to prevent the crimes and to punish the perpetrators thereof.

296. In the view of the Prosecution, formal designation as a commander is not a necessary prerequisite for superior responsibility. Such responsibility may be imposed by virtue of a person's *de facto* as well as *de jure* position of authority or power of control. A person may be a "superior" for the purpose of Article 7(3) on the basis of effective influence that person exercises which amounts to forms of control giving to him the ability to intervene to prevent a crime. The fact that the commander had *de jure* authority to take *all* the necessary measures to punish the subordinates in question is also not a necessary prerequisite to entail the commander's responsibility. It suffices that he could have taken some measures. The fact that the commander is the *only one* who can take all the necessary measures to punish the subordinates in question is also not a necessary prerequisite incurring the commander's responsibility.

297. On a factual note, the Prosecution submitted that this legal criterion when duly applied to the evidence can only lead to the conclusion that the accused was also the "superior" of some independent units such as the Vitezovi, the D`okeri and the HVO Military Police Fourth Battalion[525].

298. The Defence submitted that proof is required that the accused possessed the legal authority and the actual ability to impose measures to prevent or punish the commission of crimes by his subordinates. For a commander's responsibility to apply not only to his direct subordinates but also to the local civilian population, the Prosecution must proof that the commander exercised executive or sovereign power in his area of command, and that there was a state of total occupation by his forces.

299. In the case in point, the Defence contended that the accused did not possess sovereign power within an occupied area during the relevant period of the indictment. Therefore, the accused's responsibility is limited to the crimes committed by his direct subordinates whose

[525] Prosecutor's Brief, Part XIII, paras. 1.1-1.12.

conduct he had the legal authority and actual ability to prevent and punish. Furthermore, the Defence submitted that the accused did not have the legal authority to punish the criminal acts of any soldiers in the CBOZ and that he did not have the legal authority to impose disciplinary sanctions against members of certain autonomous units[526].

ii) Discussion and Findings

300. The Trial Chamber in the *^elebi}i* case held that in order for Article 7(3) of the Statute to apply, the accused must be in a position of command. This principle is not limited to individuals formally designated commander but also encompasses both *de facto* and *de jure* command.[527] On the basis of judicial precedents and the concept of "indirect subordination" defined in Article 87 of the 1977 Additional Protocol I to the Geneva Conventions of 1949[528], the *^elebi}i* Trial Chamber held that

> in order for the principle of superior responsibility to be applicable, it is necessary that the superior have effective control over the persons committing the underlying violations of international humanitarian law, in the sense of having the material ability to prevent and punish the commission of these offences[529].

301. The Trial Chamber concurs with this view. Accordingly, a commander may incur criminal responsibility for crimes committed by persons who are not formally his (direct) subordinates, insofar as he exercises effective control over them[530].

302. Although the Trial Chamber agrees with the Defence that the "actual ability" of a commander is a relevant criterion, the commander need not have any legal authority to prevent or punish acts of his subordinates. What counts is his material ability[531], which instead of issuing orders or taking disciplinary action may entail, for instance, submitting reports to the competent authorities in order for proper measures to be taken[532].

---

[526] Defence Brief, p. 42-44.
[527] *^elebi}i* Judgement, para. 370.
[528] Ibid., para. 364-378.
[529] *Ibid.*, para. 378.
[530] The Trial Chamber takes notice of Article 28(1) of the Rome Statute of the International Criminal Court, which limits a military commander's criminal responsibility to crimes which are about to be or which are being committed by "forces under his or her effective command and control".
[531] *^elebi}i* Judgement, para. 395: "a superior may only be held criminally responsible for failing to take such measures that are *within his powers*" (emphasis added). Likewise, Article 86(2) of Additional Protocol I refers to superiors and "feasible measures *within their power* to prevent or repress" (emphasis added).
[532] *Aleksovski* Judgement, para. 78, concerning reporting to the appropriate authorities the commission of crimes.

303. Finally, as recognised in the *Aleksovski* Judgement[533], the Trial Chamber holds that the test of effective control exercised by the commander implies that more than one person may be held responsible for the same crime committed by a subordinate.

c) Mens Rea: "Knew or Had Reason to Know"

i) Arguments of the Parties

304. Both Prosecution and Defence agreed that actual knowledge may be proved either through direct or circumstantial evidence. In respect of the latter, the Prosecution submitted a number of relevant factors, such as the number, type and scope of the illegal acts[534].

305. In the Prosecution's view a commander "had reason to know" if he had information putting him on notice or tending to suggest that subordinates were about to commit or had committed crimes or if the fact that he did not have this information stemmed from a serious dereliction of his duty to obtain information of a general nature concerning the conduct of his subordinates to which he could reasonably have had access[535].

306. The Defence submitted that for a commander to know or have reason to know of a crime, the Prosecution must prove that the commander actually knew or wantonly disregarded information within his possession which could only lead to the conclusion that such an act was going to occur or had occurred[536].

ii) Discussion and Findings

a. "Actual knowledge"

307. Knowledge may not be presumed[537]. However, the Trial Chamber agrees that "knowledge" may be proved through either direct or circumstantial evidence. With regard to circumstantial evidence, the Trial Chamber concurs with the view expressed by the Trial Chamber in the *^elebi}i* case and holds that in determining whether in fact a superior must have had the requisite knowledge it may consider *inter alia* the following indicia enumerated by the Commission of Experts in its Final Report: the number, type and scope of the illegal

[533] Ibid., para. 106.
[534] Prosecutor's Brief, Part XIII, paras. 2.2-2.3; Defence Brief, p. 39.
[535] Prosecutor's Brief, Part XIII, paras. 2.4-2.15.
[536] Defence Brief, p. 39-42.

acts; the time during which the illegal acts occurred; the number and type of troops involved; the logistics involved, if any; the geographical location of the acts; the widespread occurrence of the acts; the speed of the operations; the *modus operandi* of similar illegal acts; the officers and staff involved; and the location of the commander at the time[538].

308. These indicia must be considered in light of the accused's position of command, if established. Indeed, as was held by the *Aleksovski* Trial Chamber, an individual's command position *per se* is a significant indicium that he knew about the crimes committed by his subordinates[539].

b. "Had reason to know"

309. In the *^elebi}i* case, the Trial Chamber conducted a survey of post-World War II jurisprudence and held that

> the principle can be obtained that the absence of knowledge should not be considered a defence if, in the words of the Tokyo judgement, the superior was "at fault in having failed to acquire such knowledge"[540].

310. However, the *^elebi}i* Trial Chamber went on to state that since it was bound to apply customary law as it stood at the time of the alleged offences[541], it must in addition fully consider the standard established by Article 86 of Additional Protocol I[542]. It held that, read in accordance with its ordinary meaning, the provision reflects the following position of customary law at the relevant time:

> a superior can be held criminally responsible only if some specific information was in fact available to him which would provide notice of offences committed by his subordinates. This information need not be such that it by itself was sufficient to compel the conclusion of the existence of such crimes. It is sufficient that the superior was put on further inquiry by the information, or, in other words, that it indicated the need for additional investigation in order to ascertain whether offences were being committed or about to be committed by his subordinates[543].

311. The *^elebi}i* Trial Chamber added that this is without prejudice to the current state of customary international law. In this respect, it noted Article 28(1)(a) of the Statute of the

---

[537] *^elebi}i* Judgement, para. 386. The Trial Chamber notes that in the submission of the Defence, the Prosecution at some stage during the trial argued that knowledge may be presumed in certain circumstances, a position which the Defence opposes. Defence Brief, p. 41-42.
[538] Final Report of the Commission of Experts, para. 58; *^elebi}i* Judgement, para. 386.
[539] *Aleksovski* Judgement, para. 80.
[540] *^elebi}i* Judgement, para. 388 (footnote omitted). *See also* *^elebi}i* Judgement, para. 389.
[541] 1992.
[542] *^elebi}i* Judgement, para. 390.
[543] *Ibid.*, para. 393.

International Criminal Court which imposes individual criminal responsibility on a military commander if he "either knew or, owing to the circumstances at the time, should have known" that his subordinates were committing or were about to commit crimes[544].

312. Both parties disagreed with this finding in *^elebi}i* but for different reasons. The Prosecution argued that Article 86 of Additional Protocol I is complementary to Article 87 which requires that a superior supervise his subordinates and remain apprised of their acts. Accordingly, the knowledge requirement does not differ from the standard established in the case-law arising out of World War II, as reflected in Article 28(1)(a) of the Statute of the International Criminal Court. According to the Prosecution, as a minimum, a commander is required to rely on or to establish an effective reporting system to ensure that any violation is brought to his attention. Based on the Commentary to Article 86 of Additional Protocol I, the Prosecution listed a number of issues about which the commander must remain informed such as the tactical situation in general and the level of training of subordinate troops[545].

313. The Defence, however, argued that the post-World War II jurisprudence focused on information compelling the conclusion that crimes had been committed. It submitted that the phrase "had reason to know" must not be interpreted as including "ordinary negligence" in the *mens rea* of the offence[546].

314. The Trial Chamber will now state its own interpretation of the "had reason to know standard" in accordance with customary international law. It will first turn to the relevant jurisprudence issuing from the aftermath of the Second World War.

315. In dealing with the responsibility for war crimes against prisoners, the International Military Tribunal for the Far East (hereinafter the "IMTFE") stated that:

> It is the duty of all those on whom responsibility rests to secure proper treatment of prisoners and to prevent their ill treatment by establishing and securing the continuous and efficient working of a system appropriate for these purposes. Such persons fail in this duty and become responsible for ill treatment of prisoners if:
>
> (1) They fail to establish such a system.
>
> (2) If having established such a system, they fail to secure its continued and efficient working.

---

[544] *Id.*
[545] Prosecutor's Brief, Part XIII, paras. 2.9-2.14.
[546] Defence Brief, p. 39-41.

> Each of such persons has a duty to ascertain that the system is working and if he neglects to do so he is responsible. He does not discharge his duty by merely instituting an appropriate system and thereafter neglecting to learn of its application.
>
> [...]
>
> Nevertheless, such persons are not responsible if a proper system and its continuous efficient functioning be provided for and conventional war crimes be committed unless:
>
> (1) They had knowledge that such crimes were being committed, and having such knowledge they failed to take such steps as were within their power to prevent the commission of such crimes in the future, or
>
> (2) They are at fault in having failed to acquire such knowledge.
>
> *If such a person had, or should, but for negligence or supineness, have had such knowledge he is not excused for inaction if his office required or permitted him to take any action to prevent such crimes.* On the other hand it is not enough for the exculpation of a person, otherwise responsible, for him to show that he accepted assurances from others more directly associated with the control of the prisoners if having regard to the position of those others, to the frequency of reports of such crimes, or to any other circumstances he should have been put upon further enquiry as to whether those assurances were true or untrue[547].

The IMTFE further specified that:

> Army or Navy commanders can, by order, secure proper treatment and prevent ill treatment of prisoners. So can Ministers of War and of the Navy. If crimes are committed against prisoners under their control, of the likely occurrence of which they had, *or should have had knowledge in advance*, they are responsible for those crimes. If, for example, it be shown that within the units under his command conventional war crimes have been committed of which he knew *or should have known*, a commander who takes no adequate steps to prevent the occurrence of such crimes in the future will be responsible for such future crimes[548].

316. In the *Toyoda* case, the law member of the war crimes tribunal delivered the Tribunal's opinion when he stated:

> In the simplest language it may be said that this Tribunal believes the principle of command responsibility to be that, if this accused knew, *or should by the exercise of ordinary diligence have learned*, of the commission by his subordinates, immediate or otherwise, of the atrocities proved beyond a shadow of a doubt before this Tribunal or of the existence of a routine which would countenance such, and, by his failure to take any action to punish the perpetrators, permitted the atrocities to continue, he has failed in his performance of his duty as a commander and must be punished.
>
> In determining the guilt or innocence of an accused, charged with dereliction of his duty as a commander, consideration must be given to many factors. The theory is simple, its application is not. [...] His guilt cannot be determined by whether he had operational command, administrative command, or both. If he knew, *or should have known, by use of reasonable diligence*, of the commission by his troops of atrocities and if he did not do everything within his power and capacity under the existing circumstances to prevent

[547] Tokyo Trial Official Transcript, p. 48,444-48,445 (emphasis added).
[548] *Ibid.*, p. 48,446 (emphasis added).

> their occurrence and punish the offenders, he was derelict in his duties. Only the degree of his guilt would remain[549].

317. One of the defendants in the *Pohl* case was Karl Mummenthey, an SS officer in control of concentration camp enterprises. In its Judgement, the military tribunal hearing the case held that "Mummenthey's assertions that he did not know what was happening in the labor camps and enterprises under his jurisdiction does not exonerate him. *It was his duty to know*"[550]. It seems, however, that the tribunal held that in actual fact the accused *must have known*:

> Mummenthey could not help knowing about concentration camp labor in the DEST enterprises. In Sachsenhausen-Oranienburg the inmate workers daily passed by the very building in which Mummenthey had his office. Their poor physical condition was obvious[551].

318. The *Roechling* case dealt with the criminal responsibility of directors of the Roechling firm for ordering or consenting to the ill-treatment of forced labourers. Responding to the accused Hermann Roechling's defence that he did not know of the conditions of the workers at the Voelklingen plant, the tribunal of first instance held that

> *it was his duty as the head to inquire into the treatment accorded* to the foreign workers and to the prisoners of war whose employment in his war plants was, moreover, forbidden by the rules of warfare, of which fact he must have been aware; that he cannot escape his responsibility by stating that the question had no interest for him[552][.]

The appellate court affirmed the rejection of the defence of lack of knowledge, holding that

> [n]o superior may prefer this defense indefinitely; for *it is his duty to know what occurs in his organization, and lack of knowledge, therefore, can only be the result of criminal negligence*[553].

---

[549] *U.S.A. v. Soemu Toyoda* (emphasis added), Official Transcript of Record of Trial, p. 5006. The President of the Tribunal summarised the charges against Admiral Toyoda as follows: "He is charged with violation of the laws and customs of war whilst holding the appointments of Commander-in-Chief of the Yokosuka Naval District, the Combined Fleet, the Combined Naval Forces, the Naval Escort Command as well as when Chief of the Naval General Staff, all these appointments being held for varying periods of time between the 21st of May, 1943, until shortly after the conclusion of the Pacific War" (*Toyoda* case, Official Transcript of Record of Trial, p. 5008).

[550] *U.S.A. v. Oswald Pohl et al.*, in *Trials of War Criminals*, Vol. V, p. 1055 (emphasis added).

[551] *Ibid.*, p. 1053. Further on, the tribunal referred to "the wholesale suffering of which he could not but be aware". *Ibid.*, p. 1054.

[552] General Tribunal of the Military Government of the French Zone of Occupation in Germany, *Judgement Rendered on 30 June 1948 in the Case versus Hermann Roechling and Others Charged With Crimes Against Peace, War Crimes and Crimes Against Humanity*, in *Trials of War Criminals*, Vol. XIV, Appendix B, p. 1088 (emphasis added).

[553] Superior Military Government Court of the French Occupation Zone in Germany, *Judgement of 25 January 1949 in the Case Versus Hermann Roechling and Others Charged with Crimes Against Peace, War Crimes, and Crimes Against Humanity. Decision on Writ of Appeal Against the Judgement of 30 June 1948*, in *Trials of War Criminals*, Vol. XIV, Appendix B, p. 1106 (emphasis added).

319. In respect of the "duty to know", the military tribunal hearing the *Hostage* case stated the following when it rejected the defence of the accused General List that he had no knowledge of many unlawful killings committed by subordinates:

> A commanding general of occupied territory is charged with the duty of maintaining peace and order, punishing crime, and protecting lives and property within the area of his command. His responsibility is coextensive with his area of command. *He is charged with notice of occurrences taking place within that territory.* He may require adequate reports of all occurrences that come within the scope of his power and, if such reports are incomplete or otherwise inadequate, he is obliged to require supplementary reports to apprize him of all the pertinent facts. *If he fails to require and obtain complete information, the dereliction of duty rests upon him and he is in no position to plead his own dereliction as a defense.* Absence from headquarters cannot and does not relieve one from responsibility for acts committed in accordance with a policy he instituted or in which he acquiesced[554].

320. In the same way, the following extract of the opinion in the *Hostage* case was adopted by the military tribunal hearing the *High Command* case:

> Want of knowledge of the contents of reports made to him is not a defense. Reports to commanding generals are made for their special benefit. Any failure to acquaint themselves with the contents of such reports, or a failure to require additional reports where inadequacy appears on their face, constitutes a dereliction of duty which he cannot use in his own behalf[555].

321. In clear rejection of the so-called concept of strict liability, the Tribunal in the *High Command* case further held the following:

> Criminality does not attach to every individual in this chain of command from that fact alone. There must be a personal dereliction. That can occur only where the act is directly traceable to him or where his failure to properly supervise his subordinates constitutes criminal negligence on his part. In the latter case it must be a personal neglect amounting to a wanton, immoral disregard of the action of his subordinates amounting to acquiescence[556].

322. From this analysis of jurisprudence, the Trial Chamber concludes that after World War II, a standard was established according to which a commander may be liable for crimes by his subordinates if "he failed to exercise the means available to him to learn of the offence and, under the circumstances, he should have known and such failure to know constitutes criminal dereliction"[557].

323. This principle of command responsibility was further introduced in domestic legislation. For example, the Field Manual issued by the U.S. Department of Army provides as follows:

---

[554] *U.S.A. v. Wilhelm List et al.*, in *Trials of War Criminals*, Vol. XI, p. 1271 (emphasis added).
[555] *Ibid.*; *U.S.A. v. Wilhelm von Leeb et al.*, in *Trials of War Criminals*, Vol. XI, p. 603.
[556] *U.S.A. v. Wilhelm von Leeb et al.*, in *Trials of War Criminals*, Vol. XI, p. 543-544.
[557] W. H. Parks, *Command Responsibility for War Crimes*, 62 Mil. L. Rev. 1 (1973) (hereinafter "*Parks*"), p. 90.

> The commander is [...] responsible, if he had *actual knowledge*, or *should have had knowledge*, through reports received by him or through other means, that troops or other persons subject to his control are about to commit or have committed a war crime and he fails to use the means at his disposal to insure compliance with the law of war[558].

324. The Trial Chamber now turns to codification at the international level, namely the adoption of Additional Protocol I in 1977. The pertinent question is this: was customary international law altered with the adoption of Additional Protocol I, in the sense that a commander can be held accountable for failure to act in response to crimes by his subordinates only if some specific information was in fact available to him which would provide notice of such offences? Based on the following analysis, the Trial Chamber is of the view that this is not so.

325. Article 86 ("failure to act"), paragraph 2, of Additional Protocol I reads as follows:

> The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or *had information which should have enabled them to conclude in the circumstances at the time*, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach[559].

326. As a preliminary matter, a difference of meaning appears to exist between the English and the French version of Article 86(2). Whereas the English text reads "information which should have enabled them to conclude", the latter reads "*des informations leur permettant de conclure*", which literally means "information enabling them to conclude". In keeping with Article 33(4) of the Vienna Convention on the Law of Treaties (1969), the Trial Chamber deems that the French version is truer to the object and purpose of the text[560].

327. The Trial Chamber will interpret Article 86(2) in accordance with Article 31 of the Vienna Convention, that is, "in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose". In this respect, the Trial Chamber considers fundamental the provision enshrined in Article 43(1) of Additional Protocol I according to which the armed forces are to be placed "under a command responsible [...] for the conduct of its subordinates"[561].

---

[558] U.S. Department of Army, Field Manual No. 27-10, Law of Land Warfare, para. 501 (1956), cited in *Parks* p. 95. The *British Manual of Military Law* employs exactly the same wording. *Cf. Great Britain War Office, The Law of War on Land: Being Part 3 of the Manual of Military Law*, para. 631 (1958), cited in: L.C. Green, *Command Responsibility in International Humanitarian Law*, 5 Transnt'l L. & Contp Prbs 319, p. 343 (1995).
[559] Emphasis added.
[560] Pursuant to Article 102 of Additional Protocol I, the two texts are equally authentic.
[561] This Article was preceded by virtually identical provisions in Article 1 of the 1907 Regulations Respecting the Laws and Customs of War on Land, and in Article 4A(2) of the Third Geneva Convention of 1949.

328. In the Trial Chamber's view, the words "had information" in Article 86(2) must be interpreted broadly. In this respect, it is noted that on the basis of post-World War II jurisprudence, the Commentary on Additional Protocol I explains that the information includes "reports addressed to [the superior], [...] the tactical situation, the level of training and instruction of subordinate officers and their troops, and their character traits"[562].

329. Moreover, a commander "cannot claim to be ignorant" of this information[563]. The Trial Chamber considers instructive the Commentary's guidance that Article 86(2) should be read in conjunction with article 87 ("duty of commanders"), paragraph 1[564], which provides as follows:

> The High Contracting Parties and the Parties to the conflict shall require military commanders, with respect to members of the armed forces under their command and other persons under their control, to prevent and, where necessary, to suppress and to report to competent authorities breaches of the Conventions anc of this Protocol.

Given the essential responsibilities of military commanders under international humanitarian law, the Trial Chamber holds, again in the words of the Commentary, that '[t]heir role obliges them to be constantly informed of the way in which their subordinates carry out the tasks entrusted them , and to take the necessary measures for this purpose"[565].

330. The Trial Chamber also notes that according to the Commission of Experts, "a commander has a duty to do everything reasonable and practicable to prevent violations of the law. Failure to carry out such a duty carries with it responsibility"[566]. Apart from circumstances in which knowledge can be proved or deduced, the Commission considered "such serious personal dereliction on the part of the commander as to constitute wilful and wanton disregard of the possible consequences" [567] to satisfy the *mens rea* requirement under Article 7(3) of the Statute.

331. Lastly, the Trial Chamber considers that the findings of the Israeli Commission of Inquiry responsible for investigating the atrocities perpetrated in the Shatilla and Sabra refugee camps in Beirut in 1982 constitute further evidence of the state of customary

---

[562] Y. Sandoz *et al.* (eds.), Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 (1986) (hereinafter the "Protocol Commentary"), para. 3545, p. 1014.
[563] *Id.*
[564] *Ibid.*, para. 3541, p. 1011.
[565] *Ibid.*, para. 3560, p. 1022.
[566] Final Report of the Commission of Experts, para. 59.
[567] Final Report of the Commission of Experts, para. 58.

international law[568]. With respect to the responsibility of the Chief of Staff of the Israel Defence Forces, the Commission held that his knowledge of the feelings of hatred of the particular forces involved towards the Palestinians did not justify the conclusion that the entry of those forces into the camps posed no danger. Accordingly,

> The absence of a warning from experts cannot serve as an explanation for ignoring the danger of a massacre. The Chief of Staff should have known and foreseen – by virtue of common knowledge, as well as the special information at his disposal – that there was a possibility of harm to the population in the camps at the hands of the Phalangists. Even if the experts did not fulfil their obligation, this does not absolve the Chief of Staff of responsibility[569].

The Commission clearly held that the applicable standard for imputing responsibility is negligence:

> If the Chief of Staff did not imagine at all that the entry of the Phalangists into the camps posed a danger to the civilian population, his thinking on this matter constitutes a disregard of important considerations that he should have taken into account. [...] We determine that the Chief of Staff's inaction [...] constitute[s] a breach of duty and dereliction of the duty incumbent upon the Chief of Staff[570].

332. In conclusion, the Trial Chamber finds that if a commander has exercised due diligence in the fulfilment of his duties yet lacks knowledge that crimes are about to be or have been committed, such lack of knowledge cannot be held against him. However, taking into account his particular position of command and the circumstances prevailing at the time, such ignorance cannot be a defence where the absence of knowledge is the result of negligence in the discharge of his duties: this commander had reason to know within the meaning of the Statute.

d) Necessary and Reasonable Measures to Prevent or Punish

i) Arguments of the Parties

333. The Prosecution put forth several measures which a commander can take in order to discharge his obligation to prevent offences from being committed. Accordingly, the exercise of effective command and control through the proper and diligent application of discipline is

---

[568] Final Report of the Commission of Inquiry into the Events at the Refugee Camps in Beirut, February 7, 1983 (authorised translation) (hereinafter "Kahan Report"), reproduced in 22 *International Legal Materials* 473-520 (1983). Although the Commission was not a criminal court, its membership justifies attributing considerable weight to its findings. The Commission members were: Yitzhak Kahan, President of the Supreme Court, Commission Chairman; Aharon Barak, Justice of the Supreme Court; and Yona Efrat, Major General (Res.), Israel Defense Forces.
[569] Kahan Report, p. 35.
[570] Kahan Report, p. 35 and 37.

a common thread. The duty to punish entails the obligation to establish the facts, to put an end to the offences and to punish. "Necessary measures" are those required to discharge the obligation to prevent or punish, in the circumstances prevailing at the time. "Reasonable" measures are those which the commander was in a position to take in the circumstances prevailing at the time. The lack of formal legal jurisdiction does not necessarily relieve the superior of his criminal responsibility. If subordinates act pursuant to criminal orders passed down from higher up in the chain of command the commander remains under an obligation to take all measures within his power[571].

334. The Defence submitted that if the commander makes a reasonable effort to prevent or punish the crimes of his subordinates, command responsibility is entailed only if his effort is patently disproportionate to the crime committed. Hence, if the evidence demonstrates that a commander took reasonable steps to prevent or punish the commission of crimes, command responsibility cannot be imposed[572].

ii) Discussion and Conclusions

335. The Trial Chamber has already characterised a "superior" as a person exercising "effective control" over his subordinates. In other words, the Trial Chamber holds that where a person has the material ability to prevent or punish crimes committed by others, that person must be considered a superior. Accordingly, it is a commander's degree of effective control, his material ability, which will guide the Trial Chamber in determining whether he reasonably took the measures required either to prevent the crime or to punish the perpetrator[573]. As stated above in the discussion of the definition of "superior", this implies that, under some circumstances, a commander may discharge his obligation to prevent or punish by reporting the matter to the competent authorities.

336. Lastly, the Trial Chamber stresses that the obligation to "prevent or punish" does not provide the accused with two alternative and equally satisfying options. Obviously, where the accused knew or had reason to know that subordinates were about to commit crimes and failed to prevent them, he cannot make up for the failure to act by punishing the subordinates afterwards.

---

[571] Prosecutor's Brief, Part XIII, paras. 3.1-3.16.
[572] Defence Brief, p. 44-45.
[573] Likewise, *^elebi}i* Judgement, para. 395; *Kayishema-Ruzindana* Judgement, para. 229-231; *Aleksovski* Judgement, para. 81.

e) Concurrent Application of Articles 7(1) and 7(3) of the Statute

337. It would be illogical to hold a commander criminally responsible for planning, instigating or ordering the commission of crimes and, at the same time, reproach him for not preventing or punishing them. However, as submitted by the Prosecution[574], the failure to punish past crimes, which entails the commander's responsibility under Article 7(3), may, pursuant to Article 7(1) and subject to the fulfilment of the respective *mens rea* and *actus reus* requirements, also be the basis for his liability for either aiding and abetting or instigating the commission of *further* crimes.

338. In this respect, it should be noted that the regulations concerning the application of the international law of war to the armed forces of the SFRY, under the heading "Responsibility for the acts of subordinates", provide the following:

> The commander is personally responsible for violations of the law of war if he knew or could have known that his subordinate units or individuals are preparing to violate the law, and he does not take measures to prevent violations of the law of war. The commander who knows that the violations of the law of war took place and did not charge those responsible for the violations is personally responsible. In case he is not authorized to charge them, and he did not report them to the authorized military commander, he would also be personally responsible.
>
> A military commander is responsible as *a participant or an instigator* if, by not taking measures against subordinates who violate the law of war, he allows his subordinate units to continue to commit the acts[575].

While the first paragraph corresponds to individual criminal responsibility under Article 7(3) of the Statute, the second supports the Trial Chamber's view regarding the concurrent application of Articles 7(3) and 7(1) in cases of subsequent crimes being committed.

339. As stated earlier in this Judgement, in the case of instigation, proof is required of a causal connection between the instigation, which may entail an omission, and the perpetration of the act. In the scenario under discussion, this means it must be proved that the subordinates would not have committed the subsequent crimes if the commander had not failed to punish the earlier ones[576]. However, with respect to the Defence's submission that under Article 7(3) of the Statute proof is required that the commander's omission caused the commission of the crime by the subordinate, the Trial Chamber is of the view that such a causal link may be

---

[574] Prosecutor's Brief, Part XIII, paras. 4.1-4.3.
[575] Cited in the *^elebi}i* Judgement, para. 341 (emphasis added).
[576] The *^elebi}i* Trial Chamber held that such a causal connection is "not only possible but likely" to exist. *^elebi}i* Judgement, para. 400.

considered inherent in the requirement that the superior failed to prevent the crimes which were committed by the subordinate. In other words,

> the superior may be considered to be causally linked to the offences, in that, but for his failure to fulfil his duty to act, the acts of his subordinates would not have been committed[577].

* * *

340. After having set the legal framework for its considerations and established the international nature of the armed conflict in which the crimes covered in the indictment occurred, the Trial Chamber will examine the facts and the responsibility of the accused Tihomir Bla{ki}.

[577] *Ibid.*, para. 399.

III. FACTS AND DISCUSSION

A. The Lašva Valley: May 1992 – January 1993

341. In its discussion of Article 2 of the Statute, the Trial Chamber explained that the armed conflict in question was an international conflict. In that connection, it pointed out that the objectives of the Croatian nationalists in Croatia were clearly shared by many members of the HVO and the Croatian Community of Herceg-Bosna (HZHB): Mate Boban, president of that community, but also Anto Valenta (leader of the HDZ in Vitez and later President of the HDZ for the HZHB), whose nationalistic writings were revealing; Ignac Koštroman (Secretary-General of the HZHB) and Dario Kordic whose speeches inflamed the Bosnian Croats. The example given by the Trial Chamber is from the minutes of a meeting held on 12 November 1991, signed by Mate Boban and Dario Kordic: "the Croatian people in Bosnia and Herzegovina must finally embrace a determined and active policy which will realise our eternal dream – a common Croatian state".

342. Those nationalists could not accept that the Muslims could want to have their own defence. On 10 April 1992, Mate Boban decreed that the Bosnian Territorial Defence (TO), which had been created the day before, was illegal on HZHB territory. The Croatian General Roso confirmed the proscription by an Order of 8 May[578]. On 11 May, Tihomir Blaškic implemented that Order declaring the TO illegal on the territory of the Kiseljak municipality. Tensions continued to increased between May 1992 and January 1993. The Trial Chamber will now set out a brief summary of the important events of the period since they were at the root of the torching of the Lašva Valley in April 1993.

1. The exacerbation in tensions

a) The municipality of Vitez

343. In the municipality of Vitez, as in many others, the rivalries between communities and the struggle for political power started in November 1990 with the election of the members of

[578] P584

the Municipal Assembly[579]. The Croatian Democratic Union party won most of the seats, followed by the SDA, made up mainly of Muslims and the Communist Party. Ivan Santic, a Bosnian-Croat, was elected President of the Assembly, which was responsible, *inter alia*, for the police and for defence. The Municipal Council, an executive body, was chaired by a Muslim, Fuad Kaknjo[580].

344. Tensions increased in November 1991 with the formation of the HZHB. The creation of that institution marked the beginning of the breakdown in inter-ethnic relations in Vitez[581]. Several political and social events, the most important of which are briefly summarised here, demonstrate the HDZ's desire to take progressive political and social control of the town and to initiate a policy of discrimination towards the town's Muslims, whereas an independent Muslim political organisation was being set up in tandem.

345. In March 1992 the last meeting of the Vitez Municipal Assembly took place. A Crisis Committee, officially supervised by the Municipal Assembly, chaired by Ivan Santic and made up of five Croats and five Muslims, was set up in order to cope with the problem of refugees in Vitez[582].

346. In April 1992, the Leader of the HDZ in Vitez, Anto Valenta, told the SDA representatives that they should take their orders from the "Croatian Community of Herceg-Bosna"[583].

347. On 20 May 1992, an ABiH soldier was killed in front of the Vitez Hotel and two others were captured and beaten. Nothing came of Prosecutor Vladomir Miskovic's investigation[584].

348. On 18 June 1992, military formations of the HVO took over the headquarters in Vitez and the Municipal Assembly building and raised the flags of Herceg-Bosna and of Croatia[585].

---

[579] Witness Djidic, PT of 25 July 1997, p. 1036.
[580] Witness Mujezinovic, PT of 20 August 1997, pp. 1631-1633.
[581] Witness Djidic, PT of 25 July 1997, pp. 1037-1038.
[582] Witness Djidic, PT of 28 July 1997, pp. 1164-1165; Witness Mujezinovic, PT of 20 August 1997, pp. 1637-1639.
[583] Witness Mujezinovic, PT of 20 August 1997, pp. 1650-1652.
[584] Witness Mujezinovic, PT of 20 August 1997, pp. 1642-1646.
[585] Witness Mujezinovic, PT of 20 August 1997, pp. 1646-1647. According to the statement of Witness Djidic, "with the formation of the Croatian Community of Herceg-Bosna, the Croats placed flags on all institutions and

349. On 12 July 1992, Muslim political leaders created the Co-ordination Committee for the protection of Muslim interests under the Chairmanship of Fuad Kakjno. That Committee addressed numerous public statements about the daily problems facing Muslims in Vitez to the government of BH, to the HVO and to UNPROFOR[586].

350. On 20 October 1992, the first clashes between Croatian and Muslim forces occurred in Ahmici. Muslim forces sought to block the passage of Croatian troops coming from Busovaca. According to the Defence, these troops were going as reinforcements to the Serbian front in Jajce[587]. The Muslims wanted to stop the Croatian forces for fear that they were in fact going towards Novi Travnik where clashes had broken out between Croatian and Muslim forces[588]. On 19 October 1992, roadblocks were erected on the main road linking Busova~a to Vitez and Travnik[589], especially at Ahmici[590]. One of them had been set up by a unit of twenty or so Muslim soldiers based at Ahmici[591], on the orders of the headquarters of the territorial defence[592].

351. On 20 October 1992, Dario Kordic is alleged to have ordered the Muslims to take down the blocks and threatened to set their village alight[593]if they did not. According to the Witness Abdullah Ahmic, the roadblock was taken down by the Croatian forces as early as 06:30 hours[594] whereas General Bla{kic stated that it was only lifted at 18:00 hours[595]. However, the clashes were not limited to the taking down of the roadblock, as attested to,

---

factories and even private homes, flags which were those of a neighbouring state, that is the Republic of Croatia, that is the national flag, as if no-one else lived in Vitez except the Croats ", PT of 25 July 1997, p. 1039.
[586] Witness Mujezinovic, PT of 20 August 1997, pp. 1654-1660.
[587] That front fell to the Serbs on 28 October 1992 (Witness Blaškic, PT p. 21323).
[588] See especially the report sent by General Bla{kic on 20 October 1992 at 20:07 hours and addressed to Mate Boban, Bruno Stojic and Milivoj Petkovic (P644; Witness Bla{kic, PT pp. 21339-21340). Controlling Novi Travnik was of particular strategic interest because that town had a military factory (the Bratstvo factory) with the necessary equipment for arms production. In accordance with the philosophy of the ex-JNA, each military factory had to have available what was known as "war stocks", which enabled it to be productive for about six months during periods of war (Witness Bla{kic, PT pp. 21318-21319). Clashes had already occurred at Novi Travnik between Muslim forces and Croatian forces in June 1992, with a view to gaining control of a petrol station (Witness Bla{kic, PT pp. 21344-21345). The Serbian front was about ten kilometres from the town of Novi Travnik (Witness Bla{kic, PT pp. 21321-21322).
[589] P647.
[590] Witness Mujezinovic (PT of 21 August 1997 pp. 1743-1744), alleged that the order to put up a roadblock at Ahmici was given orally to Sefkija Djidic by Dzemo Merdan.
[591] Witness HH, PT pp. 6889-6901. This witness, who was of Muslim origin, was a soldier in the HVO from the summer of 1992 to April 1993, after having served in the Croatian Defence Forces under Darko Kraljevic. He was in the Military Police from October 1992 (PT p. 6811).
[592] Witnesses Abdullah Ahmic, PT pp. 2793-2794; Mujezinovic, PT of 21 August 1997 pp. 1743-1744.
[593] Witness Abdullah Ahmic, PT pp. 3800-3801.
[594] Witness Abdullah Ahmic, PT p. 3722.
[595] Witness Bla{kic, PT p. 18012.

inter alia, in the accused's report dated 21 October 1992. That report shows not only that "the barricade in the village of Ahmici, Vitez municipality, was completely destroyed and the Muslim forces were driven out of the village and crushed entirely"[596]. The witness Abdullah Ahmic explained that the HVO had first of all fired on the minaret of the Donji Ahmici mosque after the Muslims had used the mosque to call for the Croats to surrender their arms[597]. It is alleged that the HVO then began an infantry attack on the village, from 08:00 hours to nightfall[598], setting four houses and ten stables[599] alight with incendiary bullets[600]. According to the Witness Abdullah Ahmic, 80% of the village was evacuated and a young boy was killed[601]. General Bla{kic reported that one HVO soldier and one territorial defence soldier were dead and that a few buildings around the roadblock had been burned down.

352. According to the witness HH, the operation was led by Mario ^erkez[602]. According to the accused, however, the action was carried out by the Military Police[603].

353. The consequence of those clashes was the disarming of the Muslim troops stationed in Ahmici[604] and in the surrounding villages. Witnesses Abdullah Ahmic[605] and Casim Ahmic[606] stated that Muslims in the Zume[607] area had been disarmed during the cease-fire negotiations which followed the clashes. Likewise, the witness O testified that the inhabitants of [anti}i had had to surrender their arms to Nenad Santi}, HVO Commander in [anti}i, shortly after the clashes caused by the roadblock[608].

354. General Bla{kic's afore-mentioned report noted that the Muslim troops in Ahmici were entirely disarmed after the attack and the village of Ahmici placed under the exclusive control of the HVO. However, General Bla{kic declared before the Trial Chamber that the

---

[596] P647; witness Bla{kic, PT pp. 21381-21382.
[597] Witness Abdullah Ahmic, PT p. 3722.
[598] Witness Abdullah Ahmic, PT p. 3722.
[599] Witness Abdullah Ahmic, PT p. 3723.
[600] Witness Abdullah Ahmic, PT p. 3722.
[601] By the name of Halid Pezer. Witness Abdullah Ahmic, PT pp. 3723-3724.
[602] PT pp. 6889-6901. The witness testified that he had heard ^erkez give the following order over the radio: "Go forward and do not take prisoners".
[603] Witness Bla{kic, PT p. 18012. According to the *Kupreskic* judgement, the attack was led by HVO forces from outside Ahmici although a few local Croats also took part (para. 162).
[604] See General Bla{kic's report dated 21 October 1992, P647 : "The Muslim forces also surrendered their weapons on their own initiative ... since yesterday, the village is under full control of the HVO" (witness Bla{kic, PT pp. 21381-21382).
[605] Witness Abdullah Ahmic, PT p. 3725.
[606] PT of 1 October 1997, pp. 3130-3131.
[607] Zume is an area of the town of [antici (Witness Djula Djidic, PT p. 4328).
[608] Witnesses O, PT p. 4500; Haris ([antici), PT p. 4004.

HVO had stopped exercising control of the village between 20 and 25 October 1992 as soon as a local cease-fire between the HVO and the ABiH was signed[609]. According to General Bla{kic, a joint municipal committee was then set up[610] and operated until 4 November when the Muslim leaders chose not to participate in it any longer[611].

355. The Trial Chamber considers that the attack on the roadblock at Ahmici on 20 October 1992 was not unlawful and that, given the circumstances, the damage caused to certain dwellings were actions which General Bla{kic could not prevent and which he had not ordered. It considered however that the events were characteristic of increasingly strident nationalistic attitudes and that they led to the Muslim population of Ahmici being disarmed.

356. In November 1992, General Blaškic organised the command structure, transformed the municipal headquarters into brigades and set up the CBOZ's headquarters in the Hotel Vitez[612]. Furthermore, the municipality introduced new taxes, asked members of staff to sign a declaration of allegiance to the new Government, threatening those that did not obey with dismissal[613]. Many Muslims were refused access to public institutions because they had refused to sign the declaration[614] and they were unable to get the *laissez-passer* necessary to drive on the roads that the HVO had taken over[615]. Finally, the Chairman of the Vitez Red Cross (Sead Cajnic) was replaced by a Croat, who forbade the registration of Muslim refugees on his lists. They were sent back to Muslim municipalities[616].

b) The municipality of Busova~a

357. Many significant social and political events also occurred in Busova~a during 1992 and demonstrated the HVO authorities' resolve to take over all the powers of the municipality and to exclude Muslims from them.

---

[609] Witness Bla{kic, PT p. 21390.
[610] Witness Bla{kic, PT p. 18012.
[611] Witness Bla{kic, PT pp. 21390-21391.
[612] Witness Bla{kic, PT pp. 18060-18061.
[613] Witness Mujezinovic, PT of 20 August 1997, pp. 1661-1662.
[614] P406/45.
[615] Witness Mujezinovic, PT of 20 August 1997, pp. 1662-1663.
[616] P456/95.

358. At the celebrations for the first year of Croatian independence, which were held on 16 January 1992 at the Town Hall in Busova~a[617], influential members of the HDZ, including Dario Kordic, Vice-President of the HZHB and Ignac Koštroman, General-Secretary of the HZHB, made extremely nationalistic speeches[618], which were evidence of their ambitions at the time: they publicly expressed their wish to see the creation of a sovereign Bosnian-Croatian State and for that State to be attached to Croatia[619].

359. On 10 May 1992, Dario Kordic and Ivo Brnada, Commander of the HVO municipal headquarters took the following decisions[620]:

- to revoke the arms distribution agreement[621] which had been concluded with the Territorial Defence[622];

- to seize "all weapons, equipment, material as well as the barracks"[623];

- to issue an ultimatum to all military units calling on them to surrender their weapons and "to place themselves under HVO command"[624];

- to issue a decree mobilising all Croatian military forces[625];

- to impose a general curfew[626];

- to seize the "Public Security Section" and to create the "Busova~a Police Station"[627];

- to make the HVO Military Police exclusively responsible for the maintenance of law and order[628];

---

[617] Witness FF, PT pp. 6119-6120.
[618] P234. According to Witness FF, "that event was celebrated in the presence of a large number of HDZ members from the entire La{va region, from virtually all the villages, Kresevo, Kiseljak, Busova~a, Vitez, Novi Travnik, Travnik, Vareš, and so on" (PT pp. 6120-6121) (See also PT pp. 6147-6155).
[619] P234/2.
[620] Witness FF spoke of a putsch or military coup d' état after the HVO had seized the barracks and the weapons (PT p. 6131).
[621] Witness T, PT p. 5763.
[622] P208, para. 1.
[623] P208.
[624] P208, para. 3.
[625] P208, para. 7.
[626] P208, para. 10.
[627] P208, para. 8.

- to take control of "the PTT building"[629];

- to prohibit "the passage [of] all carriers passing of through the territory of our municipality"[630];

- and finally, to dissolve the "Municipal crisis committee" and to confer its powers on the HVO[631].

360. Then, by a decree dated 22 May 1992, Dario Kordic and Florian Glavocevic, President of the HVO Command in Busova~a, gave the HVO general administrative powers over the municipality. They provided that:

> The internal organisation and the responsibilities of the government bodies of the (Busova~a) Municipal Assembly will be *regulated by a special order* by the (Busova~a) HVO Municipal Command [...][632].

They also decreed that:

> because the HVO of the Busova~a municipality is leading the whole organisation of life and defence of Busova~a, the Busova~a Municipal Assembly, Busova~a Municipal Executive Council and the Busova~a Municipal Crisis Command will not do their duties any more, nor will they make any decisions, until the conditions are improved[633].

361. After those two decrees had been adopted, tension considerably increased between the Croatian and Muslim communities during the remainder of 1992 and their relations deteriorated:

- legal power holding organs were abolished[634];

- Muslims were progressively excluded from all structures with any powers[635];

---

[628] P208.
[629] P208, para. 15.
[630] P208, para. 13.
[631] P208, para. 11. According to witness FF, after this decree was signed, "a curfew [for three days], ban on movement for all citizens, whether Bosniak or Croat in the city of Busova~a" (PT p. 6133).
[632] P209 (emphasis added).
[633] P209 (emphasis added).
[634] Witness T, PT pp. 5764-5765; Witness FF, PT pp. 6134-6136.
[635] Witness FF, PT p. 6191.

- the HVO seized the television broadcasting station at Skradno and created its own local radio and television[636];

- the HVO seized the town hall, the post office, the police, the post and telecommunications[637] buildings and those of the other public institutions[638];

- the HVO set up roadblocks on all major roads and controlled movement of persons and goods going through the municipality[639];

- the Croatian flag was raised over, *inter alia*, the police station, the town hall and the post and telecommunications building[640];

- the Muslims were forced to sign an act of allegiance to the HVO in order to be allowed to work[641];

- the Croatian Dinar was imposed as the unit of currency[642];

- an increasing number of armed Croatian soldiers[643] wearing military uniform were see moving about the streets of Busova~a[644];

- there were numerous attacks on businesses and shops belonging to Muslims[645];

- and finally, Muslims gradually left the area fearing that they would be the victims of crimes[646].

---

[636] Witness FF, PT p. 6134, p. 6161.
[637] Witness FF, PT p. 6161.
[638] Witness FF, PT p. 6162.
[639] Witness FF, PT p. 6134, p. 6161.
[640] P237/1-237/3; witness FF, PT p. 6142; witness T, PT pp. 5764-5765.
[641] Witness FF, PT p. 6137, p. 6159.
[642] Witness FF, PT pp. 6142-6143. Telephone bills were expressed in Croatian Dinars.
[643] Witness FF, PT p. 6163. According to witness FF, HVO soldiers confiscated weapons during the checks they carried out at roadblocks.
[644] Witness FF, PT p. 6163.
[645] Witness T, PT pp. 5766-5767, 5787-5788.
[646] Witness T, PT pp. 5766-5767.

c) The municipality of Kiseljak

362. As in the municipalities of Vitez and Busova~a, several incidents occurred in Kiseljak in the period from April to November 1992 that demonstrated the HVO authorities' resolve to take political and military control of the Kiseljak municipality.

363. Many events showed that during 1992 the local HVO authorities seized the civil, political and military powers in the municipality progressively and with increasing violence.

364. The most significant event during that period was the creation, on 21 April 1992, of a crisis staff in which Croatians had an absolute majority[647]. It took over the powers of the Municipal Assembly although under the constitution of Bosnia-Herzegovina, only the Municipal Assembly is entitled to exercise those powers[648]. That crisis staff, which was at the root of many discriminatory measures taken against the Muslim authorities and population, took the following significant decisions:

- on 23 April 1992, it set up the HVO Headquarters in the municipality of Kiseljak, of which General Blaškic was appointed head also on that day[649];

- on 27 April 1992, it assigned the Kiseljak barracks, which had hitherto belonged to the JNA[650], to the HVO[651];

- on 12 May 1992, it ordered that all the "manpower, material assets and technical equipment of the reserve structure of the Public Security Station" be made available to the HVO[652];

- on 25 May 1992, it cancelled "the giro account of the Municipal TO /Teritorial Defence/ Staff and nullifie[d] the use of the seal of this body"[653];

[647] Witness MM, PT p. 8087.
[648] Witness MM, PT p. 8087.
[649] P314, witness MM, PT pp. 8115-8116.
[650] Witness MM, PT p. 8090; witness KK, PT pp. 7917-7918.
[651] P315.
[652] P318, witness MM, PT pp. 8116-8117.
[653] P319, witness MM, PT pp. 8099-8100.

- on 25 May and 1 June 1992, it requisitioned the quarters of the former JNA for the benefit of HVO officers[654], including Tihomir Blaškic[655], Ivica Rajic[656] and Mato Lu~ic[657];

- on 15 June 1992, it imposed the Croatian Dinar "on the territory of the Kiseljak municipality as the currency of account [...]"[658] and ordered that "all commercial service companies [were] obliged to display the prices of products and services in CRO (Croatian) Dinars"[659], and finally

- on 25 June 1992, the crisis staff unilaterally renamed the "Executive Committee of the Kiseljak Municipal Assembly" the "Croatian Defence Council of Kiseljak", made up exclusively of Croatian representatives[660].

365. Other incidents occurred during that period and should also be pointed out by the Trial Chamber because of their discriminatory impact on the Muslim population of the region:

- the municipal authorities raised the Croatian flag over the town hall and the police station as soon as they had seized them[661];

- the authorities imposed Croatian as the language to be used in schools[662];

- the HVO took over most of the roadblocks in the area[663] and the Croats appropriated part of the humanitarian aid destined for Muslims, in particular those in the enclave of Tuzla[664];

- the Croatian authorities made it a requirement for Muslims wishing to cross these roadblocks to obtain a *laissez-passer* beforehand[665];

---

[654] Witness MM, PT pp. 8101-8102, pp. 8117-8118, pp. 8147-8148, pp. 8149-8150.
[655] P321.
[656] P322.
[657] P320.
[658] P323; witness LL, PT pp. 8010-8011; witness MM, PT pp. 8101-8102.
[659] P324; witness KK, PT p. 7912; witness MM, PT p. 8120.
[660] P325; witness MM, PT p. 8120.
[661] Witness KK, PT pp. 7917-7918; witness LL, PT pp. 8010-8011; witness MM, PT pp. 8106-8107.
[662] Witness KK, PT p. 7913; witness LL, PT pp. 8010-8011.
[663] Witness KK, PT pp. 7908-7909; witness MM, PT pp. 8147-8148.
[664] Witness KK, PT pp. 7917-7918.
[665] Witness MM, PT pp. 8147-8148.

- the HVO appropriated a large part of the weapons which had been in the Kiseljak barracks[666], despite the decree dated 6 May 1992 issued by the Municipal Crisis Staff which provided that "those weapons [should] be distributed proportionally between ethnic groups"[667];

- the HVO gradually excluded the Muslim authorities from power at the local level[668];

- the Croatian authorities took over the Kiseljak schools, public enterprises[669], Post Office, the medical centre and the police station[670];

- the HVO appropriated Muslim business premises[671];

- the authorities created a radio station which broadcast nationalist propaganda[672];

- HVO soldiers moved about in military uniform in the municipality and intimidated the Muslim population;

- members of the police force in the Kiseljak municipality were forced to wear the Croatian crest on their uniform[673] as from April 1992;

- General Blaškic expelled the Territorial Defence from the former JNA buildings on 14 May 1992[674];

- at the beginning of August 1992 the HVO arrested Sead Sinanbašic, the Commander of the Territorial Defence in Kiseljak, and detained him for several weeks in the Busova~a prison[675];

---

[666] Witness MM, PT p. 8096.
[667] P317.
[668] Witness MM, PT pp. 8103-8104.
[669] Witness KK, PT p. 7912.
[670] Witness KK, PT pp. 7916-7918.
[671] P541.
[672] Witness LL, PT pp. 8010-8011 and witness Morsink, PT pp. 9830-9848. According to the testimony of witness Liebert, "[...] radio Kiseljak played a very active role in terms of propaganda for the HVO or HDZ, the Bosnian Croat forces" (PT p. 8757).
[673] Witness WW, PT pp. 9683-9684.
[674] P631.
[675] Witness MM, PT p. 8130.

- during the month of August 1992 the HVO launched attacks on the villages of Duhri[676], Potkraj[677], Radanovi}i and Topole[678] and these attacks involved more violent incidents, including setting fire to homes where Muslims lived and vandalising their businesses[679];

- many Muslim civilians who feared attack started to leave the Kiseljak enclave as from the summer of 1992[680].

d) Conclusions

366. In sum, during 1992 discriminatory acts were regularly carried out against the Muslim authorities of Vitez, Busova~a and Kiseljak and against the Muslim population of those municipalities. Those acts sought to exclude those Muslim authorities from civil, political and military functions for the benefit of HVO representatives. They made life so onerous for Muslim civilians at that point that many of them decided to leave the area and to move to other municipalities where they were in the majority. Those who chose, despite everything, to remain in those municipalities had to accept that they would be subject to persecution by a political and military regime[681] increasingly hostile to them.

367. In those three municipalities, tensions increased between Muslim and Croatian populations, with incidents breaking out especially when one party thought it could gain a tactical or strategic advantage: control of a village, a town, former military warehouses or a road. Provocation and incidents increased, such as raising a Croatian flag over public buildings or the abduction of officers of Croatian origin. The first acts of destruction of mosques and Muslim houses, the first murders of civilians and the first acts of pillage occurred. On a small territory, groups of refugees, some Croatian but most Muslims, forced

[676] Witness FF, PT p. 6170.
[677] Witness MM, PT p. 8143.
[678] Witness MM, PT pp. 8136-8137, pp. 8137-8138, pp. 8207-8209.
[679] Witness Christie, PT p. 7853; witness LL, PT pp. 8013-8014.
[680] The Trial Chamber noted moreover that the HVO appropriated the commercial premises of Kiseljak on 25 February 1993 (P451).
[681] Witness KK, PT p. 7912. According to the witness: "[...] as far as the political situation in Kiseljak is concerned, in my opinion, the political leadership of the HDZ as well as the military leadership was one and the same. To me [...] they were the same [...]".

to leave their homes by Serbian forces, were joined by internal movements of displaced Muslim populations forced from their dwellings by the Croats.

2. The Vance-Owen Plan and the January 1993 conflicts

a) The Vance-Owen Plan

368. Those were the conditions in which the Vance-Owen Plan was presented, on 2 January 1993, at the first plenary session of the Bosnian parties, summoned to Geneva by the International Conference for the former Yugoslavia. That peace plan proposed, *inter alia*, a decentralised Bosnia-Herzegovina, organised into ten provinces, each one substantially autonomous and administered by a democratically elected local government. According to the explanation given by one of the Trial Chamber's witnesses, the whole logic of the plan was one of power-sharing with predominance of one nationality in certain zones but not without denying the other nationalities. Power was to be exercised with respect for minorities. That witness also testified that the plan could only be implemented if the parties co-operated perfectly, since they would both have to make concessions as regards not only the territory over which they had nominal control, but also government of their population and the setting up of their administration.

369. According to the Vance-Owen Plan, the Lašva valley would largely be in Province 10, and the rest (Southern part of the Kiseljak municipality) in Province 7 (Sarajevo). Province 8 (Mostar) extended from Bosnia-Herzegovina's Southern border with Croatia to Prozor and Konic in the North. The Plan assigned the main responsibilities in Provinces 8 and 10 to the Croats and in Province 7 to the Muslims. In the minds of Croatian nationalists, and in particular of Mate Boban, this meant that Province 10 was Croatian. However, he believed that lands, which were historically Croatian, would end up in Province 7 and thus would be lost to them. He considered it necessary to ensure Croatian domination in the regions in question.

370. The Croats, and in particular the Bosnian-Croats, provoked an open conflict between Croats and Muslims in central Bosnia by anticipating the implementation of the Vance-Owen Plan then by wanting to implement it unilaterally.

b) The January 1993 conflicts

371. The first violent clashes broke out in January 1993. On 15 January, Bruno Stojic, Head of the HZHB Defence Department, called for the ABiH forces to surrender to the authority of the HVO in Bosnian Provinces 3,8 and 10 or to leave these territories before 19:00 hours on 20 January[682]. Paragraph 3 of the ultimatum also provided that:

> unit members of the HVO Armed Forces and BH army [...] who refuse to leave the region and acknowledge the superior command shall be regarded as members of paramilitary units and shall be disarmed and arrested.

372. In the face of the Muslim forces' refusal to obey the ultimatum, Croatian forces embarked on a series of actions intended to implement the "Croatisation" of the territories by force. The Muslim community was subjected to of an increasing number of acts of aggression: ill treatment, plunder, confiscation, intrusion into private homes, beatings, thefts, arrests, torching of homes and murder of prominent Muslims[683]. Hundreds of Muslims were arrested and many were imprisoned in Kaonik in the former JNA warehouses. Many were beaten. Most of them were forced to dig trenches, often in inhumane conditions, exposed to enemy fire, beaten or even killed, and sometimes serving as a human shield.

373. Tensions were high. The British Battalion military information summary of 16 January 1993 recorded the presence in the region of "extremists on [both the Muslim and Croat] sides, who do not appear to be under the control of their respective commanders"[684], who made the situation worse.

374. Following the Muslim army commanders' refusal to obey the ultimatum, HVO forces launched an attack on the town of Busova~a during the night of 20 to 21 January[685].

375. Indeed, by order of 16 January 1993, General Blaškic placed all troops on the highest state of alert, in particular those of the HVO, the Vitezovi Unit and the Military Police Fourth

---

[682] P658. See also P657, P659.
[683] Witness Pezer, PT of 19 August 1997, p. 1576; witness Mujezinovic, PT of 20 August 1997, pp. 1678-1679.
[684] P663.
[685] P671. According to witness T, the purpose of the offensive was to take control of the positions of the army of Bosnia-Herzegovina (PT pp. 5789-5790).

Battalion and called upon them to prepare for battle[686]. Three days later, on 19 January, soldiers from the Vitezovi Unit were placed under his command by General Petkovic[687], and with the help of the Ludvig Pavlovic Brigade, they carried out reconnaissance operations on troop movements of the army of Bosnia-Herzegovina[688]. The following evening, and further to the ABiH authorities' refusal to obey Bruno Stojic's ultimatum, on the orders of Bozo Raji}[689], the HZHB Defence Minister, the HVO launched attacks against Muslims in the Busova~a region, attacks which, as we have already stated, were at the root of torching of businesses and private homes. Croatian forces fired on eight businesses belonging to Muslims and damaged them using explosives, including grenades[690]. These forces also looted private Muslim homes[691] and killed a soldier of the Territorial Defence[692]. Subsequently, according to the report drawn up by Major Vinac, Deputy Commander of the Vitezovi, a battalion of fifteen soldiers from that unit was sent to the Busova~a zone on 26 January 1993[693]. The report also stated that that battalion was still there on 9 February 1993[694].

376. According to the British Battalion's report of 21 January 1993, this was "a pre-planned, co-ordinated attack on the Muslim population"[695]. That report also stated that roadblocks had been set up at each end of the town, on 20 January between 20:00 hours and 21:00 hours[696]. The telephone lines were also cut a few hours before the start of the offensives[697].

377. Other attacks followed. On 24 January 1993, the HVO set fire to around 19 Muslim houses in Busova~a and forced out their inhabitants[698]. It kept some of them in Kaonik prison[699]. On 25 January 1993, Croatian forces[700] shelled the Grablje and Merdani villages[701],

---

[686] P456/6.
[687] P666.
[688] D250.
[689] Witness T, PT pp. 5766-5768.
[690] P238, P669 and witness FF, PT p. 6139.
[691] P671; witness FF, PT p. 6174.
[692] P671; witness FF, PT p. 6139.
[693] D250.
[694] D250.
[695] P669.
[696] P669.
[697] Witness T, PT pp. 5768-5769.
[698] Witness T, PT pp. 5769-5771.
[699] Witness T, PT pp. 5770-5771.
[700] Witness FF, PT p. 6176.
[701] Witness FF, PT p. 6144, p. 6175.

which caused many civilians to flee[702]. Those two villages were however defended by ABiH units from Visoko and Maglaj[703] and Muslim artillery pounded Busova~a from Grablje[704].

378. Even if the HZHB Ministry of Defence did order the attacks, the accused was directly responsible for their implementation, because he was the commander in charge of the units deployed on the ground at the time of the criminal acts.

379. It should be noted that at the same time, similar incidents were occurring in the municipality of Gornji Vakuf. On 17 January 1993, @ivko Toti}, local commander of the HVO, ordered the ABiH commander to place himself under the authority of the HVO[705]. Following the refusal to carry out that order, the HVO launched attacks against the army of Bosnia-Herzegovina[706] on 19 January 1993 at 00:30 hours and set fire to several Muslim villages in the area[707]. According to Major Short who personally went to these places after the attacks:

> it became apparent to me that a number of villages had been reduced to ashes and in one particular area had actually been blown up using military explosives[708].

Despite Mate Boban's order to stop fighting on 19 January 1993, hostilities continued until 27 January 1993[709].

c) Conclusions

380. Throughout the period from January to April 1993, the Muslim population would continue to be subjected to increasing persecution from the Croatian political and military authorities. Many civilians left the area to go to Kacuni or Zenica. According to Witness FF's account,

> things became more and more complicated, and practically, factually speaking, we became two different sides, even though there was no conflict between us yet, but the HVO worked independently on their own, organised their life and the Bosniaks on the

[702] Witness FF, PT p. 6176.
[703] Witness FF, PT p. 6203.
[704] P671.
[705] Witness Short, PT p. 24239.
[706] Witness Short, PT pp. 24239-24240.
[707] Witness Short, PT p. 24240.
[708] Witness Short, PT pp. 24240-24241.
[709] P591.

> other side organised themselves and prepared for defence on their own and they did this in the area of Kacuni which is also a part of the Busova~a municipality[710] [...] As a result of all these events, the Bosniak people as such were *totally negated, there was a ban on assembly, they were thrown out of work, their nationhood was completely denied and what was considered to be the highest value was belonging to the Croatian people,* whereby all the values of the individual were denied[711].

381. There were considerable efforts made by the ECMM and UNPROFOR first of all to try to get prisoners released and secondly to contain the conflict. A joint Committee was appointed in Busova~a on 13 February.

382. On 27 January 1993, General Blaškic gave an order that firing should cease within 24 hours[712]. The same day, he received a report from Franjo Nakic, Chief-of-Staff, summarising the situation[713]. That report announced however that there would be future conflicts in Vitez, in Busova~a or in Kiseljak. It was noteworthy in that it used expressions like "to create feelings of insecurity and fear on the enemy side" and especially "the enemy regrouped their forces and entered *our* villages"[714] or "our forces disarmed the villages of *Strane and Skradno where 100 rifles were captured*"[715]. A relatively calm situation prevailed until April 1993.

383. Still the report predicted that the conflict would explode in April 1993 and the following months. The Trial Chamber will now examine the conflict municipality by municipality and will look separately at the questions concerning the detention of Muslims by Croatian forces.

B. The municipality of Vitez

1. Ahmici , Šanti}i , Pirici, Nadioci

384. The villages of Ahmici, Šanti}i, Pirici, Nadioci, situated about 4 to 5 kilometres from the town of Vitez[716], belong to the municipality of Vitez. According to the last official census taken in 1991, the municipality had 27 859 inhabitants, made up of 45.5% Croats, 5.4%

---

[710] Witness FF, PT p. 6137.
[711] Witness FF, PT p. 6143 (emphasis added).
[712] P456/8 and D348.
[713] D408. Franjo Nakic was also General Blaškic's representative at the Joint Committee in Busova~a.
[714] D408 (emphasis added).
[715] D408, emphasis in original text.
[716] P706. For the exact distances between the Hotel Vitez and these villages, see also P79.

Serbs, 41.3% Muslims and 2.8% other nationalities[717]. These villages are about 1000 meters away from each other and their total population was about 2 000 inhabitants[718]. Šantici, the biggest of the villages, had a population of about 1 000 inhabitants, the majority of whom were Croats[719], whereas Pirici, the smallest of the villages, was a mere hamlet with a mixed population[720]. Nadioci was also a village with a substantial majority of Croats[721]. Ahmici had about 500 inhabitants[722], of whom about 90% were Muslims[723], which meant 200 Muslim houses and fifteen or so Croat ones[724].

385. On Friday 16 April 1993 at 05:30 hours[725], Croatian forces simultaneously attacked Vitez, Stari Vitez, Ahmici, Nadioci, Šantici, Pirici, Novaci, Puti{[726] and Donja Ve~eriska. General Blaškic spoke of 20 to 22 sites of simultaneous combat all along the road linking Travnik, Vitez and Busova~a[727]. The Trial Chamber found that this was a planned attack against the Muslim civilian population.

a) A planned attack with substantial assets

i) An organised attack

386. Several factors proved, beyond a doubt, that the 16 April attack was planned and organised.

387. The Trial Chamber notes, first of all, that the attack was preceded by several political declarations announcing that a conflict between Croatian forces and Muslim forces was imminent. Mate Boban issued an ultimatum requiring the troops of the Bosnian army on the

---

[717] P46; P193; witness Kajmovic, PT pp. 5647-5648.
[718] 2173 inhabitants according to the 1991 census, of whom 32% were Muslims and 62% were Croats (same finding as in the *Kupreskic* judgement, para. 149).
[719] According to the 1991 census (P46), 782 inhabitants out of 1 008 were Croats.
[720] According to the 1991 census (P46), the hamlet of Pirici had 225 inhabitants of whom 110 were Muslim and 98 were Croats.
[721] According to the 1991 census (P46), out of 474 inhabitants recorded in the census as living in Nadioci, 386 were Croats and 42 were Muslims (P46).
[722] 466 inhabitants recorded in the 1991 census (P46).
[723] Report of the Commission on Human Rights, P184, p. 5, para. 13. According to witness Kajmovic, Ahmici had a population of 508 Bosnians in 1991 (PT pp. 5680-5681).
[724] P184, p. 7, para. 20.
[725] All the witnesses agree about the time the attack began.
[726] This village was not mentioned in the indictment.
[727] Witness Blaškic, PT pp. 22052 and 22939-22940.

territories of provinces 8 and 10 under the Vance-Owen Plan, to surrender their weapons or to leave these territories[728]. Witness Mujezinovic alleged that in early March 1993, Dario Kordic had stated on television that the "Muslims would disappear from Bosnia"[729]. Several witnesses who lived in the area at the material time moreover reported that the accused and Dario Kordic had declared during the course of a television interview broadcast on 15 April 1993, that "their soldiers" stationed in the bungalow at Nadioci had been attacked by Muslim forces and that consequently the negotiations with the Muslims had to be broken off since only war could resolve the matter[730].

388. The declarations were made together with orders issued by the political authorities to the Croatian population in Herceg-Bosna. In particular, on 14 April, Anto Valenta ordered the Croatian officials in the of municipalities in central Bosnia to impose a curfew from 21:00 hours to 06:00 hours and to close the schools until 19 April[731].

389. The evidence showed moreover that the Croatian inhabitants of those villages were warned of the attack and that some of them were involved in preparing it. Several witnesses, who lived in Ahmici at the material time, testified that Croatian women and children had been evacuated on the eve of the fighting[732]. The witness Fatima Ahmic furthermore stated that a Croatian neighbour had informed her that the Croatian men were holding regular meetings and preparing to "cleanse Muslim people from Ahmici"[733]. Witness S testified that the same thing happened in Nadioci: several Croatian families were said to have left the village several days before the attack and a Croatian neighbour is alleged to have advised the witness to hide[734]. The witness Abdullah Ahmic stated that an "enormous" rally of Croats from Ahmici and the neighbouring villages had taken place on Sunday 11 April 1993[735]. Witness M gave evidence of having seen that many armed soldiers in uniform had gathered

---

[728] PT p. 21765. The municipality of Vitez was situated in Province no. 10. Other earlier speeches also implied that this might happen. See in particular P679, a summary of an interview given by Dario Kordic on 13 March 1993, in which he sent the following warning to the Muslim population: "If you attack other municipalities, not only [will there] be no Bosnia–Herzegovina, but there will be no Muslims left".
[729] Witness Mujezinovic, PT of 20 August 1997, p. 1654.
[730] Witnesses Fatima Ahmic, PT pp. 3941-3945 and 3977-3980; Nura Pezer, PT pp. 3883-3884; Sefik Pezer, PT of 20 August 1997 pp. 1557-1558; Haris Hrnjic, PT pp. 4006-4007; M, PT pp. 4416-4417; O, PT p. 4517.
[731] P687.
[732] Witnesses Elvir Ahmic (Ahmici), PT pp. 3245-3246, 3296; Zec, PT pp. 4274-4276, 4320. According to these two witnesses, Croatian children did not go to school on 15 April and the women and children had been taken out of the village by the Croatian men who then returned to the village.
[733] Witness Fatima Ahmic, PT pp. 3987-3988.
[734] Witness S, PT pp. 4878-4879.
[735] Witness Abdullah Ahmic, PT pp. 3806-3807.

in the house of Ivica Kupreskic the day before the attack[736]. Witness HH stated that the D`okeri stationed in the Nadioci bungalow[737] spoke of an attack on Ahmici long before it had actually occurred. They were even alleged to have advised the witness to warn his friends or his family living in Ahmici to leave the village[738].

390. The method of attack also displayed a high level of preparation. Colonel Stewart stated that he had received many reports indicating an increased presence of HVO troops shortly before the events[739]. The witness Sefik Pezer also said that on the evening of 15 April he had noticed unusual HVO troop movements[740]. On the morning of 16 April, the main roads[741] were blocked by HVO troops[742]. According to several international observers, the attack occurred from three sides and was designed to force the fleeing population towards the south where elite marksmen, with particularly sophisticated weapons[743], shot those escaping[744]. Other troops, organised in small groups of about five to ten soldiers, went from house to house setting fire and killing[745]. It would seem that a hundred or so soldiers took part in the operation[746]. According to the witness Thomas, the attacks in the built-up areas, such as those carried out in the Ahmici area were "operations [were] planned in minute detail"[747]. According to Colonel Stewart, the attacks on the villages of Ahmici, Šantici, Pirici and Nadioci needed about half a day's planning[748]. The attack was carried out in a morning[749].

---

[736] Witness M, PT pp. 4400-4401 and P147 no. 1.
[737] The bungalow was also known as the "Swiss chalet".
[738] Witness HH, PT p. 6858.
[739] Witness Stewart, PT p. 23756. That finding was corroborated by witnesses Landry (PT pp. 7508-7509) and Baggesen (PT of 22 August 1997 pp. 1918-1919).
[740] Witness Sefik Pezer, PT of 19 August 1997 pp. 1555-1556.
[741] This refers to two roads, one a mountain road and the other the road through the valley.
[742] Witnesses Landry, PT pp. 7508-7509 and Stewart, PT p. 23860.
[743] See especially the photographs of the rifles used by the hidden marksmen, P82/Z2/469 and p82/Z2/470.
[744] Witnesses Watters, PT pp. 3440-3441; Stewart PT p. 23589; Commission on Human Rights report, P184, para. 15, p. 4.
[745] P184, para. 15, p. 5.
[746] Witnesses Zec, PT p. 4296 (the witness stated that he had a hundred or so soldiers in Ahmici on 16 April); Akhavan, P184 para. 23 p. 6 ("At least 50 and possibly up to 150 soldiers are reported to have been involved in the operation, according to the testimonies gathered"); Stewart, PT p. 23773 (the witness estimated at between 40 and 70 the number of soldiers who took part in the Ahmici massacre). The Defence did not challenge that estimate (Defence Brief, book VI, p. 304).
[747] Witness Thomas, PT of 24 September 1997 p. 2688.
[748] Witness Stewart, PT p. 23861.
[749] Witness Blaškic, PT pp. 19155-19156.

391. All the international observers, military experts for the most part, who went to the site after the attack had occurred, stated without hesitation that such an operation could only be planned at a high level of the military hierarchy[750].

392. The accused himself also consistently expressed that view. Both in the statements he made shortly after the attack in April 1993 and before the Trial Chamber, General Blaškic expressed his conviction that this was "an organised, systematic and planned crime"[751].

393. Like Trial Chamber II in the *Kupreskic* case[752], the Trial Chamber therefore finds, and this finding is not open to challenge and was indeed unchallenged, that the attack carried out on Ahmici, Nadioci, Šanti}i and Piri}i was planned at a high level of the military hierarchy.

ii) The troops involved

394. According to the Prosecution, those participating in the attack were not only the Military Police Fourth Battalion and in particular the D`okeri stationed at the bungalow in Nadioci, but also the Vitezovi, the *Viteška* brigade of the municipality of Vitez, the Nikola Šubic Zrinski brigade of Busova~a, together with Domobrani units (units set up in each village in accordance with a decision from Mostar dated 8 February 1993[753]) stationed at Ahmici, Šantici, Pirici and Nadioci[754].

395. According to the accused, the Military Police Fourth Battalion and its special unit, the D`okeri, carried out the attack[755]. The Defence specifically maintained that no regular unit of the central Bosnia operational zone took part in the fighting[756].

396. The Trial Chamber notes that many witnesses mentioned the presence of soldiers in camouflage uniform or dressed in black. Their faces were painted and they had sophisticated

---

[750] Witnesses Watters, PT p. 3633; Akhavan, PT pp. 5291 and 5367-5368; Thomas, PT pp. 2429-2430; Morsink, PT pp. 9877-9879; Macleod, P242, "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993" Annex J; Baggesen, PT of 22 August 1997 pp. 1893-1894 and PT of 25 August 1997 pp. 1934-1935 and 2126-2131 (the witness considered that the attack was planned at a level higher than brigade level); Ellis, PT of 30 August 1997 pp. 3112-3113 (the witness based his opinion in particular on the fact that the restocking of ammunition required a logistical chain which had to have been prepared in advance); Parrott, PT pp. 5032-5033.
[751] Witness Blaškic, PT p. 19029; see also pp. 19155-19156 and 22020 (cross-examination).
[752] *Kupre{kic* Judgement, para. 761.
[753] P769 (signed by General Milivoj Petkovic).
[754] Prosecutor's Brief, book VI, pp. 47-48.
[755] Witness Blaškic, PT pp. 18609-18610.

equipment[757]. According to several witnesses, the black uniform had been that of the "Ustasha" during the Second World War[758]. It was worn by the D`okeri, an anti-terrorist squad with twenty or so members[759], created in January 1993, from within the Military Police on the order of Zvonko Vokovic[760], and whose mission was to carry out special assignments such as sabotage or ant-terrorist operations[761]. Other witnesses also noticed that some soldiers wore white belts which were a distinctive feature of the HVO Military Police[762].

397. The evidence given however proved that the Military Police was not the only unit involved in the actions. The Vitezovi, special HVO unit created on 10 September 1992[763] and placed under Dario Kraljevic's authority also wore black uniforms[764] and several witnesses stated that they recognized their emblem on the uniform of some of the soldiers[765]. According to a few witnesses, HVO soldiers themselves sometimes wore black[766]. The witness Ellis stated that the accused sometimes wore that uniform himself[767]. Owing to the apparent confusion displayed by some witnesses and stemming from the fact that different troops wore similar uniforms, the Trial Chamber was unable to conclude with certainty that the Vitezovi participated in the operations on these villages. The Trial Chamber notes in this connection that the *Kupreskic* Trial Chamber did not make a finding that the Vitezovi were present during the attack on Ahmici. Many witnesses also referred to soldiers in camouflage uniforms being present[768], wearing the HVO insignia[769] and some even claimed to have seen soldiers

---

[756] Defence Brief, book VI, p. 303.
[757] Witnesses Nura Pezer, PT p. 3888; Haris Hrnjic, PT pp. 4011-4012; G, PT pp. 3854-3856; H, PT pp. 3912 and 3921-3922; I, PT p. 4040-4041; M, PT pp. 4405-4408; Djula Djidic, PT pp. 4332-4334.
[758] Witnesses Abdullah Ahmic, PT pp. 3747-3748; R, PT pp. 4923-4924, 5001-5002.
[759] Witnesses Marin, PT p. 12898; HH, PT p. 6833.
[760] P481; witness HH, PT p. 6854. Zvonko Vukovic was replaced by Paško Ljubicic on 18 January 1993 (P457/1A/46).
[761] Witness HH, PT pp. 6856-6857.
[762] Witnesses Parrott, PT p. 5021; Abdullah Ahmic, PT pp. 3734-3736; J, PT p. 4082; Elvir Ahmic, PT p. 3260-3261.
[763] D250; witness Marin, PT p. 12186.
[764] Witness Zec did however testify that the Vitezovis' commander, Dario Kraljevic, wore a camouflage uniform with HVO insignia (PT of 26 September 1997 p. 2803).
[765] Witnesses Zec, PT pp. 4293-4294; F, PT pp. 3662-3663 and Abdullah Ahmic, PT pp. 3823-3825, although he was not entirely sure. The *Kupre{kic* Trial Chamber did not hold that there had been Vitezovi present.
[766] Witness G (PT pp. 3855-3856) specified that the soldiers in black uniforms wore the emblems of the D`okeri, the Vitezovi and the HVO on their shirts.
[767] Witness Ellis, PT of 30 September 1997 pp. 3115-3116. See also photographs P88/Z2/446 and 447.
[768] Witnesses I, PT pp. 4040-4041; J (Zume), PT pp. 4080-4082; M, PT pp. 4405-4406; Fatima Ahmic, PT pp. 3948-3949; O, PT p. 4505.
[769] Witnesses Zec, PT pp. 4293-4324; Elvir Ahmic, PT pp. 3254-3255; G, PT pp. 3855-3856; Abdullah Ahmic, PT p. 3750; M, PT pp. 4405-4406; S (Nadioci), PT pp. 4881-4882 (he described camouflage uniforms with the emblem of a red and black checkerboard characteristic of the HVO; he also noted the presence of "U" insignia); J (Zume), PT p. 4071; F, PT p. 3666; Hrnjic (Šantici), PT pp. 4010-4017; Djula Djidic (Šantici), PT pp. 4331-4333.

wearing the emblem of the HV[770]. Exhibit D245 showed that on 14 April, 20 members of the *Viteška* brigade of the HVO were stationed in Nadioci, 12 in Šantici and 19 in Dubravica. Those soldiers were part of the first company of the first battalion of the *Viteška* brigade and were under the command of Slavko Papic. Several certificates, issued by the HVO, certified that on the day of the attack soldiers who were members of that brigade were wounded in the sector in the exercise of their duties[771]. Witness Parrott, who was then a sergeant with the Cheshire Regiment, went on a Warrior to the Ahmici area and saw HVO soldiers recognisable by their emblems and badges. They wore either a very dark green uniform or black fatigues and had small arms (assault rifles or similar weapons)[772]. Finally, other witnesses noticed emblems depicting an oak leaf[773].

398. Several Croatian inhabitants of these villages participated in these operations as members of the HVO. The witness Abdullah Ahmic in particular gave the names of a certain number of local HVO commanders, who were each responsible for a specific sector. They were members of the Domobrani. Those named included Slavko Milicevic for the Donji Ahmici sector, Zarko Papic for the Zume area, Branko Perkovic in Nadioci, Zoran Kupreskic in Grabovi (an area in the centre of Ahmici), Nenad Šantic[774] and Colic[775] in Šantici.

399. There was a certain amount of indirect evidence attesting to HVO participation. In particular, several witnesses stated that, on the day of the attack, the telephone lines had been cut[776]. Indeed, all the communications exchanges in the municipality of Vitez were under HVO control[777].

---

[770] Witnesses Abdullah Ahmic, PT p. 3750 and Zec, PT pp. 4290-4291.

[771] P691: certificate showing that Ivica Semren, member of the Viteška Brigade from 8 April 1993, was wounded at Ahmici on 16 April 1993 when "carrying out combat duties by order of the competent commander"; P692: certificate showing that Nikola Omazic, member of the Viteška Brigade from 16 April 1993, was wounded at Pirici on 16 April 1993 during combat operations.

[772] Witness Parrott, PT p. 5021.

[773] According to Witness Mujezinovic, the units wearing that emblem came from Herzegovina (PT of 21 August 1997 p. 1749).

[774] Witness Abdullah Ahmic, PT p. 3829. According to exhibit P772, Nenad Šantic was appointed temporary Commander of the Domobran unit in Vitez on 12 March 1993 by the Head of the Defence Bureau, Marijan Skopljak. According to exhibit P776, Nenad Šantic had been a member of the HVO from 26 April 1992.

[775] Witness Hrnji}, PT pp. 44016-4017.

[776] Witnesses Kavazovic, PT of 27 August 1997, pp. 2381-2382 and G, PT p. 3854.

[777] Witness Morsink, PT pp. 9908-9909. According to witness Baggesen (PT of 21 August 1997 pp. 1844-1845), the post and telecommunications were controlled by the ABiH in Zenica and by the HVO in Travnik, Vitez and Kiseljak.

400. The Trial Chamber therefore finds that not only the Military Police, and especially the D`okeri Unit, but also regular HVO units, and in particular the *Viteška* brigade[778], took part in the fighting on 16 April 1993.

401. Oral evidence also established beyond a doubt that those troops acted in a perfectly co-ordinated manner. The witness Abdullah Ahmic stated that he saw soldiers wearing the emblem of the HV acting in concert with HVO soldiers[779]. The witnesses G[780], H[781] and Zec[782] also indicated that the soldiers worked in a very co-ordinated manner. Several witnesses declared that the soldiers worked in groups of five to ten, each of these groups having differently-coloured ribbons attached to their arms[783]. Those troops communicated by way of little Motorola radios or walkie-talkies[784]. The witness Morsink noted on this point that HVO soldiers normally wore these portable radios[785]. Moreover, a superior of the accused was of the view that the *Viteška* brigade must have co-operated with the Military Police in the operation against Ahmici[786].

b) An attack against the Muslim civilian population

i) The absence of military objectives

402. The Defence put forward different arguments in order to explain the fighting[787]. First of all, it pointed to the strategic nature of the road linking Busova~a and Travnik[788]. That road was controlled by the HVO at the material time[789], but the HVO intelligence services are said to have noted a movement of Muslim troops on 15 April from Travnik towards Ahmici and

[778] Same finding as in the *Kupre{kic* Judgement, para. 334.
[779] Witness Abdullah Ahmic, PT pp. 3825-3826.
[780] Witness G, PT pp. 3856-3857.
[781] Witness H, PT p. 3922.
[782] Witness Zec, PT pp. 4293-4294, 4323-4324.
[783] Witnesses Abdullah Ahmic (Ahmici), PT pp. 3748-3749 (red and other colour armbands); Elvir Ahmic (Ahmici), PT p. 3251 (white and orange armbands); Djula Djidic (Šantici), PT pp. 4333-4334 (blue armbands). According to the witness Parrott, the use of those armbands showed that those troops were acting in concert (PT pp. 5074-5075).
[784] Witnesses Zec, PT pp. 4292-4293; Djula Djidic, PT pp. 4333-4334; G, PT pp. 385-3857; Elvir Ahmic, PT pp. 3254-3255.
[785] Witness Morsink, PT pp. 9908-9909.
[786] PT. p. 2410.
[787] Defence Brief, book VI, p. 268.
[788] Defence Brief, book VI, p. 270.
[789] See in particular witness O, PT p. 4507-4508.

the neighbouring villages[790], which led them to believe that the Muslims were seeking to regain control of the road. That submission could not however be deemed to have been sufficient justification for the attack on the villages which with the exception of Šantici, were not directly on the main road[791]. Furthermore the accused said in his evidence that the HVO's intelligence services had informed him that ABiH forces from Zenica were moving towards Mount Kuber, a strategic point in the Lašva Valley from which, he stated, it was possible to control the whole valley[792]. It was alleged that shots had been heard on 15 April in the area around Ahmici[793]. Another justification given was terrorist activities carried out by the ABiH, in particular the abduction on 15 April in Zenica of Major Totic[794].

403. A report from the command of the Military Police Fourth Battalion (Paško Ljubi~ic), transmitted to the accused on 16 April[795], alleged that Muslim forces had attacked the D`okeri's bungalow early that morning. The Trial Chamber cannot however accept that that incident was the source of the conflict. The extent and the planned character of the attack in which several units took part in a perfectly co-ordinated manner would be sufficient to discount that justification. The Trial Chamber also notes that the accused had addressed an order to the Croat forces before he had even received that report[796]. The accused acknowledged that the information was incorrect and that its sole purpose was "to justify further activities" in Nadioci and Ahmici[797].

---

[790] These reasons were put forward by General Blaškic during his interview with an ECMM monitor on 8 May 1993, P242, "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993", annex G, ECMM H/S 720 dated 15 May 1993.
[791] See in particular P29; PT pp. 23698-23699.
[792] Witness Blaškic, PT pp. 18484-18486 and 21930-21931.
[793] P242, "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993", annex G, ECMM H/S 720, dated 15 May 1993.
[794] The accused alleged that he had been told of this by Holman on 15 April at 11:00 hours (witness Blaškic, PT of 22 August 1997, pp. 18477-18478). That abduction followed the abduction on 14 April of four members of the HVO main staff in Travnik and Novi Travnik, which gave rise to a complaint from the accused to the ECMM. The accused suspected the Seventh Muslim Brigade of being responsible for this crime (witness Baggesen, PT pp. 1864-1873).
[795] D280. The report referred to the accused's order no. 01-04-243/93 (which was not available to the Trial Chamber).
[796] That order was issued at 01:30 hours whereas the Military Police's report was received at 11:42 hours. As regards the order (D269), described either as an combat preparation order or an attack order, depending on the party, see discussion below.
[797] Witness Blaškic, PT pp. 18621-18622.

404. The Defence also invoked the presence of units of the 325th ABiH Mountain Brigade in Ahmici[798] and the neighbouring villages. General Blaškic claimed that the command of these units was located at the primary school in Ahmici[799]. But documents submitted in support of that assertion mention only the village of Ahmici with no further details as to the number of soldiers, the amount of equipment there or the precise location of their headquarters. Moreover, the "defense" orders issued by the accused on the eve of the attack did not mention the presence of the 325th Brigade at all. Those orders, and in particular the order issued on 15 April at 15:45 hours[800], only refer to the threat which the seventh Muslim Brigade allegedly posed.

405. General Blaškic claimed that, in the night of 15 to 16 April, HVO members informed him that soldiers from the first and seventh brigades of the ABiH were coming towards Vitez by truck. These were soldiers going home on leave to Krusica and Ahmici. The HVO maintained that those soldiers were drunk and excited[801]. There again, that information was not enough to justify the attack. On the contrary, it highlighted the fact that the soldiers were on leave and were not preparing to fight in the municipality of Vitez.

406. The Defence also explained that "authorised CBOZ military activity at times included a legitimate military tactic known as fighting in built-up areas (FIBUA)"[802] defined by the witness Thomas as "clearing of a built-up area on a house-by-house area"[803], usually with automatic weapons and grenades. The Defence recognised that such a tactic often results in many victims, the number of which may even exceed that of the hostile soldiers. The Defence submitted however that those civilian victims should be considered "collateral casualties"[804] and that such an attack could be legal in certain circumstances. That is an incorrect interpretation of Witness Baggesen's statements to the Trial Chamber. He said that on the contrary there could be no justification for the death of so many civilians[805]. Furthermore, General Blaškic himself acknowledged in his oral evidence that the tactic normally used by

---

[798] The Defence based its statement on, *inter alia*, a situation report issued by the Military intelligence services of the Vitez Brigade on 10 April 1993 (D192) and which claimed that units of the Fourth Battalion of the 325th Mountain Brigade of the ABiH were to be found in Ahmici, Santici and Nadioci. Defence Submissions, book VI, p. 268.
[799] Witness Blaškic, PT pp. 21389-21390.
[800] D268.
[801] Witness Blaškic, PT p. 19224.
[802] Defence Brief, book VI, p. 281.
[803] Defence Brief, book VI, p. 281.
[804] Defence Brief, book VI, p. 282.
[805] Witness Baggesen, PT of 22 August 1997 p. 2001.

professionals avoided all combat operations inside villages[806]. The witness Landry, who was an ECMM monitor from February to August 1993, also explained that in "this kind of cleansing operation, especially for an area of tactical significance [...], you would destroy certain buildings or houses, [...] those areas which contain[ed] some sort of military munitions but it was quite usual [...] to actually go ahead and burn a village"[807]. He went to Ahmici on 16 April and noted however that there was no longer any military presence there in the evening of 16 April[808] whereas that morning he had noticed a high concentration of HVO troops on the main roads linking Vitez and Zenica[809]. According to that witness: "if this village did have some tactical importance, perhaps it would have been for the HVO to be able to consolidate their position and to maintain some sort of observation post or stop post for the military operations"[810]. And he added: "it is very difficult for me to say from a military perspective, to say what was the military reason to carry out such a carnage"[811].

407. The Trial Chamber also notes that much of the evidence contradicted the Defence submission that the ABiH forces were preparing for combat. Witness Abdullah Ahmic, *inter alia*, described the armed Muslim units present in the Ahmici area in April 1993 to the Trial Chamber. According to his testimony, the territorial defence was starting to organise in the area and consisted of about 120 men[812] whose main task was to carry out night watches[813]. According to that witness, their participation was purely voluntary and there was no disciplinary sanction for those who failed to take their turn on guard[814]. It was therefore a sort of civil defence[815] rather than an army strictly speaking. The members of the territorial defence were very badly equipped and most of them were dressed as civilians and did not think of themselves as soldiers[816]. There was no barracks in Ahmici[817]. Witness

[806] Witness Blaškic, PT pp. 22941-22942. According to General Blaškic: "there is no commander whatever who would agree to planning an operation and forget the fact that it would be fighting in the centre of a village".
[807] Witness Landry, PT pp. 7515-7516. The Witness Thomas made the same comment, PT of 24 September 1997 p. 2633.
[808] Witness Landry, PT pp. 7508-7509.
[809] The two main roads were a mountain road and a road through the valley. Witness Landry, PT pp. 7508-7509.
[810] Witness Landry, PT pp. 7516-7517.
[811] Witness Landry, PT pp. 7515-7516.
[812] Witness Abdullah Ahmic, PT pp. 3720-3721 and 3788-3789.
[813] Witness Abdullah Ahmic, PT p. 3721.
[814] Witness Abdullah Ahmic, PT pp. 3831-3833.
[815] Witness Abdullah Ahmic, PT pp. 3788-3789.
[816] Witness Abdullah Ahmic, PT pp. 3720-3721 and 3787-3789. See also Witness Kavazovic (PT of 27 August 1997 pp. 2354-2355 and 2452-2453) who stated that he joined the TO voluntarily and nonetheless thought of himself as a civilian when he was not in uniform. In fact, he only wore his uniform during the day and in the evening went back home and did not exercise any official function. In other words, he thought of himself as a soldier when he was in uniform and as a civilian when he was not.

Hadzihasanovic confirmed this information, stating that owing to the lack of men and of equipment, and in particular of barracks, the only armed presence in the village of Ahmici and those nearby was a territorial defence unit from Zenica in case of a Serb parachute attack[818]. The Trial Chamber notes moreover that the HVO had already disarmed the Muslim forces in these villages in October 1992, following the conflicts which occurred when a roadblock was erected by Muslim forces on the main Busova~a to Vitez road at Ahmici.[819]

408. The international observers who gave evidence before the Trial Chamber unanimously confirmed that those villages had not prepared for an attack. According to the ECMM monitors, there were no Muslim troops stationed in Ahmici[820]. Colonel Stewart stated that on 15 and 16 April, he saw no ABiH formation ready to carry out an attack in the Lašva Valley[821]. He did, however, receive numerous reports suggesting a reinforced HVO presence shortly before the events[822].

409. Lieutenant-Colonel Thomas, UNPROFOR commander at the material time, went to Ahmici on 17 April 1993 and stated that he saw no evidence suggesting that there had been a conflict between two separate military entities, nor any evidence of resistance such as trenches, sandbags or barbed wire indicating the presence in the village of an armed force ready for combat[823]. Furthermore, the bodies he saw were not in uniform[824] and not a single weapon was found in the destroyed buildings[825]. On the contrary, there were women and children amongst the bodies strewn on the ground[826]. The witnesses Watters[827], Bower[828], Stewart[829], Landry[830], Parrott[831], Kujawinski[832] and Ellis[833] stated that they had seen the same

---

[817] Witness Abdullah Ahmic, PT pp. 3802-3803.
[818] Witness Had`ihasanovic, PT pp. 23221-23225.
[819] P647: report submitted by the then Colonel Blaškic to the authorities in Mostar on 21 October 1992.
[820] PT p. 23699; witness Baggesen, PT of 22 August 1997, pp. 1923-1924.
[821] Witness Stewart, PT, p. 23755.
[822] Witness Stewart, PT, p. 23756. Witness Landry, PT pp. 7508-7509, corroborated that evidence.
[823] Same evidence as that of witness Baggesen, PT of 22 August 1997, pp. 1931-1932.
[824] Evidence confirmed, *inter alia*, by witness Kujawinski, PT pp. 4112-4113.
[825] Witness Thomas, PT of 24 September 1997 pp. 2583-2588 and 2645-2650.
[826] Witness Kujawinski, PT pp. 4112-4113.
[827] PT pp. 3639-3640.
[828] PT pp. 9361 and 9405. The witness stated, *inter alia*, that he had not seen any actual trench systems or any military installations.
[829] PT p. 23864.
[830] Witness Landry, PT pp. 7508-7509.
[831] Witness Parrott, PT pp. 5046-5047.
[832] Witness Kujawinski, PT p. 4121.
[833] Witness Ellis, PT of 30 September 1997 p. 3115.

thing. In its second periodical report on the human rights situation on the territory of the former Yugoslavia, the Commission on Human Rights even found that "by all accounts, *including those of the local Croat HVO commander and international observers,* this village contained no legitimate military targets and there was no organised resistance to the attack"[834]. The accused himself admitted before the Trial Chamber that the "villagers of Ahmi}i, that is Bosniak Muslims," had been the victims of the attack without there having been any attempt to distinguish between the civilian population and combatants[835].

410. The Trial Chamber is therefore convinced beyond any reasonable doubt that no military objective justified these attacks.

ii) The discriminatory nature of the attack

411. Although the village of Ahmici had no strategic importance which justified the fighting, it was however of particular significance for the Muslim community in Bosnia. Many imams and mullahs came from there. For that reason, Muslims in Bosnia considered Ahmici to be a holy place[836]. In that way, the village of Ahmici symbolised Muslim culture in Bosnia. The witness Watters was certain that Ahmici had been chosen as a target for that reason[837].

412. The eyewitnesses who saw the attack all describe the same method of attack[838]. It began between 05:00 hours and 06:00 hours, that is to say when the inhabitants were asleep or at their prayers. Woken by a detonation caused by artillery fire[839], the inhabitants did not attempt to defend themselves but hid in their houses, most of them seeking refuge in their cellars. Some time after the artillery shots, soldiers organised in groups of between five and ten[840] went into each Muslim house shouting insults against the Muslims, referring to them as

---

[834] E/CN.4/1994/4 (19 May 1993), P184, p. 4, para. 14 (emphasis added).
[835] Witness Blaškic, PT pp. 18609-18610.
[836] PT p. 23589; witness Watters, PT pp. 3634 and 3453-3454.
[837] Witness Watters, PT pp. 3453-3454.
[838] In that connection, the Trial Chamber would point out that the references given in the context of describing the facts were not at all exhaustive. The evidence cited here better reflected what the Trial Chamber heard during the trial.
[839] Witnesses Abdullah Ahmic (Ahmici), PT pp. 3728-3729; Fatima Ahmic, PT pp. 3980-3982; Djula Djidic (Šantici), PT p. 4329; G, PT p. 3854; Baggesen, PT of 22 August 1997 pp. 1911-1912 (machine guns and shells).
[840] Witnesses G, PT pp. 3855-3856; Cazim Ahmic, PT of 1 October 1997 pp. 3142-3143; Pjanic, PT pp. 4445-4446.

"balijas"[841]. The groups of soldiers sometimes forced the inhabitants out of their houses, without however allowing them the time to dress. Most of them were still in their night-clothes, some not even having had time to put anything on their feet before fleeing[842]. The soldiers killed the men of fighting age at point blank range and set fire to the Muslims' houses and stables with incendiary bullets, grenades[843] and petrol[844]. Some houses were torched before their inhabitants even had a chance to get out.

iii) Arrests

413. Some inhabitants were transferred to the school in Dubravica[845]. According to the Commission on Human Rights, "approximately 150 Muslims were rounded up and detained for sixteen days in the Braca Ribara school in Dubravica. [...] The vast majority of those detained were women and children"[846].

iv) Murders of civilians

414. Most of the men were shot at point blank range. Several witnesses described how the men of their families had been rounded up and then killed by Croatian soldiers[847]. To cite only a few examples, the witness Abdullah Ahmic described how, after having lost his father and his brother, he was himself severely wounded by a bullet[848]. The witnesses Nura Pezer

[841] Witnesses Cazim Ahmic, PT of 1 October 1997 pp. 3136-3137 and 3142-3143; Pjanic, PT pp. 4445-4446; M, PT pp. 4402-4404; Fatima Ahmic, PT pp. 3948-3949; G, PT pp. 3855-3856.
[842] Witnesses O (Šantici), PT p. 4505; F (Ahmici), PT pp. 3688-3689; Zec (Ahmici), PT pp. 4292-4293; I (Donji Ahmici), PT p. 4040; M, PT pp. 4404-4405; J (Zume), PT, p. 4072.
[843] Witnesses Fatima Ahmic, PT pp. 3946-3947; Elvir Ahmic, PT pp. 3248-3250; Nura Pezer (Zume), PT pp. 3885-3886; O, PT pp. 4502-4503; Akhavan, PT pp. 5284-5285.
[844] Witnesses Abdullah Ahmic (saw soldiers with cans of petrol) PT pp. 3729-3730; Akhavan, PT p. 5283; O, PT pp. 4503-4505; Fatima Ahmic, PT pp. 3946-3949, (saw petrol poured over curtains and sofas); the witness Nura Pezer (Zume) saw eight soldiers carrying cans of petrol to set light to houses (PT p. 3888); witness G, PT pp. 3858-3859; Djula Djidic (Šantici), PT pp. 4333-4334.
[845] Witness G, PT pp. 3867-3868; Elvir Ahmic, PT p. 3264.
[846] P184: report of the Commission on Human Rights, E/CN.4/1994/4, pp. 6-7, para. 21. That information was confirmed by the witness Abdullah Ahmic (PT pp. 3766-3768 and 3867) who said that a hundred or so Muslims were transferred to the school in Dubravica. See also P117.
[847] Witnesses O (whose husband was killed in front of her and her children) PT pp. 4503-4504; Hrinjic (Šantici), PT pp. 4013-4014; Pjanic (saw his son killed in cold blood after he had been forced to jump from a second floor window), PT pp. 4436-4437; Zec, PT pp. 4283-4284; Abdullah Ahmic, PT p. 3733; Fatima Ahmic, PT pp. 3987-3988; G, PT pp. 3860-3861. The witness Djula Dzidic, PT p. 4337 described the systematic murder of Muslim men in the village of Šantici.
[848] Witness Abdullah Ahmic, PT pp. 3733-3734.

and H stated that they had lost their son and husband during the attack[849]. The witness Zec saw his parents and two of his sisters murdered[850]. The international observers also saw bodies lying in the road[851], many of whom had been killed by a bullet to the head fired at short range[852].

415. Twenty or so civilians were also killed in Donji Ahmici as they tried to flee the village. The fleeing inhabitants had to cross an open field before getting to the main road. About twenty bodies of people killed by very precise shots[853] were found in the field. Military experts concluded that they had been shot by marksmen[854].

416. Other bodies were found in the houses so badly charred they could not be identified and in positions suggesting that they had been burned alive[855]. The victims included many women and children[856]. The British UNPROFOR battalion reported that: "[o]f the 89 bodies which have been recovered from the village, most are those of elderly people, women, children and infants"[857]. An ECMM observer said he had seen the bodies of children who, from their position, seemed to have died in agony in the flames: "some of the houses were absolute scenes of horror, because not only were the people dead, but there were those who were burned and obviously some had been - - according to what the monitors said, they had been burned with flame launchers, which had charred the bodies and this was the case of several of the bodies"[858].

417. According to the ECMM report, at least 103 people were killed during the attack on Ahmici[859].

---

[849] Witnesses Nura Pezer, PT pp. 3887 and 3897-3898; H, PT p. 3912. See also witness M, PT pp. 4401-4403.
[850] Witness Zec, PT pp. 4290-4293.
[851] See, *inter alia*, witness Watters, PT pp. 3386-3387 and 3442.
[852] Witness Parrott, PT p. 5022.
[853] P184, para. 15, p. 4 and witness Akhavan, PT pp. 5284-5285.
[854] PT p. 23589. See also the corroboration given by witness Akhavan, P184, para. 15 p. 4; witness Watters, PT pp. 3440-3441; Abdullah Ahmic, PT pp. 3825-3826.
[855] Report of the Commission on Human Rights, E/CN.4/1994/4, P184, p. 5, para. 18; witness Bower, PT pp. 9422-9423.
[856] Witness Watters, PT pp. 3386-3387 and 3442.
[857] P184, p. 5, para. 19.
[858] PT p. 23584.
[859] P242, "Report on inter-ethnic violence in Vitez, Busova-a and Zenica in April 1993", Appendix 2 to Annex N to ECMM H/S 720, 15 May 1993.

v) Destruction of dwellings

418. According to the Centre for Human Rights in Zenica, 180 of the existing 200 Muslim houses in Ahmici were burned during the attack[860]. The Commission on Human Rights made the same finding in its report dated 19 May 1993[861]. Prosecution exhibit P117 also showed that nearly all the Muslim houses had been torched, whereas all the Croat houses had been spared[862]. The witnesses Bower[863] and Casim Ahmic[864] confirmed the information. The witness Nura Pezer stated, on this point, that the day before the attack, she had seen a Croat from the village, named Ivica Vidovic, who, in the presence of another man, was pointing out the Croat houses and the Muslim houses[865]. The British UNPROFOR battalion reported having seen houses burning in Šantici on 17 April[866]. According to the ECMM observer Morsink, practically all the Muslim houses in the villages of Ahmici, Nadioci, Pirici, Sivrino Selo, Ga~ice, Gomionica, Gromiljak and Rotilj had been burned[867]. He stated that the houses had all been set alight with petrol and oil[868]. Likewise, according to the witness Watters, the Muslim houses had been systematically burned in Nadioci, Ahmici and Šantici[869]. The witness Baggesen, ECMM observer, reported that "it was a whole area that was burning"[870]. The report of the Joint Busova~a Commission, dated 21 April, showed that the ICRC had made enquiries that afternoon in Ahmici and noted that all the Muslims situated in Ahmici-west had left and that 90% of the houses together with the area's mosque, had been destroyed[871]. The report stated moreover that about 200 Muslim women and children were crowded into 3 houses in Novaci, and that half of them wished to be evacuated[872].

---

[860] P242, "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993", Annex N to ECMM H/S 720, 15 May 1993. Meeting with the Centre for Human Rights in Zenica, p. N-2.
[861] P184, p. 5, para. 20.
[862] Witnesses Abdullah Ahmic, PT p. 3768; M, PT p. 4410; Elvir Ahmic, PT p. 3255-3256.
[863] This witness, a member of the Prince of Wales Regiment in Bosnia Herzegovina (2nd British Battalion which succeeded the Cheshire Regiment), who remained in the area from April to November 1993, stated that some houses, where Croats lived, remained intact. PT p. 9361.
[864] PT of 1 October 1997 p. 3136.
[865] Witness Nura Pezer, PT pp. 3883-3884.
[866] P242, "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993", Annex N to ECMM H/S 720, 15 May 1993. Events reported by ECMM and UN, 13-30 April 1993, Annex R to ECMM H/S 720, 15 May 1993, p. R-3.
[867] Witness Morsink, PT pp. 9900-9901.
[868] Witness Morsink, PT pp. 9901-9902.
[869] Witness Watters, PT pp. 3602-3605.
[870] Witness Baggesen, PT of 22 August 1997 p. 1928.
[871] This information appears also in the report of the ECMM whose team accompanied the ICRC team. P242, "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993", Annex N to ECMM H/S 720, 15 May 1993. Events reported by ECMM and UN, 13-30 April 1993, Annex R to ECMM H/S 720, 15 May 1993, p. R-7.
[872] P696: report of the Joint Busova~a Commission dated 21 April (witness Morsink), para. D.

vi) Destruction of institutions dedicated to religion

419. Several religious edifices were destroyed. The Defence did not deny the destruction of the mosque at Donji Ahmici or of the matif mesjid [873]at Gornji Ahmici. However, it did maintain that the reason for this destruction was that "the school and church in Ahmici became locations of fighting following the attack by the Fourth Military Police Battalion"[874].

420. Conversely, the Prosecutor contended that "both mosques were deliberately mined and given the careful placement of the explosives inside the buildings, they must have been mined after HVO soldiers had control of the buildings"[875].

421. The Trial Chamber notes at the outset that according to the witness Stewart, it was barely plausible that soldiers would have taken refuge in the mosque since it was impossible to defend[876]. Furthermore, the mosque in Donji Ahmici was destroyed by explosives laid around the base of its minaret[877]. According to the witness Kaiser, this was "an expert job" which could only have been carried out by persons who knew exactly where to place the explosives[878]. The witness Zec stated that he had heard a Croatian soldier speaking on his radio asking for explosives "for the lower mosque in Ahmici"[879]. The destruction of the minaret was therefore premeditated and could not be justified by any military purpose whatsoever. The only reasons to explain such an act were reasons of discrimination.

422. The Trial Chamber notes that that mosque had just been built. The inhabitants of Ahmici had collected the money to build it and were extremely proud of its architecture[880].

423. It is undeniable that the matif mesjid in Gornji Ahmici was destroyed[881]. The ECMM also noted the destruction of the mosque in the eastern quarter of the village[882].

---

[873] Mosque with no minaret. P47
[874] Defence Brief, book X, p. 490.
[875] Prosecutor's Brief, book V, p. 45.
[876] Witness Stewart, PT p. 23864.
[877] Witness Thomas, PT pp. 2645-2650; PT p. 23660.
[878] Witness Kaiser, PT p. 10663. See also witness Thomas, PT p. 2650.
[879] Witness Zec, PT p. 4286-4287.
[880] Witness Baggesen, PT of 22 August 1997 p. 1931; Abdullah Ahmic, PT pp. 3769-3770.
[881] See in particular P47/49, P47/77, P47/78, P47/80, and P47/81.
[882] P242, "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993", Events reported by ECMM and UN, 13-30 April 1993, Annex R to ECMM H/S 720, p. R-7.

vii) Plunder

424. The soldiers also set fire to the stables and slaughtered the livestock[883] as the accused noted himself when he visited the site on 27 April[884]. Several Croatian soldiers were also alleged to have stolen money from private individuals. One member of the D`okeri was alleged to have seized DM 2000 and jewels belonging to Elvir Ahmic[885]. Two HVO soldiers were alleged to have taken money from Haris Hrnjic's wallet after he had surrendered[886]. It was also alleged that DM 400 were taken from the body of Alija Ahmic[887]. The witness Casim Ahmic[888] also accused a group of five Croatian soldiers of stealing DM 300-400. The victims of these thefts were always Muslim. Finally, the witness Akhavan reported seeing HVO soldiers looting the houses that were still intact in Ahmici when he visited the village on 1 May 1993[889].

c) Conclusion

425. The methods of attack and the scale of the crimes committed against the Muslim population or the edifices symbolising their culture sufficed to establish beyond reasonable doubt that the attack was aimed at the Muslim civilian population. An ECMM observer noted that, further to his visit to Ahmici on 22 April 1993, "apart from the systematic destruction and the religious edifices that had been dynamited, what was most striking was the fact that certain houses remained intact, inhabited even, and one wondered how those islands had been able to survive such a show of violence"[890]. Several international observers who went to the village a few days after the attack on Ahmici reported finding "a phenomenon of a ferocity and a brutality almost impossible to describe"[891]. The accused went to Ahmici on the morning of 27 April and noted the scale of the damage: houses burnt, livestock slaughtered and an entirely deserted village[892]. He conceded, both to the Commission on Human Rights

[883] Witness Zec, PT pp. 4288-4289; M, PT pp. 4405-4407; Pjanic, PT pp. 4435-4436; Elvir Ahmic, PT p. 3253.
[884] Witness Blaškic, PT pp. 19036-19037.
[885] Witness Elvir Ahmic, PT p. 3263.
[886] Witness Haris Hrnjic, PT p. 4010-4011.
[887] Witness Abdullah Ahmic, PT p. 3759.
[888] PT p. 3142.
[889] Witness Akhavan, PT pp. 5286-5287.
[890] PT p. 23584.
[891] Witness Thomas, PT pp. 2672 and 2674.
[892] Witness Blaškic, PT pp. 19036-19037.

representatives on 5 May 1993[893] and in his testimony[894] before the Trial Chamber that crimes had been committed in Ahmici.

426. Witness Baggesen said of the attack on Ahmi}i: "We think that this operation, military operation against the civilian population was to scare them and to show what would happen to other villages and the Muslim inhabitants in other villages if they did not move out. So I think this was an example to show"[895], especially given what Ahmici symbolised for the Muslim community.

427. The Commission on Human Rights noted that all the Muslims had fled from Ahmici. Only a few Croats had remained[896]. According to the witness Kajmovic, the Ahmici Muslim population had completely disappeared in 1995[897]. According to the Centre for Human Rights in Zenica, the four Muslim families living in Nadioci had been exterminated[898]. As an overview, the Muslim population in the canton of Vitez dropped from 41.3% in 1991[899] to 33.83% in 1995[900], a reduction that also saw very great movements of population within the area. According to witness Kajmovic, only 80 Muslims, that is to say 0.49%, were still living in the territory of the Vitez municipality in 1995[901].

428. All that evidence enables the Trial Chamber to conclude without any doubt that the villages of Ahmici, Pirici, Šantici and Nadioci had been the object of a planned attack on the Muslim population on 16 April 1993.

d) General Blaškic's responsibility

429. The accused himself did not commit any of the crimes set out above. He could therefore be liable only for ordering, planning, inciting or otherwise aiding and abetting the

---

[893] P 184; witness Marin, PT p. 13631.
[894] Witness Blaškic, PT pp. 19025-19026: "I toured a part of the village. I saw burned houses in the village, and there was still some embers. They may have been burned during the night or set fire to. I saw the minaret and mosque and other signs of destruction".
[895] Witness Baggesen, PT of 22 august 1997 p. 1935.
[896] P184, p. 7, para. 20.
[897] Witness Kajmovic, PT p. 5680. See also P199.
[898] Charles Macleod, P242, "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993", Annex N to ECMM H/S 720, 15 May 1993, Meeting with the Centre for Human Rights in Zenica, p. N-1. According to the 1991 census, Nadioci had 42 Muslim inhabitants.
[899] P46.
[900] P207.
[901] P199.

crime, in accordance with Article 7(1) of the Statute. By default, he could, however, be convicted on the basis of Article 7(3) if it was established that he was the superior of the perpetrators of the crimes and that he did not take the necessary measures to prevent such acts or to punish the perpetrators thereof.

430. The Prosecutor claimed that the accused gave the order to attack the villages of central Bosnia on 16 April 1993 to the *Vite{ka* brigade, to the Nikola Šubic Zrinski unit, to the Military Police Fourth Battalion, including the D`okeri special unit, to the Vitezovi and to the Domobrani of the villages in question. Irrespective of their nature - written, oral, express or implied - those orders instructed all the units to destroy and burn the Muslims' houses, to kill the Muslim civilians and to destroy their religious institutions.[902].

431. As indicated earlier, the accused himself considered that, in view of its scale and very short duration, the Ahmici massacre must have been organised[903]. He further considered that the order to commit that crime could not have come from the Commander of the Military Police Fourth Battalion. The Commander did not have sufficient standing, in his view, to take the initiative for an operation of such magnitude alone. Consequently, the accused admitted that the order came from a higher authority in the hierarchy[904].

432. The accused did however deny that he gave an order capable of justifying such acts. In support of that claim, the Defence submitted three orders given by the accused the day before the attack[905] which it put forward as being "defence" orders following a report from the HVO Busova~a intelligence services, dated 14 April 1993, notifying him of a probable attack by the ABiH on Vitez from Zenica, through Vrohdine and Ahmici[906].

---

[902] Prosecutor's Brief, book VII, pp. 26-27.
[903] Witness Blaškic, PT pp. 19029 and 22020.
[904] Witness Blaškic, PT pp. 19155-19156. The Defence suggests that the order could have been given by Ivica Rajic (Witness Blaškic, PT pp. 19156-19157).
[905] D267, D268, D269.
[906] Defence Brief, book I, pp. 13 and 272. P242 "Report on inter-ethnic violence in Vitez, Busova~a and Zenica in April 1993", Annex G to ECMM H/S 720, 15 May 1993.

i) The orders issued by the accused

433. The first order submitted is dated 15 April and was allegedly transmitted to the units concerned at 10:00 hours[907]. It was addressed to the Military Police, the Vitezovi and to the HVO operative zone brigades[908]. The "preparatory combat command"[909] asked the brigades to keep themselves in readiness to carry out a decisive defence operation and instructed the Military Police to ensure that the Muslim forces did not block the main road linking Travnik to Busova~a[910]. The accused also ordered the Vitezovi to keep themselves in readiness for any intervention and the HVO brigades to defend their area. The reasons relied upon in this order were: combat operations to prevent terrorism aimed at the HVO and ethnic cleansing of the region's Croats by extremist Muslim forces.

434. The second order is dated 15 April at 15:45 hours[911]. According to the witness Marin[912], that "order for action" was given in response to information from the HVO intelligence services pointing to a general mobilisation in Zenica of Muslim forces assumed to be arriving via Mount Kuber[913]. The accused further referred to the abduction of Commander Totic by the ABiH at Zenica on 15 April, which allegedly caused a great frenzy in the population and was described by the accused as "pure terrorism" designed to eliminate the Commanders of the HVO brigades[914]. The enemy designated in that order was the seventh Muslim brigade which the order accused of being responsible for a new wave of terrorist activities. That order was addressed to the *Vite{ka* brigade of the HVO and to the Military Police Fourth Battalion. They were asked to ensure that "combat readiness [...] be increased to the highest level" and that they were ready "to take defensive action". Paragraph 2.4 states that those units must show perfect co-ordination and promote team work while ensuring that the members of the command of all the units are completely interchangeable over a 24 hour period. The order further called on those units to ensure total control of the consumption of all products, particularly fuel and to take measures to rationalise consumption. The accused also required there to be organised a system of uninterrupted command at all levels and regular reports to be submitted to him at 18:00 hours and 06:00

[907] D267.
[908] Witness Marin, PT pp. 12275-12276.
[909] Witness Marin, PT p. 12266.
[910] Witness Marin, PT pp. 12273-12274.
[911] D268
[912] The witness Bla{ki} testified that he had dictated the order to the witness (witness Bla{ki}, PT pp. 18481-18482)
[913] Witness Marin, PT p. 12282.

hours each day, together with special reports where events so warranted. Even though the order was not an order to carry out combat operations, the accused admitted that action could be taken by virtue of that order in particular to combat terrorist activities[915].

435. A third order, which again referred to "planned terrorist activities" on the part of the enemy and to the risk of its engaging in an open offensive designed to destroy everything Croatian, was given on 16 April at 01:30 hours and addressed to the *Vite{ka* brigade and to the Tvrtko independent units[916]. That "combat command order to prevent attack activity by the enemy" ordered Commander Cerkez and the Tvrtko independent units "to occupy the defence region, blockade villages and prevent all entrances to and exits from the villages". The order stated that "in the event of open attack activity by the Muslims", those units should "neutralize them and prevent their movement with precise fire" in counterattack. That order indicated that the forces of the Military Police Fourth Battalion, the N. Š. Zrinski unit and the civilian police would also take part in the combat[917]. The order required the forces to be ready to open fire at 05:30 hours and, by way of combat formation, provided for blockade (observation and ambush), search and attack forces[918]. General Blaškic stated in that order that "the commander of the Vitez HVO brigade, Mario Cerkez is personally responsible to me for the performance of this mission". The order closed by saying that the "instruction given previously [should be] complied with", although the Trial Chamber was not able to establish what that instruction was.

436. A cease-fire was agreed between the representatives of the ABiH and the HVO on about 12:30 hours on 16 April under the aegis of UNPROFOR[919], following which General Blaškic ordered the N.Š.Zrinski brigades to stop fighting immediately[920].

---

[914] Witness Bla{ki}, PT pp. 18478-18479.
[915] Witness Bla{ki}, PT pp. 18481-18482.
[916] D269.
[917] D269, para. 3: "in front of you are the forces of the IV Police VP, [...] to the right of you are the forces of the Unit N. [. Zrinski, and to the left of you are the forces of the civilian police".
[918] D269, para. 2: "Time of readiness at 0530 hours on 16 April 1993
Combat formation
Blockade forces (observation, ambush)
Search forces
Forces for offensive activity".
There is no reference number for the order on this exhibit.
[919] D278: Report sent by Bla{ki} to the Croatian Defence Council (the HVO) in Mostar on 16 April at 15:30 hours covering this agreement. A joint declaration was moreover signed on 20 April by the representatives of the Croats and of the Muslims in the municipality of Vitez (P86).
[920] D279; Witness Marin PT pp. 12322-12323.

ii) The accused ordered the attack of 16 April 1993

437. The Trial Chamber finds that the third order[921], dated 16 April at 01:30 hours is very clearly an order to attack. That order, which was addressed in particular to the *Vite{ka* brigade, also expressly mentions other units, such as the Military Police Fourth Battalion, the forces of the N. Š. Zrinski unit and the forces of the civilian police which were recognised on the ground as being those which had carried out the attack. The time to commence hostilities which is set out in that order corresponds very precisely to the start of fighting on the ground. Admittedly, the order is presented as "a combat command order to prevent attack activity by the enemy". Accordingly, the attack purportedly formed part of a defensive rather than offensive strategy. However the Trial Chamber has already concluded that no military objective justified that attack. It is therefore unnecessary here to go back over the reasons given for the issue of that order, which, in any event, remains an order to attack. The Trial Chamber considers that that evidence sufficed to show that all those troops, acting in concert, attacked on the accused's order.

438. Apart from the fact that nothing has been adduced to substantiate the claim that an imminent attack justifying General Blaškic's attack order, the question is whether the troops acted beyond the accused's orders.

iii) The accused ordered an attack aimed at the Muslim population

439. The Defence submitted that all the crimes committed in the Ahmici area were carried out by the Military Police, in particular its special unit, the D`okeri. According to the Defence, the accused did not control those troops, who, at the time when the crimes were committed, came directly under the Ministry of Defence of the Croatian Community of Herceg-Bosna in Mostar.

440. The Trial Chamber pointed out in this regard that the evidence established on the contrary that the crimes committed were not the work of the Military Police alone but were also ascribable to the regular HVO units, in particular, the *Vite{ka* Brigade and the Domobrani.

[921] D269.

441. The trial showed that, in addition to the regular units placed under the direct authority of the accused, a number of independent units were acting in the territory of the Central Bosnia Operative Zone, units for which the accused denied responsibility. It is therefore necessary to appraise the control exercised by the accused over those different units.

a. The accused's control over the *Vite{ka* brigade and the Home Guard (Domobrani)

442. There is no doubt whatsoever that the *Vite{ka* Brigade was directly answerable to the accused[922]. The order of 16 April, which triggered the attack, again stated this[923].

443. The Domobrani also were under the direct orders of the accused[924]. On 6 April at 10:00 hours, he called a meeting of all the Domobrani commands of the villages of Travnik, Vitez, Novi Travnik, Kreševo, Fojnica, Kakanj, Vareš, Žep~e, Zavidovi}i, Maglaj and Usora so that they could work out the arms and materiel which each had at its disposal. The accused stated again, in the order calling the meeting, that "the commands of the Domobrani units are responsible to me for the conduct of the command"[925].

444. The Defence however depicted the Croatian troops in Bosnia as bands of "armed villagers", very much influenced by local alliances. The lack of qualified officers, of training and of equipment for the troops as well as a inadequate communication system would explain that such crimes could have been committed. Thus without challenging the accused's *de jure* authority, the Defence submitted that he had no *de facto* authority over his troops[926].

---

[922] See in particular D241.

[923] The accused said again in order D269 that "Personally responsible to me for the execution of the given assignment is the commander of the HVO Brigade Vitez, Mario Cerkez".

[924] See in particular:
P769: document issued by the Croatian Defence Council in Mostar (signed by General Milivoj Petkovic) dated 8 February 1993 setting up the national guard. Paragraph 1.7 of that document states: "after being formed, the units shall be under the command of the appropriate operations zone commander". According to that document, the Domobrani were formed in order to support the regular army forces.
P770 (p. 3): this document, issued by the accused and dated March 1993, stated that the Domobrani were directly responsible to the operational zone commander.
P773, order of Zvonko Vukovic dated 13 March 1993, para. 2: "Command and leadership of the home guard shall be exercised by the provisional commands of the home guard units of the municipalities. These units and commands shall be under the command of the commander of the Central Bosnia Operative Zone".

[925] P777.

[926] Defence Brief, book VI, p. 538.

445. The accused explained that the *Vite{ka* brigade was in the process of being created[927]. The brigade had been set up by an order of 12 March 1993 appointing Mario Cerkez as commander[928] and was not yet very well organised as of 16 April.

446. Yet the accused congratulated himself on several occasions on how perfectly well organised and controlled his troops were[929]. The witness Mujezinovic also stated that in Vitez, the HVO had very well organised and very well armed troops[930]. According to several international observers, the HVO had very precise organisation charts defining everyone's tasks and areas of responsibility. The hierarchy seemed very clear, with each unit having a number, an area of activity and a grade[931]. The witness Bower stated that the military personnel were generally well trained since they had been trained in the JNA, which provided for two years of military service[932].

447. The Defence further maintained that the accused had insufficient means of communication. Being blocked in the basement of Hotel Vitez, he claimed he had only two telephones and a packet-transmission system, which did not enable him to maintain constant contact with all the troops deployed on the ground.

448. According to the witness Duncan, on the contrary, the accused had a fax machine available to him together with access to a local telecommunication network[933]. He also had access to an intelligence network and a Motorola satellite communication system[934]. An ECMM observer accordingly found that the communications facilities available to the Bosnian Croat army were generally relatively good[935]. According to the witness Morsink, the HVO controlled all the communication centres covering the municipality of Vitez and decided who could have access to the network[936]. According to that witness, the HVO

---

[927] Witness Blaškic, PT p. 18646.
[928] D241. Witness Blaškic, PT p. 22044.
[929] See in particular P647, dated 21 October 1992: "the activities of our forces are organised, fully co-ordinated and controlled by the command"; P456/32, dated 7 May 1993: "command and control function properly and all missions precede in a planned fashion according to orders, with detailed knowledge of the situation, full co-ordination and control".
[930] Witness Mujezinovic, PT of 20 August 1997 p. 1742.
[931] PT p. 23689.
[932] Witness Bower, PT p. 9782.
[933] Witness Duncan PT pp. 9062-9063.
[934] Witness Duncan PT p. 9062-9063.
[935] PT p. 23712.
[936] Witness Morsink, PT pp. 9908-9909. According to the witness Baggesen (PT of 21 August 1997, pp. 1878-1879), the postal services were under ABiH control in Zenica and HVO control in Travnik, Vitez and Kiseljak.

officers carried mobile radios[937] of the sort carried by Croatian soldiers during the attack on 16 April. Witness Baggesen, for his part, mentioned that radio equipment was present at the Hotel Vitez [938].

b. The control exercised by the accused over the special units

449. According to the Defence, a number of "special" units acted outside the accused's *de jure* and *de facto* control. The accused claimed that those special units had been set up on the initiative of the Defence Department of the HZHB and answered directly to that ministry. Although they could be deployed throughout the territory of the community of Herceg-Bosna, in particular in the Central Bosnia Operative Zone, these units remained under the sole command of the civilian authority of the Ministry of Defence of the HZHB. Thus, according to the accused, '[n]one of these units were ever part of the Central Bosnia Operative Zone structure and its organisation [...] They were never under the command of the main headquarters of the Croatian Defence Council"[939].

450. This in fact tallies with what the accused said to General Hadžihasanovic, according to whom the special units of the HVO and the Military Police were under the command of someone higher up in the chain of command[940].

451. The Trial Chamber first notes that it is inconsistent with military principles for the commander of an operational area not to have authority over all the troops acting within the confines of his area of responsibility. Witness Baggesen explained, for example, that "there was no doubt that those troops were commanded by General Blaškic. This is because, normally in the army, when a person is in command of a specific area of responsibility, he commands *ipso facto* all the military units located in that area"[941]. The accused himself admitted that that organisation was contrary to the principle of unity of command, albeit that principle was applied in the JNA[942].

---

[937] Witness Morsink, PT p. 9908-9909.
[938] Witness Baggesen, PT of 22 August 1997, p. 1895.
[939] Witness Bla{ki}, PT pp. 18105-18106.
[940] Witness Had`ihasanovi}, PT p. 23236.
[941] Witness Baggesen, PT of 22 August 1997, pp. 1901-1902.
[942] Witness Bla{ki}, PT p. 18070: "in the JNA, you had unity of command and unity of responsibility, which meant that in one single area there is a single commander and that he commands all forces. For instance, a commander of a brigade in the JNA had direct command over the military police company". See also PT p. 18074.

452. The Trial Chamber further finds that the accused gave orders with regard to the special units. Thus, on 26 September 1992, the accused gave an order providing for training for the special units[943]. Accordingly, an order of 16 January 1993 was addressed to several special units, including the Vitezovi, and to the Military Police[944]. Order 01-1-217/93 dated 18 January 1993 was addressed to all commands of all the brigades of the HVO and to the independent units of the Central Bosnia Operative Zone[945]. A number of orders of March 1993 were addressed to the HVO brigades and to the special units, in particular the Vitezovi, and the Military Police Fourth Battalion[946]. General Blaškic stated as follows in one of his orders: "brigade and *independent unit* commanders shall be responsible to me for carrying out the order"[947]. Other orders, dating from June 1993, which were addressed by the accused to the independent units, were submitted to the Trial Chamber[948]. The three orders submitted by the Defence as described above constitute further examples.

c. The accused's control over the Military Police

453. The military policy, which was established on 10 April 1993, was organised in battalions. The Fourth Battalion was in the Central Bosnia Operative Zone.

454. According to an operations report of the military policy for January to June 1993[949], the administration and organisation of the battalions of the military policy were reorganised in January 1993[950]. It was decided in particular to form light assault companies. One of those was the D`okeri unit, which operated in the Central Bosnia Operative Zone[951]. The report

---

[943] P456/2 and witness Marin, PT pp. 12901-12903.
[944] P456/6 of 16 January 1993, 11:40 hours. General Bla{ki} explained that those units had been temporarily assigned to him for those combats on the basis of an order from General Petkovi} dated 15 January 1993 (Witness Bla{ki}, PT pp. 18156-18157)
[945] D208; witnesses Bla{ki}, PT p. 18125 and Marin PT, p. 12090.
[946] D42, D211, P456/16; witnesses Bla{ki}, PT p. 18358; Marin PT p. 12110: order of 17 March 1993 sent to commanders of the HVO brigades, to independent units, to the Vitezovi, to the Military Police in Vitez and to the HVO civilian representatives (for information).
D358: order of 18 March so as to ensure that ECMM had freedom of movement. That order was addressed to ECMM representatives in Zenica for information, to commanders of the HVO brigades, to commanders of independent units, to the commander of the Military Police Fourth Battalion and to the person in charge of the police department in Travnik (witness Bla{ki}, PT p. 18366)
[947] D42, D211, P456/16 (emphasis added).
[948] P422, point 4: request to HVO brigades and to independent units, including the Military Police, the Vitezovi and the @utis, to report any developments in the situation on the ground and on the efforts taken to achieve a cease-fire agreement (witness Morsink, PT, p. 9883).
P423 and P443: orders given by Bla{ki} to all the commanders of HVO brigades, to the Military Police Fourth Battalion and to the special unit of the Vitezovi (witness Morsink, PT, p. 9884).
[949] P457.
[950] P457, p. 17.
[951] P457, pp. 17-18.

states that those units "participate[d] in the most difficult war operations achieving great success, mostly with great sacrifice"[952].

455. For all that, although they acted in the CBOZ, the Fourth Battalion and its D`okeri special unit were allegedly not placed under the sole authority of General Blaškic. That formation was placed under a dual chain of command as from 13 December 1992[953], whereby the accused gave the orders for certain tasks and the administration in Mostar for others. The Defence based this claim in particular on the rules on the formation and the activity of the administration of the Military Police[954]. According to Articles 9 and 10 of that document, the accused was entitled to give orders relating to routine operational tasks of the Military Police, but was not entitled to give them combat orders, this being only within the competence of the defence department[955]. The accused further explained that the Military Police were placed under the authority of Pa{ko Ljubi~ic, who himself was answerable to the accused, but only for routine tasks, not including combat operations[956].

456. Apart from absence of authority under the regulations, the Defence has argued that the Commander of the Fourth Battalion, Pa{ko Ljubi~ic, had considerable power in the region and did not obey the accused's orders[957]. Accordingly, it is alleged that the accused had no *de jure* or *de facto* authority over the Military Police Fourth Battalion and the D`okeri.

457. The accused further explained that he could not in any event take disciplinary measures against its members[958].

458. In reliance principally on the testimony of witness Marinko Palavra, the Commander of the Fourth Battalion as from 1 August 1993, the Prosecutor argued on the contrary that the distinction referred to in these rules had become obsolete at the material time and that the

---

[952] P457, p. 18.
[953] Date of a meeting in Vitez between General Petkovi}, Colonel Bla{ki} and the representatives of the Mostar administration, in the presence of the commander of the Military Police Fourth Battalion, Pa{ko Ljubi~i}.
[954] D523.
[955] Article 9: "in carrying out daily operative military police tasks, Military Police units shall be subordinated to the commander of the Military District or the commander of the HVO in the highest position in the sphere of activity of a Military Police unit".
Article 10: "Military Police shall carry out tasks and duties relating to: [...] participation in carrying out combat assignments along the front line on the orders of the Minster of Defence of the Croatian Republic of Herceg-Bosna".
Witness Bla{ki}, PT, pp. 19231-19232. See also PT pp. 24016-24018.
For the Defence arguments, see the Defence Brief p. 40.
[956] Witness Bla{ki}, PT pp. 19231-19232.
[957] Defence Brief, book V, p. 201.

accused had *de facto* all the powers of command over the Fourth Battalion and the D`okeri special unit[959].

459. The accused acknowledged that those troops could be "attached" to him[960] for *ad hoc* missions pursuant to specific requests[961]. He explained in this connection that certain rules provided that a commander of high rank in the military hierarchy could reinforce the units under him with supplementary units put at his disposal for *ad hoc* operations. According to the accused, the high command therefore defined how "a superior command [could] reinforce certain subordinate units with additional units, and during the period in which these combat operations [were] carried out, [how] such reinforcements [we]re subordinated to the commander of the overall operation"[962].

460. The accused acknowledged that the Military Police had been "attached" to him in that way as from 15:00 hours on 15 April on the order of the Chief of the General Staff[963]. General Petkovic thereby gave an order that "all forces of the Military Police" and the special units should be attached to him in the event of an "all-out attack"[964]. Consequently, those units were subordinated to him only for the duration of the combat mission. According to the accused, the attachment took effect as soon as the commander of the attached unit placed himself under the orders of the commander of the unit to which his unit was detached[965], that is to say, as regards the events in question and the Military Police, as from 11:42 hours on 16 April 1993[966]. The accused therefore claimed that the Military Police committed the crimes before they were attached to him.

461. The Trial Chamber observes in this regard that the accused admitted in another connection that he had a meeting in the afternoon of 15 April with the commanders of the Military Police Fourth Police, the Vitezovi and the Tvrtko special unit. He allegedly informed them during that meeting that General Petkovic had given orders that they should be attached

---

[958] Witness Bla{ki}, PT p. 19138.
[959] Prosecutor's Brief, book II, p. 54.
[960] The question of whether these troops were "attached", "assigned" or "subordinate" was debated at length before the Trial Chamber.
[961] Witness Bla{ki}, PT p. 19138.
[962] Witness Bla{ki}, PT p. 18110.
[963] Witness Bla{ki}, PT p. 18625 and 21930.
[964] Witness Bla{ki}, PT pp. 18624-18625.
[965] Witness Bla{ki}, PT p. 18626.
[966] Witness Bla{ki}, PT p. 18626.

to him[967]. He allegedly also read them the two orders D267 and D268, which, according to the accused, had not yet sent to the units concerned[968].

462. The Trial Chamber further notes that Vladimir [antic, the commander of the first battalion of the Military Police in active service[969], had an office in the Vitez Hotel, as the accused himself mentioned[970].

463. A number of witnesses moreover stated, that the accused had *de facto* authority over the Military Police Fourth Battalion. According to witness H.H., Pa{ko Ljubicic received orders from the accused and never refused to carry them out[971]. According to witness Baggesen, "the only one who had command over the Military Police was Mr. Blaškic"[972]. That witness testified to the attempt by the Commander of the Travnik Military Police to abduct Dzemo Merdan as a protest against the slowness of the inquiry carried out into the abduction of four officers of the Stjepan Tomaševic brigade. When requests made by UNPROFOR and the ECMM remained unsatisfied, the commander in question abandoned this forthwith after receiving an order by telephone from the accused.

464. As far as his power to impose sanctions was concerned, the accused explained that he did not have the power directly to punish individuals guilty of abuses. On the contrary, he had to contact the soldier's commander in the event of an abuse. It was then for the commander of the unit concerned to take the necessary measures. According to his own statements, the accused had in parallel to contact the Chief-of-Staff, who was then to contact the person responsible in the Defence Department[973]. That obligation on the accused to report any abuse committed to the competent authorities sufficed, as has been stated above[974], to establish command responsibility.

465. That evidence confirmed that General Blaškic had command authority over the Military Police Fourth Battalion and its special D`okeri unit during the period in question.

---

[967] Witness Bla{ki}, PT pp. 21930-21932. The detachment order was issued at 15:00 hours and the meeting was held at 17:00 hours.
[968] Witness Bla{ki}, PT pp. 21948-21949.
[969] Witness Bla{ki}, PT p. 22052.
[970] Witness Bla{ki}, PT pp. 21937-21938.
[971] Witness HH, PT pp. 6917-6918.
[972] Witness Baggesen, PT of 22 August 1997, p. 1907.
[973] Witness Bla{ki}, PT pp. 19505-19506.
[974] See above, discussion of Article 7 (3) of the Statute.

466. The Trial Chamber therefore cannot accept the argument that the accused did not have control over the troops acting on the ground.

iv) The massive and systematic nature of the crimes as proof that they were committed on orders

467. Lastly, the idea that these crimes could have been committed by uncontrolled elements is impossible to reconcile with the scale and uniformity of the crimes committed on 16 April in the municipality of Vitez. The Trial Chamber adopts the opinion expressed by witness Morsink, a professional soldier acting as an observer for the ECMM at the material time:

> I believe that one or two minor cases may have been committed by small, uncontrolled groups, but the large-scale and systematic manner in which these events took place, entire villages being burned, and other villages, we saw that it was the Muslim houses that were systematically selected, and we saw that the same type of events were taking place at the same time period in different locations, and it would be impossible, in my opinion, for this to have been carried out by uncontrolled groups[975].

The planned nature and, in particular, the fact that all these units acted in a perfectly co-ordinated manner presupposes in fact that those troops were responding to a single command, which accordingly could only be superior to the commander of each of those units.

468. In this connection, it is worth recalling that that was the opinion expressed by the accused himself[976].

v) The content of the orders

469. The Trial Chamber observes that the reasons adduced in order to justify the order of 16 April (D269) are based on propaganda designed to incite racial hatred. Order D267, for instance, alleges that extremist Muslim forces intended to carry out "ethnic cleansing" on the Croats in the region. Order D269 refers to the intention of the Muslim forces to destroy everything Croatian. Several international observers have stated that those words gave a very

[975] Witness Morsink, PT, p. 9878.
[976] Witness Bla{ki}, PT p. 19029, pp. 19155-19156 and p. 22020.

exaggerated picture as compared with the real situation[977]. According to an ECMM observer: "the fighting began without doubt on the initiative of the HVO, claiming that it was only answering a systematic anti-Croat attitude. It was obviously an attempt to seize and secure 'Croatian provinces'"[978].

470. The Trial Chamber further notes that those orders recommend the modes of combat that were actually used on the ground on 16 April. In this way, order D268 stresses co-ordination among the different units. It also asks the forces to take care to ensure that they have total control over fuel consumption, which was one of the main weapons used by the Croatian forces during the attack on 16 April. It is hard to image how the systematic use of petrol as a combat weapon could have been possible in that period of fuel shortage without the approval of the military and/or civilian authorities[979]. Order D269 refers to blocking (observation and ambush), search and offensive forces. The main (mountain and valley) roads between Vitez and Zenica were in fact blocked by HVO blocking forces on the morning of 16 April[980], in particular by the *Vite{ka* brigade[981]. According to witness Landry, the area was subjected to a so-called "cleansing" operation, which was carried out by establishing a cordon outside the village by means of check points on the roads leading to the villages, whilst lighter, more mobile troops, notably search troops, carried out the "cleansing" of the village[982].

471. The attack started with artillery fire and the Trial Chamber recalls that, according to the accused's own statements, the use of the artillery was placed under his direct command[983].

472. The testimony of the victims of the massacres tended to show that the civilians were killed in response to orders. Accordingly, witness Fatima Ahmic testified that she heard an HVO soldier in a van say by walkie-talkie: "Yes, the operation was successful, they are lying

---

[977] See especially P414: special report of the ECMM dated 8 June 1993 regarding Travnik; P415: special report of the ECMM dated 19 June 1993, specifically regarding the events at Gu~a Gora; witness Morsink, PT, pp. 9840-9842.
[978] PT p. 23575 and P741 (ECMM report dated 1/5/93), p. 8.
[979] Witness Bla{ki}, PT p. 22031.
[980] Witness Landry, PT pp. 7508-7509.
[981] Their use was confirmed by order D284 delivered in the night of 16 to 17 April by the accused to the *Vite{ka* Brigade; witness Bla{ki}, PT pp. 18644-18646.
[982] Witness Landry, PT p. 7515.
[983] Witness Bla{ki}, PT pp. 18521-18522.

in front of houses like pigs"[984]. When she asked them why they had killed her son, the soldiers said that "it was the *force majeure* who ordered it...the orders came from above"[985]. Witness Abdullah Ahmic testified that he saw a soldier say to another soldier who refused to kill a man: "do as you are ordered"[986]. Witness Cazim Ahmic testified to what an officer, Ibrica Kupre{kic, said to him: "go and run for your life. No Muslim may stay here. If they learn that I let you go, I will be executed"[987]. According to witness F, the D`okeri and the Vitezovi said that they had been given orders to kill all the Muslims so that Muslims would never ever live there again[988]. Witness A said that he heard a person named Cicko speak in these terms with regard to the events of 16 April: "everyone is washing their hands now as regards Ahmici, but we all know that Blaškic has ordered that no prisoners of war were of interest to him, only dead bodies"[989].

473. The Trial Chamber further finds that, in seeking to locate the centre of operations when the attack began on 16 April, the Cheshire Regiment found that it was near a sports stadium close to the Vitez Hotel[990].

vi) The risk taken by the accused

474. Even if doubt were still cast in spite of everything on whether the accused ordered the attack with the clear intention that the massacre would be committed, he would still be liable under Article 7(1) of the Statute for ordering the crimes. As has been explained above[991], any person who, in ordering an act, knows that there is a risk of crimes being committed and accepts that risk, shows the degree of intention necessary (recklessness) so as to incur responsibility for having ordered, planned or incited the commitment of the crimes. In this case, the accused knew that the troops which he had used to carry out the order of attack of 16 April had previously been guilty of many crimes against the Muslim population of Bosnia. The order given by the accused on 4 November 1992 expressly prohibiting the troops from burning the houses[992] proves this. Moreover, the accused admitted before the Trial Chamber

[984] Witness Fatima Ahmi} PT pp. 3959-3960.
[985] Witness Fatima Ahmi} PT p. 3955.
[986] Witness Abdullah Ahmi} PT p. 3836.
[987] Witness Cazim Ahmi} PT of 1 October 1997 p. 3144.
[988] Witness F.
[989] Witness A, PT p. 5444.
[990] Witness Parrott, PT pp. 5014-5015.
[991] See above, discussion on Article 7 of the Statute.
[992] Order of 4 November 1992, D347.

that he had been informed about the crimes committed by troops acting in the area for which he was responsible. In particular, the disciplinary reports were forwarded to him[993]. Likewise, the accused stated that he asked the Commander of the main general staff and the head of the Defence Department in January 1993 that the independent units be withdrawn from the Central Bosnia Operative Zone on account of the troubles they were causing[994]. Furthermore, the accused was aware that there were criminals acting in the ranks of the Military Police[995]. Witness Marin, who was a subordinate of the accused at the time, himself acknowledged that there were criminals in the ranks of the Military Police[996]. Admittedly, the accused did give an order on 18 January 1993 for the attention of the regular units of the HVO, the independent units and the Military Police Fourth Battalion instructing them to make sure that all soldiers prone to criminal conduct were not in a position to do any harm[997]. However, that order remained without effect, even though the accused issued a reminder on 6 February 1993[998]. On the contrary, according to the witness Marin the situation deteriorated thereafter[999]. The Defence also presented an order issued by the accused on 17 March 1993 requiring the commanders of all HVO brigades to identify their members who were prone to criminal conduct[1000]. Nevertheless, the Trial Chamber finds that the accused did not ensure himself, before calling on their services on 16 April, that measures had indeed been taken so as to be sure that those criminal elements were not in a position to do any harm. On the contrary, according to the accused it was not until he received the letter from Colonel Stewart on 22 April 1993 that he realised that he could not rely on the reports sent to him by the Military Police commander Ljubicic[1001]. It was not until 30 April that the accused asked the commander of the main staff to replace Paško Ljubicic and to change the structure of that unit[1002].

475. The Trial Chamber has further established that the Vitezovi and the Military Police Fourth Battalion took part in the fighting at Busova~a in January 1993[1003] on the accused's orders.

---

[993] See D204; witness Bla{ki}, PT pp. 18122-18123.
[994] Witness Bla{ki}, PT pp. 18126-18127.
[995] Witness Bla{ki}, PT pp. 18395-18396.
[996] Witness Marin, PT pp. 12080-12081.
[997] Witness Bla{ki}, PT pp. 18125-18126; witness Marin, PT pp. 12089-12090.
[998] D208.
[999] Witness Marin, PT p. 12091.
[1000] D42, D211 and P456/16: order of 17 March 1993; witness Marin, PT pp. 12103-12105.
[1001] Witness Bla{ki}, PT pp. 19144-19145.
[1002] Witness Bla{ki}, PT pp. 19144-19145.

476. The Trial Chamber further notes that the accused used the Military Police for subsequent operations. In particular, the attack launched against Grbavica on 7 and 8 September 1993 was carried out by the Military Police Seventh Battalion, which took over from the Military Police Fourth Battalion. Consequently, the members of that unit were the same as those who had committed the crimes at Ahmici, as the defence witness Marin acknowledged[1004]. Admittedly, the accused stated that he had removed the criminal elements once he had obtained overall control of that battalion on 23 July 1993. The accused testified that he sent off a report on 30 April concerning breaches of his orders by the Military Police and asked that disciplinary proceedings be taken against them. He further asked the Supreme Commander of the headquarters general staff to discharge the Commander of the Military Police, Paško Ljubicic, from his duties. He further claimed that he repeated this request on 29 May and 10 June[1005]. The accused claimed that during the months of June and July, he urged the main staff to make the Military Police subordinate to the Central Bosnia Operative Zone. This request was only granted on 23 July. Paško Ljubicic was then discharged from his duties and replaced by Marinko Palavra. According to the accused, it was not until this time that elements of the Military Police with criminal records were dismissed[1006].

vii) The accused knew that crimes had been committed

477. As the Trial Chamber has shown above, since he had reason to know that crimes had been, or were, about to be, committed, as the hierarchical superior of the forces in question, the accused was bound to take reasonable measures to forestall or prevent them. Having regard to the criteria laid down by the Trial Chamber[1007] and the facts as established by it, the Trial Chamber considers that the accused knew that crimes had been or were about to be committed and took no action as a consequence. The Trial Chamber construes the reluctance that he showed in letting the truth about the crimes committed be known as additional evidence of his guilt under Article 7(1) of the Statute.

478. The Trial Chamber is unable to believe the accused's assertions that he was unaware until 22 April 1993 that crimes had been committed. In fact, the accused maintained that he

---

[1003] See discussion above.
[1004] Witness Marin, PT pp. 13705-13706.
[1005] Witness Bla{ki}, PT pp. 19140-19144.
[1006] Defence Brief, book V, pp. 336-337.
[1007] See above, discussion of Article 7 of the Statute.

had had no knowledge of the extent of the crimes committed until he received a letter from Colonel Stewart dated 22 April[1008], to which he replied forthwith proposing that a committee of inquiry be set up[1009]. Apart from the fact that it is difficult to believe that the accused had no foreknowledge of an attack planned in an area coming within his area of responsibility only a few kilometres from his headquarters, several pieces of evidence disproved the accused's assertions. The accused maintained that he was blocked in the basement of the Vitez Hotel[1010], to which his headquarters had been transferred on account of the shelling of Vitez and Stari Vitez and which, for safety reasons[1011], he had been unable to leave until 27 April. The accused claimed that he had no means of observing for himself the extent and exact location of the fighting and that he was also not informed by his team on account of the lack of adequate means of communication: General Blaškic asserted that at that time he had available to him only two telephones and the packet transmission system[1012]. The only information which he purportedly had on 16 April came in the report forwarded by the commander of the Military Police, Paško Ljubicic, at 11:42 hours which mentioned neither murders of civilians nor the torching of houses[1013].

479. In the first place, the Trial Chamber casts doubt on the claim that the accused remained in the Vitez Hotel throughout the day on 16 April. Indeed, Colonel Stewart attempted to visit him there at 10:00 hours on 16 April and was informed that Colonel Blaškic was not there[1014]. The ECMM also tried to contract the accused on 16 April and was told that he was not at the headquarters[1015]. Be that as it may, Defence exhibit D278 shows that at least two of the accused's colleagues left the Vitez Hotel during the day of 16 April to negotiate a cease-fire with the Muslim forces at UNPROFOR headquarters at Bila[1016]. The accused said that when they returned, the two HVO representatives told him that they had

[1008] Witness Bla{ki}, PT pp. 23761-23762.
[1009] P456/57 and D340: letter from General Bla{ki} sent on 23 April to Colonel Stewart and in which the accused claimed to be ready to assemble a committee of enquiry, to look into the events at Ahmi}i especially, and asking that a meeting be held with the commander of the third corps of the ABiH in order to prevent the conflict from degenerating again. See witness Marin, PT p. 12452.
[1010] Witness Bla{ki}, PT p. 22049-22050.
[1011] According to the witness Marin the HVO did not have any armoured vehicle (witness Marin, PT pp. 12294-12295).
[1012] Witness Bla{ki}, PT pp. 22052-22053. What he said was corroborated by witness Marin, PT p. 12294-12295. As regards the accused's arguments see also the Defence Brief, book VI, p. 15 and 95.
[1013] Witness Bla{ki}, PT pp. 18622-18623.
[1014] Witness Stewart, PT p. 23743.
[1015] Witness Baggesen, PT of 22 August 1997, p. 1920. According to those witnesses his absence was not surprising since " it is normal during a military operation that the commander is at the forward headquarters so he can be closer to the front and command his soldiers."
[1016] D278: report on the meeting with the Muslim forces. "Upon the initiative of the British Battalion at the UNPROFOR headquarters in Bila, a meeting was held today with enemy representatives". Marko Prskalo and Piskuli} were the HVO representatives. Witness Marin, PT pp. 12318-12319.

seen some corpses of civilians at the side of road, but did not mention the torched houses. The accused's explanation for this was that the HVO representatives were travelling in armoured vehicles with very small windows[1017]. For his part, witness Landry described the situation in the following terms: "we could see that there was an immense fire coming from that area"[1018]. Likewise, witness Baggesen stated that "the whole sky was illuminated like a big fire"[1019]. The Trial Chamber notes how hard those two accounts are to reconcile with each other, to the say the least

480. Moreover, a superior of the accused testified to the Trial Chamber that the accused had informed him by telephone on 18 April that some members of the Military Police had behaved in an uncontrolled manner and committed crimes[1020]. That very day, General Petkovic had sent the accused an order asking in particular that "4. reliable information should be gathered concerning the protagonists of the conflict, the expulsion of the civilian population, the killing of captured soldiers and civilians, the torching of houses and other buildings"[1021], which order the accused caused to be forwarded to the units under his orders[1022].

481. Further, on 20 April the accused attended a meeting at Zenica during which Dzemo Merdan, the ABiH chief-of-staff, protested about the massacre at Ahmici, where he maintained that 500 civilians had been killed. Witness Marin testified to the Trial Chamber that the accused had told him upon his return from that meeting about the crimes committed in Ahmici[1023]. The accused claimed that he had then immediately proposed setting up a joint investigating commission but the ABiH representatives had rejected this offer[1024]. The accused also stated that on that very evening he had ordered all the reports received by the command to be collected and that any report which might confirm Dzemo Merdan's allegations be identified[1025]. However, no order requesting additional information about those events was sent to the Military Police Fourth Battalion[1026]. Furthermore, the accused made no mention of such information in the document that he sent on the following day, 21 April,

[1017] Witness Bla{ki}, PT pp. 22050-22053.
[1018] Witness Landry, PT p. 7515.
[1019] Witness Baggesen, PT of 22 August 1997, p. 1926.
[1020] PT pp. 24100 and 24024-24027.
[1021] P316; witness Marin, PT p. 13620.
[1022] P318; witness Marin, PT p. 13621.
[1023] Witness Marin, PT. pp. 13617-13618.
[1024] Defence Brief, book V, p. 311.
[1025] Witness Bla{ki}, PT p. 22125.
[1026] Witness Marin, PT pp. 13617-13618.

to Dario Kordic, Ignac Ko{troman and Ivica Zeko[1027]. His explanation for that omission was that Dzemo Merdan's accusations had remained vague. He further told the Trial Chamber that the civilian protection units had received the order to gather up the bodies at Ahmici on 21 April 1993[1028]. Although the accused asserted that that order came from the civil authorities and not from himself, it is hard to believe that such an undertaking could have been carried out without the accused's having been informed of the scale of the massacre.

482. Several international observers who attempted to go to the scene of the massacre stated that they encountered resistance from the HVO soldiers in control of the area. An ECMM team attempted to go to Ahmici on the morning of 16 April but was prevented from doing so by the HVO soldiers manning a roadblock at the entry to the village[1029]. Moreover, the team from the Commission on Human Rights came under fire from snipers[1030]. In addition, HVO soldiers sought to bar Colonel Stewart's passage when he came to visit the scene on 22 April[1031].

483. There is, moreover, a surprising discrepancy between what the accused said both before international observers and the international community and what he has said *vis-à-vis* the Croatian public. On 22 April he gave an immediate answer to Colonel Stewart's letter in which he stated that he was "ready to send immediately the investigating commission to the village of Ahmici"[1032]. When he met Colonel Stewart on 24 April at 13:00 hours, he accepted that crimes had been committed in the zone for which he was responsible[1033] and, according to the witness Stewart, seemed devastated by the scale of the massacre[1034]. However, in his report to the Croatian authorities dated the same day, the accused showed no regret, remorse or anger over the crimes committed on 16 April. On the contrary, the accused complained that the international community had given a biased presentation of the events thus proving its anti-Croatian attitude[1035]. Likewise, in an interview in the magazine *Danas* that appeared on 5 October 1993[1036], General Blaškic stated that the HVO were set up in Ahmici and that in any event, those crimes were the responsibility of the HOS which had a large majority of

[1027] Witness Marin, PT p. 13629.
[1028] Witness Bla{ki}, PT pp. 22126-22131. According to witness Zec, a lorry is alleged to have collected the bodies from Ahmi}i six days after the massacre, that is to say 22 April (witness Zec, PT pp. 4303-4304).
[1029] Witness Baggesen, PT of 22 August 1997, pp. 1929-1931.
[1030] P184, p. 2 para. 4.
[1031] Witness Stewart, PT p. 23776.
[1032] P456/57; witness Marin, PT. pp. 13653-13654.
[1033] Witness Stewart, PT p. 23762.
[1034] Witness Stewart, PT pp. 23765-23766 and 23866; P742.
[1035] P466/58; witnesses Stewart, PT pp. 23766-23767 and Marin PT pp. 13662-13663.

Muslims among its troops, and of the armed forces of the MOS (Muslim troops). He went on to assert that the massacres in Ahmici had been "staged and skilfully shown to [...] the EC observer mission [and] Bob Stewart"[1037].

484. It is also difficult to see how these crimes which the accused himself thought had been organised and ordered at a high level of the military hierarchy, could have escaped his knowledge, and that of Dario Kordic, Ignac Koštroman or Anto Valenta. After all, the accused held a press conference condemning the Ahmici massacre in the presence of these people on 27 April 1993[1038].

485. Other witnesses stated that they had heard about it before 22 April. In particular, the president of the HDZ in Vitez, Anto Valenta, stated that he had been informed of it on 17 April by a report from the Central Bosnia Operative Zone. That report noted the destruction of buildings and the deaths of 70 to 80 civilians whose ethnic origin was not specified[1039]. However, according to the accused, at that time, Anto Valenta used the office of Franjo Nakic, Chief-of-Staff, which was in the Hotel Vitez[1040]. A meeting between Mate Boban and President Izetbegovic was allegedly scheduled for 18 April to discuss the situation in central Bosnia[1041]. One of General Blaškic's superiors said that he had been informed of the scale of the massacre on 18 April[1042] and that on 19 April General Morillon had told him in Medjugorje that the Military Police had been recognized at the scene[1043]. The Defence witness DY, who was not in the military, said that he had heard about the events at Ahmici the day they occurred or the next day[1044].

viii) The accused did not take the necessary measures

486. The Defence explained that the accused had given a whole series of orders after hearing of the Ahmici massacre on 22 April[1045]. In particular, on 18 April, he gave the order

---

[1036] P380.
[1037] Witnesses Bell, PT p. 17638; Duncan, PT pp. 9057-9058.
[1038] P572; witness Bell, PT pp. 17620-17622.
[1039] PT p. 24090.
[1040] Witness Blaškic, PT pp. 19177-19178.
[1041] PT p. 24091.
[1042] P695; witness Stewart, PT pp. 23769-23770.
[1043] PT p. 24091.
[1044] Witness DY, PT p. 23457.
[1045] D284, D318, D334, D336, D338, D353, D361, D362, D364, D365, D370, D374, D376, P456/27.

to all HVO units in his command zone not to torch homes and he transmitted that order to UNPROFOR and to the ECMM[1046].

487. However, the accused only gave these "preventive" orders after the order to attack on 16 April[1047]. In that connection, the Trial Chamber agrees with the Prosecutor that "the preventative nature of prior punishment was lost [...]. His subordinates clearly understood that certain types of illegal conduct were acceptable and would not lead to punishment"[1048]

488. The efforts made by the accused to see that the crimes committed were investigated and the perpetrators prosecuted and punished were also hardly convincing. In particular, the accused did not attempt to contact the commander of the Military Police, Paško Ljubi~ic, although he suspected from the outset that the Military Police had committed the crimes[1049]. Nor did he take any measures to seal off the area and ensure that evidence was preserved, despite being required to do so by Article 60 of the military discipline regulations. He did not, for example, order an autopsy on any body before it was buried[1050], and did not attempt to interview any survivors although they were detained at the school in Dubravica.

489. The accused stated that he sought the help of international organisations, especially the ECMM and UNPROFOR, in carrying out the investigation and that he never obtained this help[1051]. However, international observers who gave evidence before the Trial Chamber challenged this version of events. The witnesses Stewart and Morsink testified that the accused had never sought their help[1052]. On the contrary, Colonel Stewart complained on 24 April that no investigating commission had been set up yet: "No-one has yet taken responsibility, and no commission has been formed; This is a political catastrophe for the HVO; The HVO wants to destroy the Muslims"[1053].

490. Colonel Stewart once again asked about the setting up of an investigating commission at a meeting with Anto Valenta and Tihomir Blaškic on 4 May 1993[1054]. The witness Stewart

---

[1046] P456, P55.
[1047] D269.
[1048] Prosecutor's Brief, book VII, p. 158/2.
[1049] Witness Blaškic, PT pp. 18935-18937 and 18948. See also PT pp. 24100-24101.
[1050] Witness Marin, PT pp. 13679-13682.
[1051] Witness Blaškic, PT p. 19168; Defence Brief, p. 29.
[1052] Witness Stewart, PT p. 23760.
[1053] P456/58; witness Marin, PT pp. 13655-13656.
[1054] Witnesses Stewart, PT pp. 23747 and 23769; Blaškic, PT pp. 19177-19178.

stated that no investigation had been initiated before his departure on 10 May[1055]. There was another meeting on 9 May in the presence of his replacement, Colonel Duncan, then Commander of the Prince of Wales Regiment in Central Bosnia[1056]. The accused allegedly explained to Colonel Duncan that the crimes committed at Ahmici had been carried out either by Muslims wearing HVO uniforms or by Muslim extremists who were out of control, or even by Serbs who could have infiltrated the HVO controlled zone[1057]. The witness Duncan said he asked once again for an investigation to be set up and 25 May was agreed as the date for completion of the investigation and publication of the results[1058]. According to the witness Duncan, that investigation was never carried out[1059]. Likewise, the witness Morsink stated that the ECMM had never received the findings of the investigation which was supposed to have been undertaken into the events in Ahmici[1060].

491. Thus there were many occasions on which the accused could have asked for help from the international authorities. However, far from having been asked for such help, the authorities had, on the contrary, had to get in touch with the accused and to insist on an investigation being carried out.

492. The accused maintained that as early as 24 April, he had asked the SIS representative, Anto Sliškovic, to carry out the investigation. However, no evidence was adduced of this request. General Blaškic testified that he had made the request orally[1061], through the intermediary of his subordinate Marin[1062]. The witness Marin did not mention such an order however. His request was in any event never fulfilled. He testified that he again met the SIS representative on 8 May and reiterated his request. It was only on 10 May that the accused gave a written order[1063], that is to say after the bodies had been buried, the surviving eyewitnesses released from the Dubravica detention centre and Colonel Stewart replaced by Colonel Duncan. That order asked Anto Sliškovic to submit his report by 25 May at the

[1055] Witnesses Stewart, PT p. 23750.
[1056] Witness Duncan, PT pp. 9038-9039.
[1057] Witness Duncan, PT pp. 9055-9056. The accused has always denied saying this. However, what he is alleged to have said here echoes what he said in *Danas* magazine on 5 October 1993 (P380).
[1058] Witness Duncan, PT pp. 9055-9056.
[1059] Witness Duncan, PT pp. 9056-9057.
[1060] Witness Morsink, PT pp. 9858-9859.
[1061] The accused explained in that connection that it was very rare for him to give a written order to his closest colleagues: "these exceptional situations [...] were telling proof in their own right that I was not fully satisfied with the action that I ordered previously" (witness Blaškic, PT pp. 22922-22923).
[1062] Witness Blaškic, PT p. 22924. Marin appeared as a defence witness and gave evidence to the Trial Chamber for several weeks.
[1063] P456/59 and D341 (same document); witness Blaškic, PT p. 19248.

latest[1064]. The report submitted on that date was, even in the view of the accused, "not complete"[1065]. The report concluded in fact that the attack had been initiated by Muslim forces whose artillery shots were alleged to have been the cause of most of the material damage suffered by these villages. The report also indicated the presence of "men in black" whose military affiliation was not specified and who were deemed to be responsible for the pillage and the murders. According to the report, this was the action of Muslim forces who had thus sought to draw the international community's attention to the suffering of the Muslim population and consequently get an international force into the region. According to the report, there had been sixty or so victims of the fighting in Ahmici, which figure is much below the finding of the ECMM on 15 May 1993[1066]. It was only on 17 August that the accused asked the SIS to carry out a second investigation and to finish it by 30 September at the latest[1067]. The accused however testified that that report had never been communicated to him, Anto Sliškovic having informed him on 30 September that the results of the investigation, including the names of the guilty parties, had been transmitted to the SIS in Mostar and that the affair was no longer any of his concern[1068].

493. He had another chance in 1994. The accused, then appointed HVO Deputy Chief-of-Staff, was put in charge, from June to October 1994, of a major campaign against ordinary crime, known as operation "Pauk" or "Spider". He broadened the scope of the operation in order to be able to investigate war crimes. In that context, he ordered an SIS officer to check whether a criminal report on the subject of Ahmici had actually been submitted. He claimed that the SIS officer told him that he was not able to find the criminal report giving the names of the suspects[1069]. The Trial Chamber further notes that the accused had not shown that he had made any sustained efforts to recover the report before appearing before the Tribunal, although that report was the item of evidence most likely to exonerate him. Consequently, these findings cast doubt on the very existence of such a report.

494. In sum, no soldier has ever been convicted for the crimes at Ahmici, Pirici, Šantici and Nadioci. The Defence witness Marin recognised that no member of the HVO or of any other unit of the Croatian forces had ever been punished for crimes committed against the

[1064] Witness Blaškic, PT pp. 19248-19250.
[1065] D608 and D342. See also PT p. 24112.
[1066] That report found that there had been at least 103 victims.
[1067] Witness Blaškic, PT pp. 19296-19300 and 19617-19628; D342 and D343; witness Marin PT p. 13700-13701.
[1068] Witness Blaškic, PT pp. 19741.
[1069] Witness Blaškic, PT pp. 19640.

Muslim population or their possessions after the Ahmici massacres[1070]. The witness Morsink testified that he had never seen the HVO authorities carry out investigations into the atrocities against the Muslims[1071]

495. In the final analysis, the Trial Chamber is convinced that General Blaškic ordered the attacks that gave rise to these crimes. In any event, it is clear that he never took any reasonable measure to prevent the crimes being committed or to punish those responsible for them.

2. The events in Vitez and Stari Vitez

496. In April 1993, Croatian political and military forces controlled the town of Vitez[1072]. Access to the town was controlled by roadblocks. Towards mid-April, tension between the two communities had increased considerably in Vitez as in the whole of the Lašva Valley[1073]. On the eve of the conflict hatred towards the Muslim minority in Vitez was exacerbated, generalized and borne by the media. As the Special Rapporteur of the Commission on Human Rights explained in his 19 May 1993 report:

> relatively minor incidents involving Croats are exaggerated and sensationalised. It is reported that in the days prior to the attack on Muslim civilians in the area of Vitez and the Lašva valley, a prominent local member of the Croatian Democratic Union (HDZ) suggested on the radio, without any apparent justification, that a massive attack by government forces was imminent, that "Mujahidin" forces would destroy the entire town and commit atrocities against women and children. All Muslim residents in Vitez were identified as conspirators in this plan, portrayed as "Islamic fundamentalists" and threatened with death. This is reported to have added greatly to the climate of fear and hatred in the area[1074].

a) The attacks committed as from 16 April 1993

497. The political and social events of 1992 and the start of 1993 led to the conflict breaking out between the HVO and ABiH troops in Vitez and Stari Vitez as from 16 April 1993. The headquarters of the two parties to the conflict were then a few hundred meters apart. General Blaškic's headquarters were in the Hotel Vitez and the Territorial Defence

[1070] Witness Marin, PT p. 13640.
[1071] Witness Morsink, PT pp. 9851-9852.
[1072] P45C and P53.
[1073] Witness Thomas, PT of 24 September 1997, p. 2618 ; witness Watters. PT pp. 3381-3382; witness McLeod, PT p. 6361.

headquarters in Stari Vitez were in the Muslim quarter of the town. That proximity only increased the frequency of confrontations between the two warring factions.

498. Three major events marked the period covered by the indictment: the attack of 16 April 1993, the booby-trapped lorry attack of 18 April 1993 and the attack of 18 July 1993. Those tragic events stood out because of their sheer scale and brutality[1075].

499. On 16 April 1993, between 05:00 hours and 06:00 hours, various areas of the town of Vitez such as Kolonija (town centre), Rijeka, Stari Vitez (old town and Muslim quarter) and Novaci were shelled and then came under fierce infantry fire[1076]. Many houses were looted and torched[1077], Muslims were arrested, segregated on the basis of their age and sex and the men of fighting age were driven to detention areas or to the battle front lines[1078]. Near Stari Vitez, in the vicinity of a building known as "the yellow building"[1079], a group of soldiers armed with explosives attacked several cafés belonging to Muslims and looted and torched Muslim houses[1080]. They opened fire on Stari Vitez from the roof of the "yellow building" and later in the day they arrested Muslims[1081]. The attacks carried on the next day with fierce artillery fire, in particular on Stari Vitez and Novaci[1082].

500. On 18 April 1993, a tanker containing 500 kilograms of explosives[1083] exploded near the Stari Vitez mosque. The conflagration, which was unusually intense[1084], caused major material damage and claimed a great many victims[1085].

[1074] P184.
[1075] Witness Thomas PT of 24 September 1997, p. 2629.
[1076] Witness Djidic, PT of 29 July 1997, pp. 1199-1200; witness Pezer, PT of 19 August 1997, p. 1562; witness Mujezinovic, PT of 20 August 1997, pp. 1695-1697; witness Beso, PT of 26 August 1997, pp. 2280-2281; witness Thomas PT of 24 September 1997 p. 2650; witness D, PT of 24 September 1997, pp. 2687-2689; witness Zeco, PT of 26 September 1997, p. 2808; witness E, PT of 29 September 1997, p. 2908-2910.
[1077] Witness Djidic, PT of 29 July 1997, pp. 1207-1208; witness Pezer, PT of 19 August 1997, pp. 1563-1565; witness Thomas, PT of 24 September 1997 p. 2656; witness D, PT of 24 September 1997, pp. 2694-2730; witness E, PT of 29 September 1997, pp. 2908-2910; witness Ellis, PT of 30 September 1997 p. 2979 and pp. 3042-3045; witness Kujawinski PT pp. 4106-4107; witness Parrott, PT p. 5045-5046.
[1078] Witness Djidic, PT of 29 July 1997, pp. 1201-1202; witness Pezer, PT of 19 August 1997, p. 1568-1569; witness Beso, PT of 26 August 1997, pp. 2280-2288; witness Kavazovic, PT pp. 2255-2259; witness D, PT of 24 September 1997, pp. 2695-2702; witness Zeco, PT of 26 September 1997, p. 2810-2812; witness E, PT of 29 September 1997, pp. 2912-2913; witness N, PT pp. 4470-4471; witness Hunter PT pp. 5132-5133; witness Kajmovic, PT pp. 5668-5669.
[1079] Witness Djidic, PT of 29 July 1997, p. 1223.
[1080] Witness Pezer, PT of 19 August 1997, pp. 1562-1566.
[1081] Witness Pezer, PT of 19 August 1997, pp. 1567-1569.
[1082] Witness Djidic, PT of 29 July 1997, pp. 1211-1213. Witness Thomas PT of 24 September 1997 pp. 2649-2650; witness D, PT of 24 September 1997, pp. 2691-2693; witness Kujawinski PT pp. 4126-4127.
[1083] P242, witness Watters, PT pp. 3635-3636.
[1084] Witness Thomas PT of 24 September 1997 p. 2590; Witness Zeco, PT of 26 September 1997, p. 2815.

501. As from 17 April 1993, and until the Washington accords of February 1994, Stari Vitez became a Muslim enclave and was under siege for ten months[1086]. The period was characterized by confrontations of varying intensity[1087], in particular by a violent attack on 18 July 1993[1088]. That day, a great many homemade weapons known as "baby bombs" were fired on Stari Vitez and killed many Muslims. That quarter of the town was also targeted by multi-tube rocket-launchers and mortars.

b) The widespread or systematic nature of the attacks

502. Several facts bear witness to the organized and planned nature of the aforementioned attacks on Vitez and Stari Vitez.

i) The 16 April 1993 attack

503. According to the witness Parrott, the soldiers involved in the 16 April 1993 operation on Vitez and Stari Vitez seemed "well organized" and "appeared to be using military [...] tactics"[1089]. Indeed, the attack was organized into two separate phases in order to achieve maximum efficiency. First of all, it started with an artillery attack and was followed by an infantry attack with torching of houses and expulsion of the inhabitants[1090].

504. Several clues suggest that the attack was well prepared, in particular:

- increased control of the town by HVO forces[1091]: on 15 April, the witness Kavazovic saw groups of HVO soldiers in combat gear "who were blocking all the entrances to buildings"[1092] and explained that, on 15 April, he had been warned by a Croatian friend

[1085] Witness Djidic, PT of 29 July 1997, pp. 1214-1216. Witness Mujezinovic, PT of 20 August 1997, pp. 1697-1698; witness Zeco, PT of 26 September 1997, pp. 2816-2817; witness Watters, PT pp. 3403-3404; witness Hughes, PT pp. 4534-4535.
[1086] Witness Djidic, PT of 29 July 1997, pp. 1233-1234.
[1087] Witness Bower, PT pp. 9389-9390.
[1088] P708 ; Witness Djidic, PT of 29 July 1997, pp. 1238-1239.
[1089] Witness Parrott, PT pp. 5032-5033.
[1090] Witness Djidic, PT of 29 July 1997, pp. 1206-1207 ; witness Pezer, PT of 19 August 1997, pp. 1563-1570; witness Ellis, PT of 30 September 1997, pp. 2988-2989.
[1091] P45C, P53 ; witness Watters, PT pp. 3538-3539.
[1092] Witness Kavazovic, PT of 26 august 1997, pp. 3538-3539.

that "bad things were about to happen in Vitez"[1093]. That same day, the witness Pezer saw that access to the Vitez-Zenica road was closed and noted "unusual movements by HVO soldiers" and HVO members filling their vehicles with fuel[1094]. The witness Bower explained that the HVO controlled access to Stari Vitez[1095]. HVO soldiers were seen filling three tow trucks with bags of sand[1096]. Those bags were set out at the crossroads that led to the Hotel Vitez and in the old town[1097]. The witness S noticed the presence of snipers, machine guns and cannons, which were aimed at the two Muslim areas of Stari Vitez and Treskavica[1098]. Finally, on the day of the attack, the witness Ellis saw twenty or so soldiers wearing the HVO insignia at a checkpoint and more heavily armed than usual[1099].

- Preparation of the necessary equipment: the organizers of the attack used heavy, sophisticated weaponry which was "designed specifically for air defence"[1100]. Some witnesses saw a very large calibre anti-aircraft gun mounted on a vehicle and a very modern anti-tank weapon[1101].

- Creation of a system for regrouping soldiers and patrolling in small groups[1102].

ii) The booby-trapped lorry attack of 18 April 1993

505. Prosecution and Defence alike described this act as terrorism, designed principally to instil a feeling of terror in the target population[1103]. The Trial Chamber has no doubt that this terrorist operation was premeditated. The organisers had to acquire a considerable quantity of explosives, organize the transportation of the booby-trapped vehicle and plan where it was to

[1093] D53, p. 4.
[1094] Witness Pezer, PT of 19 August 1997, p. 1556.
[1095] Witness Bower, PT pp. 9375-9377. The witness added that to the west, the road which leads to Stari Vitez was blocked by a roadblock, explosives and landmines.
[1096] Witness S, PT pp. 4876-4877.
[1097] Witness S,PT pp. 4898-4900 and 4905-4906.
[1098] Witness S, PT pp. 4898-4900 and pp. 4905-4907.
[1099] Witness Ellis, PT of 29 September 1997, pp. 2970-2974.
[1100] Witness Ellis, PT of 30 September 1997, pp. 2988-2989.
[1101] P106 ; witness Pezer, PT of 19 August 1997, pp. 1555-1556; witness Ellis, PT of 30 September 1997, pp. 2987-2988.
[1102] Witness Ellis, PT of 30 September 1997, pp. 3113-3114. The witness Hughes noticed that there existed an efficient system of reconnaissance between the soldiers, with the probable aim of better recognizing one another. The HVO soldiers wore ribbons attached to the epaulettes of their uniforms, PT p. 4537.
[1103] Witness Thomas, PT of 24 September 1997, pp. 2646-2647.

be placed (near a mosque). This evidence was sufficient to show the operation had been planned.

iii) The 18 July 1993 attack

506. Darko Gelic, General Blaškic's liaison officer with UNPROFOR, admitted that HVO troops attacked Stari Vitez that day and that the attack had been planned. The attack bore the same hallmarks of planning as that of 16 April 1993, in particular the organisation of the operation into two phases[1104]. Darko Gelic also confirmed that the artillery barrage was the first phase of the attack[1105].

c) The civilian and Muslim character of the target populations

507. Generally speaking, the three attacks described above targeted the Muslim civilian population and were not designed as a response to a military aggression. At the very least, even if there had been such aggression, the assets and the method used could not be deemed proportionate to it. In each of the aforementioned events, the majority of the victims were civilians[1106], Muslim[1107](out of 101 civilians killed, 96 Muslims and 5 Croats were identified after the 16 April attack[1108]) and it seems obvious that men, women and children were attacked without distinction[1109].

i) The 16 April 1993 attack

508. The Defence maintained that "ABiH soldiers from Stari Vitez were continuously using civilian buildings for military purposes"[1110]and that the fighting occurred in the middle

[1104] Witness Djidic, PT of 29 July 1997, p. 1238.
[1105] P708.
[1106] Witness Thomas, PT of 24 September 1997, pp. 2656-2690 ; witness Bower, PT pp. 9490-9491 ; witness Whitworth, PT pp. 10376-10377.
[1107] Witness Pezer, PT of 19 August 1997, pp. 1565-1569 ; witness Beso, PT of 26 August 1997, p. 2281; witness Thomas, PT of 24 September 1997, p. 2675 ; witness D, PT of 24 September 1997, pp. 2693-2694.
[1108] P184.
[1109] P83, P100/4, P100/5 ; witness Watters, PT p. 3597 ; witness Kujawinski, PT pp. 4107-4108 ; witness Hughes, PT pp. 4532-4569 ; witness Bower, PT p. 9385.
[1110] Defence Brief, book II, p. 302.

of an urban area. Consequently, any attempt to gain some of the enemy's terrain was likely to entail greater losses and damage than are usual in other situations.

509. The Trial Chamber dismisses this approach. Granted troops from the army of Bosnia-Herzegovina were present in the town that day[1111]. But they were the ones attacked and not the other way around. There were several reasons, which emerged from the evidence of the witness Thomas, to infer that conclusion:

- there was no military installation, fortification or trench in the town on that day[1112];

- at the material time, the front line was fluctuating and changed from day to day depending on the commanders of the different troops[1113];

- until 16 April, there had been no confrontations between the HVO troops and the Bosnia-Herzegovina army. War broke out suddenly on 16 April 1993[1114];

- that day, there were no reports of any military victims[1115] or of the presence of soldiers from the Bosnia-Herzegovina army[1116];

- the Muslim military did not put up any defence because the target was not military but civilian[1117]. The houses that were torched belonged to civilians and could not in any circumstances be construed as military targets[1118];

[1111] According to the statement of the witness Djidic : "At the time of the attack, there were approximately 50 to 100 soldiers in Vitez. They were deployed. They were accommodated in one room, in one building called the fire-fighting house. And some soldiers and officers were in the headquarters, in the building which I pointed out. A certain number of soldiers were in their own houses, resting; and another set of soldiers was on the front line in Visoko and in Vla{i} [so that there] were only two military buildings in Stari Vitez", PT of 29 July 1997, pp. 1205-1206.

[1112] Witness Ellis, PT p. 3115 and p. 2989 ; witness Parrott, PT pp. 5034-5035. The witness Thomas stated that there were no military installations, that it was not a military sector or objective: "It was merely a strip of residential houses that were lived in by Muslims. That goes down to the point that none of the buildings were fortified for defence because they did not have to be because they were simply people's homes", PT of 24 September 1997, p. 2681.

[1113] Witness Djidic, PT of 31 July 1997, pp. 1477-1478; witness Thomas, PT of 24 September 1997, pp. 2633-2634.

[1114] Witness Thomas, PT of 24 September 1997, pp. 2633-2634.

[1115] Witness Thomas, PT of 24 September 1997, pp. 2635-2636.

[1116] Witness Thomas, PT of 24 September 1997, pp. 2641-2642.

[1117] Witness Thomas, PT of 24 September 1997, p. 2681.

[1118] Witness Djidic, PT of 29 July 1997, pp. 1207-1208.

- the artillery was not aiming particularly at the front lines where most of the ABiH soldiers were[1119].

510. Consequently, it was impossible to ascertain any strategic or military reasons for the 16 April 1993 attack on Vitez and Stari Vitez. In the event that there had been, the devastation visited upon the town was out of all proportion with military necessity. On the contrary, the attack was designed to implement an expulsion plan, if necessary by killing Muslim civilians and destroying their possessions[1120]. As the witness Bower explained,

> [i]t appeared to be more of a containment campaign, not to try and seize and hold the ground of Stari Vitez, but more to ensure that the occupants of Stari Vitez didn't expand their enclave or attempt to break out of their enclave. It was more static, more containment[1121].

The Croatian or mixed areas in the town were thus not damaged during the attack[1122].

ii) The booby-trapped lorry of 18 April 1993

511. The explosion occurred near houses belonging to civilians, thus causing numerous civilian victims together with many possessions of a civilian[1123] or religious nature, such as the roof of the mosque[1124]. Not one of the victims was in uniform[1125]. It seemed that the purpose of the attack was solely to terrorize the Muslim civilians in order to make them flee[1126]. As Colonel Watters explained,

> it was an act of terrorism, and certainly it was not a legitimate act of war in pursuit of military objectives. The design of terror weapons or terrorist weapons is to terrorise, and it certainly worked. The people of Stari Vitez were absolutely terrorised by it. Very many of them wanted to leave their homes[1127].

[1119] Witness Bower, PT pp. 9386-9387.
[1120] Witness Pezer, PT of 19 August 1997, pp. 1563-1566 ; witness N, PT p. 4477.
[1121] Witness Bower, PT pp. 9386.
[1122] Witness Watters, PT p. 3598.
[1123] P81 ; witness Djidic, PT of 29 July 1997, pp. 1218-1220.
[1124] Witness Djidic, PT of 29 July 1997, pp. 1220-1221.
[1125] Witness Thomas, PT of 24 September 1997, pp. 2646-2647.
[1126] Witness Ellis, PT of 30 September 1997, pp. 2983-2984.
[1127] Witness Watters, PT pp. 3404-3405.

iii) The 18 July 1993 attack

512. The Trial Chamber inferred from the arms used that the perpetrators of the attack had wanted to affect Muslim civilians. The "baby-bombs" are indeed "home-made mortars"[1128] which are difficult to guide accurately. Since their trajectory is "irregular" and non-linear[1129], they are likely to hit non-military targets. In this case, these blind weapons were sent onto Stari Vitez where they killed and injured many Muslim civilians[1130]. They also resulted in substantial material civilian damage[1131].

d) General Blaškic's responsibility

i) The arguments of the parties

513. According to the Prosecution, the HVO and the Vitezovi committed the aforementioned crimes. The Prosecution claimed that the Vitezovi obeyed General Blaškic's orders in the same way as the HVO troops. General Blaškic is alleged to have assigned the Vitezovi to the Stari Vitez sector on 15 April and then to have given them orders to attack the area, with the help of the HVO, on 16 April, 18 April and 18 July 1993[1132].

514. The Defence did not deny that HVO troops were responsible for some of the attacks on Stari Vitez but considered that those troops attacked military targets and were always acting in response to an ABiH attack, thus meeting the requirement of proportionality[1133]. It stated that the above crimes were committed by the Vitezovi alone, and refused to recognize the existence of a permanent relationship of subordination between the Vitezovi and General Blaškic.

515. The Defence maintained that the Vitezovi answered directly to the Ministry of Defence of the HZHB in Mostar and were not acting, at least not in any permanent way, under the command of General Blaškic. Although the units were sometimes temporarily

[1128] Defence Brief, p. 301.
[1129] Witness Djidic, PT of 29 July 1997, pp. 1242-1243.
[1130] P758 to 763.
[1131] Witness Djidic, PT of 29 July 1997, pp. 1238-1239.
[1132] Prosecutor's Brief, book VII, p. 62.
[1133] Defence Brief, pp. 294-302.

attached to the Central Bosnia Operative Zone, Tihomir Blaškic "did not possess the legal authority or actual ability to punish or discipline Vitezovi members" according to the Defence[1134]. It added that, during the periods of temporary attachment, "the Vitezovi, armed with the knowledge that Blaškic could not execute disciplinary or criminal sanctions against members of the unit, determined how [to] implement Blaškic's orders. On numerous occasions the Vitezovi conducted operations of which Blaškic had no knowledge. Even when the Vitezovi was attached to the OZSB, Bla{ki} could not enforce any of his orders by imposing sanctions on the Vitezovi"[1135].

ii) The individual criminal responsibility of General Blaškic

516. In limine, the Trial Chamber observes that there was no basis to the Defence's claim that responsibility for the commission of the crimes lay with the Vitezovi alone. As the testimony mentioned above showed, HVO troops clearly participated in the attacks on Stari Vitez on 16 April and 18 July 1993.

517. There is no doubt that there was a relationship of subordination between General Blaškic and the HVO troops strictly speaking. The Trial Chamber had however to resolve the question of whether there was such a link, either structural or factual, between the accused and the Vitezovi.

518. The Trial Chamber found several clues showing that, at the material time, General Blaškic was responsible for the Vitezovi as their superior. First of all, it analyzed the tenor and content of the orders given by the accused to the Vitezovi. Then it considered the evidence given by different international observers and analyzed the orders given by persons other than the accused in the HVO chain of command in the light of that evidence. Finally, the Trial Chamber concluded that the troops could not have committed the 18 April and 18 July crimes without obeying the orders of, or at least without the assistance of, General Blaškic.

[1134] Defence Brief, pp. 158-160.
[1135] Defence Brief, p. 159.

a. The accused's orders or reports as evidence of a relationship of subordination

519. During the course of 1993, the accused drafted many orders addressed, amongst others, to the Vitezovi. According to General Blaškic, the relationship of subordination between the Vitezovi and the command of the Central Bosnia Operative Zone applied only for the duration of the assigned mission for each order given to the Vitezovi. The relationship of subordination did not apply for the whole of the period between 16 April 1993 and the Washington Accords. During that period, the Vitezovi were solely assigned to the CBOZ command without being permanently legally subordinate to it, according to the accused[1136].

520. The Trial Chamber is unable to accept the distinction made by the accused. By analyzing General Blaškic's orders to the Vitezovi chronologically, the Trial Chamber was able to conclude that he exercised effective control over the Vitezovi for the whole of 1993 at least, or in any event as from 19 January[1137]. The Trial Chamber considers that the distinction between the *notion of temporary subordination* and that of permanent *attachment* is a legal fiction, at least as far as the accused's ability to give orders directly to the Vitezovi or to send a report on their potentially criminal activities to the competent authorities is concerned.

521. The orders given to the Vitezovi showed that, in 1993, there was a permanent *relationship of superiority* between General Blaškic and those troops giving him effective control over them. That is sufficient to prove that there was a *relationship of subordination*.

522. By analysing the content of the orders, the Trial Chamber was able to confirm that General Blaškic exercised effective control over the Vitezovi and that there was a permanent relationship of subordination between Blaškic and those troops. The Trial Chamber notes that the orders often related to aspects of organisation [1138] and conduct[1139]of the troops and therefore, owing to their content, were of a permanent nature, and that in any event they clearly went beyond the context of a specific operation.

523. The Vitezovi seemed to have participated to the same extent as the regular HVO troops in the implementation of the troops' general organization. On 13 February 1993,

[1136] Witness Blaškic, PT pp. 18111-18112.
[1137] P456/6; P456/16; D42; D267; P456/26; D77; D359; P456/27; D78; D39; P456/30; P456/31; P456/32; P456/33; P456/34; P456/37; P456/40; D384; P456/41; D389; D391. According to General Blaškic, the Vitezovi unit was broken up on 15 January 1994.
[1138] P456/16; P456/30; P456/31; P456/32; P456/33.
[1139] D42; P456/26; D77; D359; P456/27; D78; D39; P456/34; P456/37; P456/40; D384; P456/41; D389; D391.

General Blaškic asked the Vitezovi, *inter alia*, to organize their lines of defence, to establish "a complete record of conscripts", to carry out "a shooting test with the civilian and military police units" and to draw up additional and thorough assessments of the situation in cooperation with HVO chairmen, Heads of the Offices for defence matters and Commanders of police stations in the brigade's zone of responsibility[1140]. On 3 May 1993, General Blaškic asked the Vitezovi to submit a list of the Croatian soldiers killed during the fighting with the ABiH[1141] and, on 26 May 1993, he enjoined those same troops to submit the data on the demographic structure of the pre-war populations by zone of responsibility in the form of a report[1142].

524. The Vitezovi also received orders relating to the general conduct management of the troops. On 21 April 1993, General Blaškic asked the HVO regular troops as well as the special intervention forces to protect the civilian population and to ensure that the ICRC had free access and that the injured received medical treatment[1143]. On 17 June 1993, General Blaškic demanded that arrests of civilians during military actions cease and asked for religious effects to be protected. On that occasion, he stated that the brigade and independent unit commanders should be answerable to him for implementing that order and asked those commanders to let him know that it was being properly applied by way of regular reports[1144].

525. More fundamentally, the Vitezovi obeyed preparatory orders given by General Blaškic. On 16 January 1993, the accused gave the Vitezovi an order to intensify the preparations for combat at the highest level of all the HVO formations in the CBOZ[1145]. On 15 April 1993, General Blaškic enjoined the Vitezovi to prepare for an action by the ABiH troops from Stari Vitez towards the Vitez headquarters, in the event that there would be a break through the front line. He therefore ordered the Vitezovi to hold a front line between Stari Vitez and his headquarters, a few hundred meters away from the Muslim quarter[1146].

[1140] P456/15.
[1141] P456/31.
[1142] P456/33.
[1143] P456/26, D77.
[1144] P456/37.
[1145] P456/6.
[1146] D267. The front line from Stari Vitez was 300 metres from the accused's HQ (P79).

b. The other evidence that there existed a relationship of subordination

526. Some independent observers pointed out how effective General Blaškic's command of the Vitezovi was[1147]. The witness Whitworth stated that those units formed an integral part of the HVO's strategy in the Lašva Valley and that they "came under the command of General Blaškic and were used [...] in actually carrying out the HVO's military intention, establishing, strengthening and regaining ground lost to the ABiH"[1148].

527. In the Trial Chamber's view, the Vitezovi came under the accused's command responsibility regardless of the legal form of their link with the Defence Ministry. An order dated 19 January 1993[1149] drawn up by Lieutenant-General Milivoj Petkovic, the HVO Chief-of-Staff, indicated that the Vitezovi were "attached in all matters" to General Blaškic and that any independent action on their part was forbidden. A witness heard by the Trial Chamber further explained that he and General Blaškic were the only two authorities who could have commanded the Vitezovi[1150]. The witness acknowledged that the Defence Minister could theoretically have given the Vitezovi orders, but stated that, in practice, he considered that it would have been impossible for the Minister to give orders without General Blaškic or himself knowing about them[1151]. He stated that the Vitezovi were attached to the operative zone and that he had never received any report saying that it was practically impossible to command those units[1152]:

> Finally, in relation to [...] all the problems concerning these units, I found out about them only when this trial began. Until then, I did not receive any information that these units were troublesome and that they could not be commanded[1153].

528. Lastly, the commander of the Vitezovi, Darko Kraljevic, explained in a letter dated 15 April 1993 that his troops came under "the unified system of command and control in the SB /Central Bosnia/ OZ /Operative Zone/"[1154]. The frequency of the meetings between the accused and the commander of the Vitezovi is evidence that such a system existed. On 15 April 1993, Darko Kraljevic went to the Hotel Vitez and had a meeting with Tihomir

---

[1147] Witness Baggesen, PT of 22 August 1997, pp. 1901-1902 ; witness Buffini, PT pp. 5636-5637.
[1148] Witness Whitworth, PT p. 10237.
[1149] P666 "Protest" addressed to the Vitez TO and the 325th ABiH Brigade.
[1150] PT p. 24171.
[1151] PT p. 24171.
[1152] PT pp. 24186-24204.
[1153] PT pp. 24198-24199.
[1154] P456/20.

Blaškic[1155]. The witness Kavazovic stated that he saw Darko Kraljevic three times at the Hotel Vitez in June, July and September 1992[1156]. Likewise, witness HH testified that Darko Kraljevic often went to the Hotel Vitez for meetings with General Blaškic[1157].

c. The organized nature of the attacks

529. The crimes described above were committed on a large scale and hence their execution required precise organization, determined by a general command structure. It would in fact have been physically impossible for the Vitezovi, with 60 to 80 men[1158], to have planned and executed operationally the crimes in question on an isolated basis[1159]. They could not have procured between 450 and 700 kilograms of explosives which were placed in the booby-trapped lorry without the authorization of General Blaškic, who controlled the Vitez explosives factory[1160]. By the same token, the troops could not have undertaken the attacks on 16 April and 18 July 1993 without obeying the accused's orders on the operational level or without his assistance. General Blaškic was the only person in Vitez entitled to authorize the use of artillery[1161].

530. As a result, the attack of 16 April 1993, the explosion of the booby-trapped lorry on 18 April 1993 and the attack of 18 July 1993 could not physically have been carried out if General Blaškic had not given the order for their execution or at least allowed them to take place. He was the only one empowered to authorize the use of the assets necessary to carry out those operations. The quantity of arms and explosives used were clear evidence of the accused's involvement in the organization and planning of those operations. In relation to 16 April 1993, the witness Ellis testified that:

> there was an enormous amount of ammunition fired, a lot more than I had seen. [...] to achieve that amount of ammunition in a particular area - - that must have been an orchestrated move to actually gather ammunition into that area[1162].

More generally, the work of organising those operations could not have been carried out independently by the small Vitezovi unit. That unit must have had recourse not only to the

---

[1155] P276.
[1156] Witness Kavazovic, PT of 26 August 1997, pp. 2305-2306.
[1157] Witness HH, PT pp. 6809-6810.
[1158] PT pp. 24187-24203.
[1159] PT pp. 24210-24211.
[1160] Defence Brief, book 2, p. 21; see also PT p. 24045.
[1161] Witness Bla{ki}, PT p. 18518.
[1162] Witness Ellis, PT of 30 September 1997, p. 2992.

material available to the accused, but also to an effective command structure, which only General Blaškic could provide. As witness Thomas explained,

> they were carried out by an organised force operating with a coherent command and control structure, operating to a certain plan[1163].

d. Conclusions

531. The Trial Chamber considers that General Blaškic must be found guilty on the basis of Article 7(1) of the Statute of ordering the attack of 16 April 1993 on Vitez and Stari Vitez, the detonation of the booby-trapped lorry on 18 April 1993 at Stari Vitez and the attack of 18 July 1993 on Stari Vitez. At the very least, he took no step to prevent those crimes being committed or to punish the perpetrators.

3. Other villages in the municipality of Vitez

532. In the context of the conflict which rocked the municipality of Vitez, the Prosecutor drew a distinction between the villages of Donja Ve~eriska, Ga~ice and Grbavica, which were attacked by Croatian forces in April and September 1993.

a) Donja Ve~eriska and Ga~ice

533. Donja Ve~eriska and Ga~ice were two mixed villages of the municipality of Vitez[1164]. The two villages face, from opposite sides, the Slobodan Princip Selo weapons factory (hereinafter "the SPS factory")[1165]. The Defence submitted, and the Trial Chamber agrees, that the SPS factory was a sensitive position as far as the HVO was concerned[1166]. The SPS factory was one of the largest industrial complexes making explosives in Bosnia (and in Europe) and was of considerable strategic importance for both sides[1167]. Consequently, there were military reasons for fighting to gain control of the neighbouring villages. But the HVO

[1163] Witness Thomas, PT of 24 September 1997, pp. 2679-2680.
[1164] Donja Ve~eriska had about 240 houses, divided 60/40% between Muslims and Croats (D71). Ga~ice had a hundred or so houses, divided 50/50% between Muslims and Croats (witness Mati}, PT, (PV) p. 16968. Donja Ve~eriska is 3.9 km from the Hotel Vitez, Ga~ice is 1.9 km from the Hotel Vitez (P79).
[1165] Witness R, PT p. 4957.
[1166] Defence Brief, book IV, p. 392.
[1167] Witness Hunter, PT pp. 5126-5127.

had taken control of the SPS factory in October or November 1992[1168], well before the events considered here. In view of the context of those operations, it appears appropriate to review the parties' arguments.

i) The arguments of the parties

534. According to the Prosecutor, the HVO attacked Donja Ve~eriska on 16 April 1993 and Ga~ice on 20 April 1993. The attacks against those two villages formed part of the persecution of Muslim civilians referred to in the indictment. Those villages witnessed the destruction, devastation and large-scale pillaging of Muslim-owned property[1169]. Several Muslim civilians were killed during the attacks and the Muslim inhabitants of those villages were expelled. Muslim homes were torched and looted and Croats appropriated them[1170]. The accused is responsible for all those criminal acts.

535. The Defence did not deny that the Vitezovi attacked Ga~ice on 20 April 1993[1171], but it argued that the "independent" unit was acting on its own initiative, that the Vitezovi were attacking an ABiH formation[1172] and that the houses were torched as reprisals for the death of a Vitezovi soldier[1173]. The Defence further submitted that Tihomir Blaškic did not give any order to that unit concerning action at Ga~ice.

536. As far as the destruction carried out at Donja Ve~eriska is concerned, the Defence argued that it must be regarded as the collateral damage of a justified military operation and that therefore it was not the outcome of a punishable act. The HVO and the ABiH were equally (or virtually equally) matched and dwellings were burned as a result of the fighting. The Defence argued that no more than 10% of the houses in the village of Donja Ve~eriska burned as a result of the fighting. There were no attacks against civilians in the sense of an intention to destroy the buildings in question, but fighting did take place in the village concerned[1174]. Furthermore, Tihomir Blaškic did not order the destruction found in Donja

[1168] According to one witness, HVO soldiers in Herzegovina had already come in October 1992 (Witness R, PT pp. 4922-4923, pp. 4964-4965); according to another, the HVO was installed since November 1992 (Witness Hrusti}, PT pp. 4829-4831).
[1169] Prosecutor's Brief, book 5, pp. 84-85, paras. 2.330 to 2.333.
[1170] Prosecutor's Brief, book 5, p. 85, para. 2.335
[1171] Defence Brief , book VI, p. 352.
[1172] Defence Brief , book VI, p. 352.
[1173] Defence Brief , book VI, p. 353.
[1174] During R's testimony, PT pp. 4974-4975.

Ve~eriska. The destruction and the looting were the outcome of criminal acts which the accused could neither control nor punish[1175].

ii) The course of the attacks

537. As in the case of the other villages in the municipality of Vitez, the two orders given by General Blaškic prior to those attacks must be examined. First, on 15 April 1993[1176], there was the order to the HVO brigades and the independent units, including the Vitezovi, to prepare to fight in order to defend the HVO and Vitez. There was also the order given on 01:30 hours on 16 April[1177] to fight in order to "forestall enemy attacks (extremist Muslim forces) and to block the larger territory of [...] D. Ve~eriska"[1178].

a. Donja Ve~eriska

538. On 15 April 1993, the HVO held a press conference in their local centre attended by Tihomir Bla{ki} and Ignac Ko{troman and during which Dario Kordi} declared: "my Croat brothers, it is time to defend our Croatianhood"[1179]. Later that day, the Croatian civilians of Donja Ve~eriska left the village[1180].

539. The Defence maintained that the HVO was attacked and that that provoked the conflict[1181]. The Trial Chamber considers instead that on the morning of 16 April, towards 06:00 hours, the HVO attacked the village of Donja Ve~eriska[1182]. During the attack, bombs fell[1183] and Croats fired on the Muslims from the SPS factory[1184]. The HVO used mortar shells and anti-aircraft gun mortars[1185]. HVO soldiers[1186], fifteen or so members of the Tvrtko unit[1187], other soldiers wearing black uniforms[1188]with the "U" insignia (standing for

[1175] Defence Brief , book VI, p. 374.
[1176] D267.
[1177] D269.
[1178] Given to the command of the Vitez HVO Brigade (Mario ^erkez) and to the Tvrtko independent units.
[1179] D71, p. 5.
[1180] Witness R, PT pp. 4913-4914.
[1181] Witness Bla{ki} PT pp. 18530-18531.
[1182] Witness R, PT pp. 4913-4915.
[1183] Between forty and fifty bombs in the space of an hour, according to witness R (PT pp. 4916-4917).
[1184] Witness R, PT pp. 4929-4930.
[1185] Witness R, PT pp. 4930-4931.
[1186] Soldiers wearing the HVO emblem on their sleeve with the checkerboard, an armband (maybe blue) around the sleeve (witness R, PT pp. 4923-4924).
[1187] Witness Lovric, PT p. 17785.
[1188] Witness R, PT pp. 4914-4915, pp. 4923-4924.

"Ustasha"[1189]), and yet more wearing the "HV" insignia were on the Croatian side . All those groups attacked together[1190]. There were at least fifty soldiers in all[1191].

540. The Muslims tried to defend themselves on 16 and 17 April. During those two days, houses were burned[1192] and the mekteb, the Muslim religious and cultural centre of the village, was destroyed[1193]. Muslim residents were driven from their homes by the HVO[1194]. Eight Muslims, including at least seven civilians, were killed[1195], and others injured, including a woman called Hadzira Ba{i}[1196], as she was attempting to escape across the fields. When the UNPROFOR mission arrived at the top of the village on 17 April, it saw that the HVO sign had been painted on most of the houses in that part of the village. It also saw HVO soldiers, recognisable by their insignia[1197]. As regards the houses: "these were not military targets, this was just where people lived" [1198]. According to one witness, the purpose of the attack and the murders was "to intimidate us so that we would leave from there, simply to cleanse us from there"[1199].

541. Finally, on the morning of 18 April, towards 03:00 or 04:00 hours, Muslim residents abandoned the village going on foot as far as the UNPROFOR base in Divjak[1200]. As they left the village, the column was subjected to shots from the SPS factory and three women were killed[1201]. The conflict therefore lasted until the HVO had succeeded in entering the second part of the village on 18 April 1993[1202].

[1189] Witness R, PT pp. 5002-5004. Sometimes soldiers wore two of the insignia.
[1190] Witness R, PT pp. 4931-4932.
[1191] Witness R, PT p. 4969.
[1192] Thirty burnt houses were identified by the witness R from an aerial photograph. "All the houses and stables were on fire" (Witness R, PT p. 4916). On 17 April, "there was at least one house but possibly more that were burning"(witness Parrott, PT p. 5026). One witness said of Donja Ve~eriska that from Ga~ice he could see the houses "one by one going up in flames", (witness Hrusti}, PT p. 4803). It was possible to see the flames rising above the village from Vitez (witness Parrott, PT p. 5050; witness Hunter PT p. 5107-5108). Defence exhibits acknowledged the HVO torching of 22 homes and stables (D70, D71). One witness maintained that there were fourteen burnt houses on each side (witness Lovri}, PT p. 17764).
[1193] Witness R, PT p. 5001.
[1194] On the morning of 17 April, Sergeant Parrott of UNPROFOR met some Muslims on the road, including maybe two members of the armed forces who had been driven from their homes by the HVO (PT p. 5026).
[1195] D71; witness R, PT pp. 4921-4922. The witness Lovri} maintained that it was seven civilians and one soldier (PT p. 17765).
[1196] That woman was in a house separated from other Muslim houses by a field, and she tried to escape. According to witness R, "Hadjira and her small child tried to escape across the field and Zoran shot her in her thigh [...] Hadjira was lying in the field for a long time, she was wounded around 8 a.m. and we could not get to her [...] during the night we made up stretchers and we were able to pick up Hadjira"(D71, p. 6)
[1197] Witness Parrott, PT p. 5026.
[1198] Witness R, PT pp. 5001-5002.
[1199] Witness R, PT p. 5001.
[1200] Witness R, PT pp. 4933-4934. The UNPROFOR base was the headquarters of the British Battalion.
[1201] Habiba Ha{ki}, her younger sister and her daughter (witness R, PT p. 4920).
[1202] Witness R, PT p. 4981.

542. The Trial Chamber heard contradictory oral testimony and received contradictory evidence on the point of the ABiH participation in the conflict. According to the Prosecution, the civilians effectively put up the Muslim defence: there were only a very few members of the armed ABiH forces and only a handful of rifles[1203]. According to that argument, the Defence of the village was not organised and everyone did what he could[1204]. However, there was also evidence of a noteworthy ABiH presence. Contrary to his evidence before the Trial Chamber, one Prosecution witness stated to the Prosecutor that "only about 40 Muslim men were part of the TO from the village"[1205] and that as regards the Muslims' retreat from the village,

> The Territorial Defence was running out of ammunition so approximately one or two o'clock in the morning all civilians had to retreat from the village by following an UNPROFOR vehicle. Then the members of the Territorial Defence retreated because we were out of bullets [...] The members of the Territorial Defence went to the village of Grbavica[1206].

543. Even though the Trial Chamber could not confirm the Defence argument that there were one hundred and twenty-eight members of the armed forces among the Muslims in the village[1207], it was not able characterise the attack as being targeted only against a Muslim civilian population. Consequently, until the Muslims' retreat on the morning of 18 April, the conflict at Donja Ve~eriska was characterised as a conflict between the HVO and independent Croatian units on the one hand and the ABiH on the other. Before the retreat of the Muslims, it was not clear that the criteria of proportionality of a military attack against positions defended by the military had not been met as regards the destruction of property, nor that the injuries to Hadzira Ba{i} and the deaths could not be considered the result of a conflict between the ABiH and the HVO.

[1203] Witness R, PT pp. 4958, 4931, 4982-4983. That witness maintained that the villagers merely defended their families (PT pp. 4993-4994). The UNPROFOR Sergeant also noted two men of fighting age, with rifles, seeming more civilian than military (witness Parrott PT p. 5077).
[1204] Witness R, PT p. 5005.
[1205] P169, p. 3.
[1206] D71, p. 5. That statement seemed to be confirmed by the witness Lovri} who mentioned ABiH units which were following those fleeing on the morning of 18 April(PT pp. 17765-17767); see also witness Bla{ki}, PT, p. 18800. Other signs of ABiH presence "A front line was made between the HVO and Territorial Defence near the kitchen"(D71, p. 5) and "at one point I had helped the Territorial Defence after a member was wounded"(D71, p. 6). See also witness R, PT p. 5004; "they were not classic soldiers, they did not have uniforms, they were just defending from the Serbs, Montenegrin aggression, so some of them when they would come to be relieved back to the village, they would some of them bring their weapons with them". The witness Marin also confirmed that there was an ABiH presence, PT p. 12455.

544. The Trial Chamber notes however that much of the destruction and damage occurred after the assaults on the villages were over and the HVO had taken control of the villages. In particular, members of the HVO set fire to the Muslim houses[1208] and no-one made any effort to put out the fires. It was possible to see houses burning from the UNPROFOR base[1209]. Moreover, there was looting of property from the mekteb after the Muslim civilians had left the village[1210]. Those houses and the mekteb could not be considered to be military targets as from 18 April. The Trial Chamber considers that these events were large-scale destruction or devastation with no military necessity[1211].

b. Ga~ice

545. From the time when the conflict broke out in Donja Ve~eriska on 16 April 1993, the Croats and Muslims tried to negotiate in order to prevent there being problems in Ga~ice, but without success[1212]. The Prosecution maintained that on 17 April the HVO issued an ultimatum to the Muslim inhabitants of Ga~ice to surrender their arms and sign an oath of allegiance to the Croatian community of Bosnia, which the Muslims rejected[1213]. On 19 April, the day before the attack, Croatian residents (women and children) left the Muslim part of the village[1214].

546. At 05:50 hours on 20 April, mortar fire started and shells fell[1215]. The village was pounded with shells from all sides and the attack came from three different directions[1216]. The HVO soldiers fired shots on the village from the SPS factory. In the village, there were only about thirty Muslim men with a few hunting rifles and a few bombs and grenades[1217]. The Muslims took refuge in a few houses. The men withdrew in the direction of the forest,

---

[1207] Witness R, PT p. 4958. Moreover, the Defence maintained that there was a command structure in place (witness Lovric, PT pp. 17754-17756).
[1208] Captain Ellis of Britbat confirmed that "several" houses were on fire after the Muslims had fled the village on the morning of 18 April (Provisional Transcript, Public Version (hereinafter "PTPV") of 30 September 1997 p. 3074).Some houses were still burning on 20 May (witness Hunter, PT pp. 5104-5105).
[1209] Witness R, PT pp. 4935-4936.
[1210] Witness Kaiser, PT p. 10623; P455/17.
[1211] The Trial Chamber agrees with the Prosecution on this point (Prosecutor's Brief, book 5, p. 94, para 2.369 to 2.371 and p. 96, para. 2.377). The Defence did not deny that there was no military necessity for the burnt houses after the retreat of the Muslims (Defence Brief, book VI, p. 372).
[1212] Witness Matic, PTPV p. 17086.
[1213] Prosecutor's Brief, book 5, p. 89, para. 2.351. Witness Hrusti}, PT pp. 4807-4808. The witness explained the reasons for the refusal: "because we knew approximately what was going on in other villages and we knew if we surrendered the weapons that they would slaughter us, that they would kill us"(PT p. 4837).
[1214] Witness Hrusti}, PT pp. 4808-4809.
[1215] Witness Hrusti}, PT pp. 4805-4806, 4809-4810. Another witness said how he had heard two or three rather violent explosions towards 07:00 hours that day, witness Matic, PTPV p. 17087.
[1216] Witness Hrusti}, PT pp. 4812-4813.

whereas the women and children stayed in the cellars. After the shelling of the village, the Muslim inhabitants (therefore women and children for the most part) were encircled by soldiers wearing insignia such as those of the HVO, HV, U and Vitezovi[1218]. Some of the soldiers called the Muslims "balijas"[1219] and drove them out of their houses[1220], which they then burned[1221].

547. There were at least four Muslim deaths in the village[1222], including a Muslim who burned in his house, Fikret Hrusti}[1223]. One witness maintained that the attack against the Muslims in Ga~ice was "a plan, well-planned and very well organised"[1224]. According to certain sources, the ABiH held the Vitezovi responsible for the massacres in Ga~ice[1225]. But clearly the members of that unit were not the only ones involved in the attack.

548. The Defence contended that the village was defended by Muslim militia. The Trial Chamber heard little evidence to that effect[1226]. Even if that was the case, the torching of houses continued after the HVO soldiers and other units had taken control of the village.

549. Once the HVO soldiers had taken control of the village, they took the residents of Ga~ice (247 Muslim civilians) on a forced march towards Vitez and forced them to sit opposite the Hotel Vitez as human shields, for about three hours[1227]. Afterwards, they were taken back to the village and made to live in the seven houses which remained standing. Subsequently, those same people were taken in lorries and driven by force out of the village by the HVO[1228].

[1217] Witness Hrusti}, PT pp. 4807-4808.
[1218] Witness Hrusti}, PT p. 4810-4811, 4854-4855. The witness maintained that the HVO received the help of a Brigade from Split and of the 125th Vara`din Brigade (PT p. 4820).
[1219] Witness Hrusti}, PT pp. 4809-4811, 4857.
[1220] Witness Morsink, PTPV pp. 10266-10271.
[1221] The Muslim civilians returning from Vitez later that day saw the houses and the stables still on fire (witness Hrusti}, PT p. 4816). An ECMM observer confirmed that the Muslim houses had been burned after the conflict (witness Morsink, PTPV p. 10264). The Trial Chamber considers that between fifteen (witness Matic, PTPV p. 17093) and thirty five (witness Hrusti}, PT p. 4849) Muslim houses were torched and notes that a few Croatian houses were also burning (witness Matic, PTPV p. 17090).
[1222] Witness Hrusti}, PT p. 4842. Another witness maintained that the dead were all soldiers and that one of the Muslim victims was killed by another Muslim (witness Matic, PTPV p. 17094).
[1223] Witness Matic, PTPV p. 17094. It seemed that the man had burned alive.
[1224] Witness Hrusti}, PT p. 4860.
[1225] Witness Duncan, PT pp. 9169-9170. Another witness confirmed that he had heard it said that the soldiers were Vitezovi (witness Matic, PTPV p. 17112).
[1226] Witness Matic, PTPV p. 17092.
[1227] See discussion below.
[1228] Witness Hrusti}, PT p. 4825-4826.

550. The Trial Chamber finds that these events amount to devastation without any military necessity and forcible transfers of civilians.

b) Grbavica

551. The village of Grbavica was a mixed village 1.5 km from Stari Vitez[1229]. The Grbavica hill had a certain strategic importance[1230], which enabled the ABiH, if it occupied it, to block the HVO and the Croatian civilians' access to the main Travnik-Busova~a road.

i) The arguments of the parties

552. The Prosecution submitted that the HVO attacked Grbavica on 7 September 1993. The purpose of the attack was not at issue. The HVO took Grbavica in the afternoon of 8 September 1993. Once all the combatants and the Bosnian Muslim civilians had been driven out of the village, the HVO set about systematically plundering and destroying the Muslims' houses. Subsequently, the Bosnian Croats moved into the houses that were still habitable[1231].

553. The Defence contended that Tihomir Bla{ki} authorised a legitimate military attack on the ABiH positions at Grbavica, justified by military necessity, and that all damage caused by the HVO offensive was collateral damage of a lawful military operation[1232]. Moreover, the accused did not order and was not otherwise directly involved in the looting of civilian property which followed the attack. The HVO attacked on 7 September 1993 and achieved all its goals the next day. Then, in accordance with what had been agreed, the HVO withdrew and the Vitez civilian police arrived in order to maintain law and order in the village. The acts of destruction were those of civilian looters. The civilian police tried unsuccessfully to prevent those criminal acts[1233].

[1229] Witness Djidi}, PT of 29 July 1997, p. 1262.
[1230] Witness Duncan, PT p. 9212-9213.
[1231] Prosecutor's Brief, p. 25, para. 5.15.
[1232] Defence Brief, book VI, pp. 162-163.
[1233] Defence Brief, book VI, pp. 162.

ii) The course of the attack

554. The parties agreed to consider that there were legitimate reasons for the 7 September attack by the HVO on the village of Grbavica[1234]. That the ABiH took part in the conflict was not at issue[1235]. Tihomir Bla{ki} acknowledged that he planned the military operation and personally took part in it[1236]. It was carried out in an organised military manner[1237]. The operation was carried out by HVO men Bla{ki} had chosen and who were under his command[1238]. Members of the D`okeri[1239], of the "Nikola [ubi} Zrinski" Brigade[1240], of the "Tvrtko II"[1241] unit and of the Military Police[1242] took part in the attack.

555. On the first day of the attack, the HVO launched attacks using artillery and explosive devices, including "babies"[1243]. The ABiH was reinforced in the night of 7-8 September 1993, and UNPROFOR evacuated the civilian population from houses built on the Grbavica hill[1244]. On the morning of 8 September, the HVO infantry troops attacked and proceeded with the systematic rooting out of enemy soldiers and of Muslims from the houses they were occupying[1245]. Finally the HVO took control of its targets and the Vitez HVO civilian police entered Grbavica to keep law and order[1246].

[1234] The Prosecution maintained that the attack started at 13:55 hours (Prosecutor's Brief, book V , p. 162, para. 2.688) whereas the Defence maintained that it started at 14:20 hours (Defence Brief, book VI, p. 162).
[1235] The Prosecution agreed that the ABiH command post was one of the main targets on the first day of the attack (Prosecutor's Brief, book V , pp. 162-163, para. 2.688). See also P713 (Milinfosum of 9 September 1993): "The C/S [...] in the burnt out village of Grbavica discovered the body of a dead ABiH soldier which had been decapitated and disembowelled"
[1236] Witness Bla{ki}, PT p. 20808. Bla{ki} told Brigadier General Duncan in advance that he would be obliged to attack and to eliminate some of the Muslims in that zone (witness Duncan PT pp. 9213-9214). See also witness Whitworth, PT, pp. 10268-10269.
[1237] Defence Brief, book VI, p. 399. See also witness Bla{ki}, PT pp. 2810-2811. That view was confirmed by the witness Bower: "It appeared to be a professional, well-coordinated military offensive to seize and hold an area of ground" (PT pp. 9401-9402).
[1238] Witness Bla{ki}, PT pp. 2809-2810.
[1239] Witness Palavra PT p. 16793. The witness Bower learned from the British liaison officers that the D`okeri were involved in the attack on Grbavica (PT p. 9423). See also witness Whitworth, PT pp. 10274-10275; P712, P713.
[1240] P173.
[1241] Witness Whitworth, PT pp. 10274-10275.
[1242] Witness Bla{ki}, PT p. 22632. See also the witness Marin who agreed that part of the forces of the Military Police were engaged in the Grbavica operation. He maintained: "we did not have other forces that could have carried out the task of this attack operation, except for the units for special purposes together with the military police"(PT p. 13701).
[1243] The witness Djidi} saw the "babies" in flight when he was in Stari Vitez (PT of 29 July 1997, p. 1262). See also the witness Whitworth, PT pp. 10278-10279; P433/28. The accused formally denied having used that type of device (Witness Bla{ki}, PT p. 22649).
[1244] Witness Bla{ki}, PT pp. 19692-19693.
[1245] Witness Whitworth PT pp. 10270-10272.
[1246] Witness Bla{ki}, PT pp. 19692-19694.

556. As far as the destruction of houses in Grbavica was concerned, the Trial Chamber accepts the idea that the ABiH was occupying certain private houses and that, consequently, those dwellings became legitimate military targets[1247]. The Defence claimed that that was the reason the houses were burned during the conflict[1248]. Moreover, the looting and the torching was said to be the result not of the soldiers' actions but those of civilians who arrived in the village after the HVO took control, in particular criminals and unruly elements[1249].

557. The evidence showed that in fact only a few houses were occupied by soldiers[1250]. Moreover, it was clear that many houses were burned after the fighting, including, by definition, houses that were not legitimate targets[1251]. As far as the fires were concerned, they were not necessary from a military point of view. General Duncan testified:

> There was a requirement to get to the buildings on top of the hill because they represented a good defensive area, which is why it had held out for so long. There was not a requirement, in my opinion, to destroy those buildings, which is what happened, because the military worth of the buildings - on the top of the hill - was they provided the cover and protection and ability to hold a strong defensive position, which is what they've done. By setting fire to them, which is what happened after the initial assault, that achieved no -- - to my mind, [...] no military purpose whatsoever[1252].

558. As regards the pillage, the Trial Chamber does accept that civilians could have taken part, as the Defence maintained[1253]. But the testimony and exhibits clearly show that, having driven the ABiH out of the sector, the soldiers indulged in systematic pillage of the Muslim dwellings[1254] of Grbavica prior to setting them on fire:

[1247] Defence Brief, book VI, p. 395.
[1248] Witness Bla{ki}, PT pp. 19693-19694. The Defence maintained that most of the houses in Grbavica were damaged between October 1993 and March 1994, and accordingly were not torched during the attack (Defence Brief, book VI, p. 396).
[1249] Witness Marin, PT p. 13701; witness Palavra, PT p. 16797. The Croats who moved into the Muslim houses in Grbavica were refugees from other villages or towns (witness Palavra, PT p. 16790).
[1250] Witness Whitworth PT p. 10412.
[1251] The witness Marin maintains that some houses were 80% burnt (PT pp. 13701-13702). P712 (Milinfosum of 8 September 1993); "the majority of the houses (approx. 50) in the village are at present ablaze". See also witness Hunter, PT pp. 5087-5088; P433/21-23; P433/25-27, P433/29-31.
[1252] Witness Duncan, PT pp. 9187-9188. Furthermore, the witness maintained that it would have been in the interest of the HVO to leave these buildings as they were (PT pp. 9213-9214). He added that, having spent seven months in the La{va Valley, [he understood that] the procedure of attacking and then torching was consistent with the attacks the HVO had launched in the whole of the La{va Valley (PT pp. 9212-9213).
[1253] Witness Bower, PT pp. 9402-9403.
[1254] The witness Bower said of the pillage: "initially it was by HVO soldiers. They were taking electrical items, furniture" (PT pp. 9402-9403). He noted that "there were some Croat families living in the village and their houses remained untouched, but the Muslim population were cleared out of their houses" (PT pp. 9402-9403).

> After they had actually been through and cleared it, there was a systematic burning of all the buildings that we saw in there [...] I observed numerous soldiers and [...] there was some looting going on by the HVO soldiers and all the buildings had been set on fire[1255]

559. The Trial Chamber favours the view expressed by the witnesses who maintained that the Bosnian Croats burned Muslim houses in order to dissuade Muslims from returning[1256]. Those acts of destruction were not justified by military necessity and acts of looting were committed.

c) General Bla{ki}'s responsibility

560. As stated above, the Trial Chamber accepts that the villages of Ve~eriska, Ga~ice and Grbavica could have represented a military interest such as to justify their being the target of an attack. But the Trial Chamber also observes that, at the time or afterwards, the attacks gave rise to destruction, pillage, forcible transfer of civilians, all committed by the troops the Trial Chamber has established the accused controlled.

561. The Trial Chamber points out in that connection that, for those attacks, General Bla{ki} used forces which he knew, according to his own testimony, were, at least in part, difficult to control, and at the very time when they were being called into question for the perpetration of earlier crimes. Finally, the Trial Chamber notes that it has established that the accused was the commander of the troops involved, including the police forces.

562. The Trial Chamber concludes that General Bla{ki} is responsible for the crimes committed in the three villages on the basis of his negligence, in other words for having ordered acts which he could only reasonably have anticipated would lead to crimes.

[1255] Witness Whitworth, PT p. 10273. See also witness Djidi}: "And on the second day I saw houses burning. At first I thought they were set on fire by ammunition, flammable ammunition, but it was a mistake. I looked more closely and saw soldiers, and not only soldiers but also civilians who were looting houses in Grbavica, probably even them, as early as then the army had retreated from Grbavica. When they took whatever they wanted to take from the houses they set them on fire. At one point, one could see over 100 houses on fire. All of those houses belonged to Muslims. Only a few houses belonging to Muslims escaped this fate in a village which had over 200 houses". The witness also noted that the Grbavica mosque had burned (PT of 29 July 1997 pp. 1262-1263).
[1256] Witness Duncan, PT pp. 9213-9214. See also the witness Whitworth, PT pp. 10275-10276.

C. The municipality of Busovaca

563. As a general rule, the Defence did not deny that crimes had been committed in the villages of Loncari and Ocehnici, *inter alia*[1257]. It claimed however that Tihomir Blaškic was not responsible for those crimes.

1. The attacks against the villages in the municipality of Busovaca

564. Around mid-April 1993, at nearly the same time as they were launching offensives against villages in the municipality of Vitez and Kiseljak, HVO and Military Police troops took the villages of Loncari and Ocehnici by assault.

a) Loncari

565. Before the April 1993 attacks, Loncari was an essentially Muslim village. At the 1991 census, it was made up of 44 Croats, 249 Muslims and 1 Yugoslav[1258]. Puti{, Jelinak and Merdani were neighbouring villages.

566. In the evening of 16 April 1993, Croatian women and children, warned of imminent attacks, left the area[1259]. A few hours later, the HVO artillery pounded the villages of Jelinak, Merdani and Puti{[1260]. The civilians from these villages then fled in the direction of Busovaca[1261].

567. In the morning of 17 April, HVO soldiers[1262] belonging to the Nikola Šubic Zrinski brigade[1263] and members of the D`okeri unit[1264] entered Loncari and systematically searched the Muslim houses, looking for men of fighting age[1265] and weapons[1266]. Twenty-five of

[1257] Defence Brief, book 6, F, p. 352 and book 6, J, p. 368.
[1258] P46 and witness Q, PT p. 5150.
[1259] Witness Q, PT pp. 5151-5152.
[1260] Witness Q, PT pp. 5167-5170.
[1261] Witness Q, PT pp. 5168-5169.
[1262] Witness Q. PT pp. 5154-5155. According to this witness, the soldiers who entered Loncari on 16 April 1993 wore the HVO insignia on their uniform (PT, pp. 5154-5155)
[1263] Witness Blaškic, PT p. 21726.
[1264] Witness Nuhagic, PT pp. 5255-5257.
[1265] Witness Q, PT pp. 5152-5153.

them[1267] were arrested and taken to Kaonik prison where they were detained. Moreover, around 200 people, including women, children and old people, from the villages of Jelinak and Puti{[1268]were assembled at the mekteb of the mosque[1269]. They were threatened with death if they escaped[1270]and several of them were beaten[1271]. During that time, Croatian soldiers were torching homes and stables by dousing them with petrol[1272]. Many Muslim civilians were forced to leave the village and to go to Vrhovine[1273]. Once there, they took refuge in cellars and once again had to endure heavy shelling[1274].

568. The houses and stables belonging to the Muslims of Loncari were torched[1275]. The houses in the villages of Jelinak and Puti{ were also set on fire[1276]. The livestock were burned alive[1277]. Around ten people have since been declared missing[1278].

b) Ocehnici

569. Before the April 1993 hostilities, Ocehnici was an entirely Muslim hamlet. At the 1991 census, it was made up of 33 Muslims[1279].

570. On 27 January 1993, HVO soldiers entered the village, arrested the men of fighting age and seized their weapons[1280]. They drove them to Kaonik prison[1281], where they were detained until February[1282]. During their detention, they were subjected to all sorts of brutality[1283].

[1266] Witness Q, PT p. 5158-5159.
[1267] Witness Q, PT pp. 5168-5169.
[1268] Witness Q, PT pp. 5159-5160.
[1269] Witness Q, PT pp. 5159-5160.
[1270] Witness Q, PT pp. 5159-5160.
[1271] Witness Q, PT pp. 5163-5164.
[1272] Witness Q, PT pp. 5158-5160.
[1273] Witness Q, PT pp. 5164-5165.
[1274] Witness Q, PT pp. 5164-5165.
[1275] Witness Q, PT pp. 5160-5161, pp. 5170-5171.
[1276] Witness Q, PT pp. 5169-5170.
[1277] Witness Q, PT pp. 5170-5171.
[1278] Witness Q, PT pp. 5179-5180.
[1279] P46.
[1280] Witness Nuhagic, PT pp. 5213-5214.
[1281] Witness Nuhagic, PT pp. 5214-5215.
[1282] Witness Nuhagic, PT pp. 5216-5217.
[1283] Witness Nuhagic, PT pp. 5213-5214.

571. Three months later, in the afternoon of 19 April, soldiers from the Military Police, and more precisely the Fourth Battalion, acting on the orders of Paško Ljubi~ic[1284], entered the village[1285], fired shots and systematically set fire to the houses and farms belonging to Muslims[1286]. They killed around five civilians, women included[1287], and burned the bodies[1288].

572. The Muslim homes in the village of Ocehnici were torched[1289]. Several people were wounded[1290] and at least five civilians were killed[1291]. Livestock were also slaughtered[1292]

c) Conclusions

i) The organized and massive nature of the attacks

573. The Trial Chamber is convinced that the aforementioned crimes were organized in advance, as is evidenced by the following facts:

- the assaults on Loncari and Ocehnici were launched respectively on 17 and 19 April 1993, that is to say practically at the same time as offensives were being carried out in the areas of Vitez and Kiseljak;

- the consequences of the attacks were similar to those on the villages in the municipalities of Vitez and Kiseljak: unlawful confinement of the men of fighting age, rounding up then deportation of the elderly, women and children, intimidation of civilians by murder and beating, and systematic torching and pillage of homes and farms;

- finally and more specifically, the Croatian inhabitants of Loncari were warned of the attacks and left the village several hours before the start of the hostilities.

[1284] Witness Nuhagic, PT pp. 5235-5236.
[1285] Witness Nuhagic, PT pp. 5234-5235. According to witness Nuhagic's account, the soldiers who entered the village wore masks so as not to be recognised.
[1286] Witness Nuhagic, PT pp. 5217-5218.
[1287] Witness Nuhagic, PT p. 5219, pp. 5247-5248.
[1288] Witness Nuhagic, PT pp. 5248-5249.
[1289] Witness Nuhagic, PT pp. 5217-5218.
[1290] Witness Nuhagic, PT pp. 5217-5218.
[1291] P242.
[1292] Witness Nuhagic, PT pp. 5234-5235.

574. The Trial Chamber also considered that the attacks were massive. Although the Croatian soldiers mainly targeted only two villages in the municipality of Busovaca, those villages were totally destroyed and most of their inhabitants were driven out.

575. Busova~a, which had a population of two to three thousand Muslims before the hostilities, only has thirty or so Muslims living there today[1293].

ii) The civilian and Muslim nature of the targeted populations

576. The Trial Chamber finds that the offensives were not justified by military reasons, but essentially targeted Muslim civilians and their possessions[1294].

577. The Trial Chamber recognised that a Muslim resistance army had progressively been formed: groups of soldiers had organised themselves in order to take turns in patrolling the village[1295]. It also noted that the villages of Jelinak, Merdani and Puti{ together with the hamlet of Lon~ari were at the front line which separated the HVO forces from those of the ABiH and that there was intense fighting between the factions there. In that connection, the Trial Chamber noted that trenches had been dug, particularly in the village of Lon~ari[1296]. It found, finally, that the army of Bosnia-Herzegovina controlled in particular the villages of Jelinak and Merdani at the material time[1297].

578. However, the Trial Chamber points out that the inhabitants of O~ehni}i[1298]and Lon~ari[1299] had been disarmed before the attacks and were therefore unable to put up any resistance to the regular HVO troops' and Military Police's assaults.

579. More fundamentally, the Trial Chamber is convinced, given the nature and scale of the crimes committed, that the target for these troops was not only military but essentially

[1293] Witness FF, PT p. 6187.
[1294] According to the witness Nuhagi}, the attack on the town of O~ehni}i was in reprisal for the torching of the Draga barracks by the ABiH (PT p. 5231-5232).
[1295] Witness Q, PT p. 5150. The witness Q told investigators from the Office of the Prosecutor that Muslim men aged between 15 and 50 had been mobilised (PT pp. 5176-5177).
[1296] Witness Q, PT pp. 5177-5178.
[1297] Witness Q, PT pp. 5181-5183.
[1298] Witness Nuhagic, PT pp. 5213-5214.
[1299] Witness Q, PT pp. 5176-5177.

civilian. Indeed, it was private dwellings belonging to Muslims that were pillaged and then destroyed and farms and livestock that were burned. Moreover, it was in very large part Muslim civilians who were killed or unlawfully confined or beaten, then finally driven away towards territories under the control of the Bosnia-Herzegovina army.

2. The responsibility of General Bla{ki}

a) The arguments of the parties

580. According to the Prosecutor, General Bla{ki} orally ordered the commands of the HVO units involved in the crimes to take Lon~ari and O~ehni}i[1300] by assault and to "cleanse" them. In support of that allegation, the Prosecution relied on the fact that the villages were attacked in exactly the same way as all the villages in the La{va Valley[1301]. Furthermore, the Prosecution maintained that regular HVO forces and members of the D`okeri unit carried out the crimes at Lon~ari[1302] and at O~ehni}i[1303].

581. The Defence argued however that the accused did not order the destruction of the village of Lon~ari[1304]. In that connection, it said that the order given by General Bla{ki} to the Military Police on 16 April 1993 at 1:30 was only to defend the Vitez-Busova~a road and to prevent any attack by the ABiH from Zenica and from Kuber[1305]. The Defence added that the crimes were probably committed by the D`okeri over which it claimed that the accused had no control[1306]. Finally, it asserted that the destruction of Muslim homes could have been collateral damage resulting from the fighting between ABiH and HVO forces which was taking place in Jelinak and in Puti{[1307]. As regards the crimes committed at O~ehni}i, the Defence recognised that the attack was carried out by the commander of the Military Police Fourth Battalion and his men[1308]. It maintained however that that unit was not under the control of the accused but answered directly to the central office of the Military Police[1309].

[1300] Prosecutor's Brief, book VII, para. 2.164
[1301] Prosecutor's Brief, para. 2.165.
[1302] Prosecutor's Brief, para. 2.157 to 2.159.
[1303] Prosecutor's Brief, para. 2.162 to 2.163
[1304] Defence Brief, book VI, J, p. 366.
[1305] Defence Brief, book VI, J, p. 366.
[1306] Defence Brief, book VI, J, p. 367.
[1307] Defence Brief, book VI, J, p. 368.
[1308] Defence Brief, book IV, F, p. 351.
[1309] Defence Brief, book IV, F, p. 351.

Moreover, the Defence asserted that because General Bla{ki} had not received a report on these events, he could not know of the punishable acts carried out at O~ehni}i[1310].

b) The individual criminal responsibility of General Bla{ki}

582. The Trial Chamber will first of all show that at the time of the attacks, General Bla{ki} was the superior of the troops involved in the crimes. Then it will show from the content of the orders and reports which were submitted at the hearing and especially the general background against which the atrocities were committed that the accused was directly implicated in the offensives in the villages of Lon~ari and O~ehni}i.

i) The accused was the superior of the troops involved

583. The soldiers guilty of the crimes committed in April 1993 at Lon~ari and O~ehni}i belonged to the regular HVO forces[1311], the Military Police Fourth Battalion, and more specifically the D`okeri unit[1312].

584. It was not denied that the regular HVO troops in Busova~a – including the Nikola [ubi} Brigade which operated in the area – took orders directly from the accused[1313].

585. The Trial Chamber is convinced, despite the Defence assertions to the contrary, and, as it already found in respect of the crimes committed in the municipality of Vitez, that the Military Police Fourth Battalion and the D`okeri unit were also under the authority of General Bla{ki} at the material time.

586. That finding is essentially based on the accused's testimony. It is further confirmed by the corroborating allegations of several witnesses. During his evidence before the Trial Chamber, the accused himself said that the Military Police was under his command at the

[1310] Defence Brief, book IV, F, p. 351.
[1311] Witness Q, PT pp. 5153-5154, pp. 5168-5169.
[1312] Witness Nuhagi}, PT pp. 5235-5236, pp. 5255-5257.
[1313] Witness Bla{ki}, PT p. 20579.

time of the criminal events which took place at Lon~ari and O~ehni}i[1314]. Several witnesses also accepted that the Military Police was subordinate to the command of the accused[1315].

587. That allegation was corroborated by the fact that during 1993 the accused regularly addressed orders to the Military Police. Those orders took many different forms[1316] and referred both to organisational aspects[1317] and to the conduct of the troops[1318]. Moreover, the accused also gave the Military Police several combat preparation orders[1319] and combat orders [1320], which is undeniably evidence of the control he exercised over it.

ii) The accused was responsible for the attacks on the villages of Lon~ari and O~ehni}i

588. The Trial Chamber asserted that during the material time, General Bla{ki} gave numerous orders to the units involved in the crimes, and especially to the Nikola [ubi} Zrinski Brigade, and deployed them in the area where the crimes were committed[1321]. Moreover, the reports that the accused received from the commanders of that brigade are evidence that he was fully informed of the developments of their mission on the ground[1322].

589. Admittedly, the Trial Chamber does not *stricto sensu* have in its possession any order to seize the villages of Lon~ari and O~ehni}i addressed to those units. But then clearly it does not have all the orders issued by the accused during the events, as is obvious from the irregular numbering of the exhibits submitted during the hearing. In that regard, the Trial Chamber noted that it received only ten or so of General Bla{ki}'s orders covering the period from 17 April at 04:00 hours to 19 April at 18:45 hours[1323], whereas forty numbers separate the first document from the last[1324]. It also noted that the accused often addressed his troops orally.

[1314] Witness Bla{ki}, PT p. 18627, p. 20592.
[1315] Witness HH, PT p. 6917; see also witness Baggesen, PT p. 1907.
[1316] See P422, P456/5, P456/7, P456/26, P456/30, P456/33, P456/34, P456/38, P498/9 and D87, D208, D263, D380, D382, D400, D405, D511.
[1317] See P456/21, P456/31.
[1318] See P423, P424, P456/40, P456/27, P456/41, P456/77, P498/7, P498/8 and D354, D357, D368, D384, D386, D388, D389, D391, D456/44.
[1319] See P456/6, P456/35, P456/85, D267, D298.
[1320] See D268, D296.
[1321] See D268, D296.
[1322] D277, D288, D289, D299, D300, D301.
[1323] P456/45 and D284, D296, D297, D298, D299, D300, D301.
[1324] The first order given on 17 April at 04:00 hours is numbered 291/93 whereas the last is numbered 331/93.

590. More fundamentally, the Trial Chamber is convinced beyond all reasonable doubt that it followed from the scale of the atrocities carried out, from the scale of the assets used to achieve them and especially from the fact that the attacks were carried out at the same time and in the same way on the municipalities of Busova~a, Vitez (particularly the villages of Ahmi}i, Nadioci, Piri}i and [anti}i) and Kiseljak (particularly the villages of Behri}i, Gomionica, Gromiljak, Polje Vi{njica, Rotilj and Vi{njica) that General Bla{ki} had ordered the offensives against Loncari and Ocehnici.

591. In that connection, the Trial Chamber points out, as it did earlier[1325], that the crimes committed at Busova~a were similar to those carried out in other municipalities: murders, beatings, unlawful confinements and forced expulsions of Muslim civilians and torching of private homes. It notes, finally, that all these crimes are set against the same background of persecution of Muslim populations in central Bosnia of which they are the most extreme form.

592. The Trial Chamber is also convinced beyond any reasonable doubt that by giving orders to the Military Police in April 1993, when he knew full well that there were criminals in its ranks[1326], the accused intentionally took the risk that very violent crimes would result from their participation in the offensives. Granted, in November 1992 and March 1993, General Bla{ki} ordered that the torching of houses stop and had asked commanders, in particular those of regular HVO troops and of the Military Police, to identify the criminals responsible for those acts[1327]. But he almost never punished these criminals and never took steps to put them in a position where they could do no harm by imposing measures that would have prevented the very serious crimes that occurred at Loncari and Ocehnici from being repeated .

[1325] Witness Morsink, PT pp. 9877-9879 (see above, discussion of Ahmici).
[1326] Witness Bla{ki}, PT pp. 18395-18396.
[1327] P456/16.

D. The municipality of Kiseljak

593. From a general point of view, the Defence did not deny that the HVO committed crimes against the Muslim civilian populations in the region of Kiseljak in April and June 1993[1328]. However it did deny that the accused was responsible for these crimes.

1. The April and June 1993 attacks against the villages in the Kiseljak enclave

594. On 18 April, the villages with a high Muslim population in the north of the region, Behri}i, Gomionica, Gromiljak, Hercezi, Polje Vi{njica, Vi{njica, Rotilij and Svinjarevo were systematically taken by assault by HVO troops. On 12 June, it was the turn of the Muslim villages to the south of the municipality, Grahovci, Han Plo~a et Tulica and their inhabitants to suffer the offensives of the Bosnian Croat army.

a) The attacks on the villages in the north of the municipality of Kiseljak

i) Behri}i and Gomionica

595. Before the April 1993 hostilities, Behri}i and Gomionica were essentially Muslim villages. At the 1991 census, Behri}i was made up of 153 Muslims and 45 Croats, whereas Gomionica had 417 Muslims and 6 Croats[1329]. Those villages are situated about 6.5 km from the Kiseljak barracks.

596. The attacks on these entities took place in two successive stages: first an artillery offensive then an infantry offensive. From 18 to 21 April 1993, the HVO artillery shelled the two villages with at least 50 shells, including incendiary shells[1330]. Many civilians then took refuge in the Visoko municipality[1331]. As soon as the shelling ended and the soldiers who were attempting to resist these assaults withdrew[1332], the HVO infantry systematically set fire to and looted houses and stables belonging to Muslims of the lower part of Gomionica[1333].

[1328] The Defence acknowledged on several occasions in its Brief that HVO soldiers carried out crimes in the Kiseljak region (see book VI, N, p. 400, p. 410, p. 418, p. 419, p. 420 and p. 421).
[1329] P46.
[1330] Witness SS, PT pp. 9267-9269.
[1331] Witness SS, PT pp. 9268-9269.
[1332] Witness SS, PT pp. 9269-9271.
[1333] Witness SS, PT pp. 9269-9274.

Many Muslims, including soldiers[1334], then took refuge for several weeks in the higher part of the village. During June 1993, the HVO artillery and the infantry launched fresh offensives against Gomionica[1335].

597. All the Muslim inhabitants were finally expelled from these villages. A hundred and thirty-one homes and 98 stables were destroyed[1336]. The two religious sites there were also torched[1337].

ii) Gromiljak

598. Before the April 1993 attack, Gromiljak was a mainly Croatian village. At the 1991 census, it was made up of 425 Croats, 143 Muslims and 16 Yugoslavs[1338]. The village is 5.3 km to the north of the Kiseljak barracks.

599. On 18 April 1993, the HVO infantry entered Gromiljak in order to disarm its Muslim inhabitants[1339]. Then it held part of them in the basement of a private home[1340]. The women and children were released one week later whereas the men of fighting age were held for a fortnight and taken to the front lines and made to dig trenches[1341]. After they were released, the Croatian authorities forced the Muslims to report each day to the local police station and to comply with a curfew imposed upon them from 21:00 hours to 05:00 hours[1342].

600. The HVO soldiers pillaged[1343] and torched the Muslim homes of the village and drove away their inhabitants. They slightly damaged the mosque by setting fire to it[1344].

[1334] Witness SS, PT pp. 9279-9280.
[1335] Witness SS, PT pp. 9275-9278.
[1336] Witness SS, PT pp. 9277-9280.
[1337] Witness SS, PT pp. 9278-9280.
[1338] P46.
[1339] D305; witness LL, PT pp. 8014-8015.
[1340] Witness LL, PT pp. 8016-8017.
[1341] Witness LL, PT pp. 8016-8018.
[1342] Witness LL, PT pp. 8017-8018.
[1343] Witness LL, PT pp. 8062-8064.
[1344] Witness LL, PT p. 8031.

iii) Hercezi

601. Before the April 1993 fighting, Hercezi was a mainly Muslim village. At the 1991 census, 42 Croats and 143 Muslims lived there[1345].

602. On 18 April 1993, the HVO attacked the area around Hercezi with artillery fire[1346]. The Muslim soldiers who were defending the village then fled into the forest for around two days[1347]. The Croatian military then entered the village and demanded that the Muslims surrender any weapons they possessed, threatening to kill all the inhabitants, including the women, children and the elderly[1348]. After having obeyed that order[1349], the Muslim residents of the village were put under house arrest for several months and forced by the HVO to report three times a day to a specific location[1350]. As from August, the men of fighting age were taken to the front in order to dig trenches[1351].

603. In September, all the inhabitants of Hercezi were taken to the Rotilj camp[1352], then to the Kiseljak barracks where they were driven to the front to dig trenches[1353].

604. The HVO soldiers pillaged the private homes and seized all the livestock[1354]. Croats moved into the houses originally occupied by Muslims, whom they had forced to leave the village[1355].

iv) Polje Vi{nijica and Vi{nijica

605. Before the April 1993 hostilities, Vi{nijica was a village with a Muslim majority. At the 1991 census, it had 216 Croats, 714 Muslims and 1 Serb[1356]. The village is situated 5.2 km from the Kiseljak barracks. 444 Croats, 175 Muslims and 3 Serbs lived in Polje Vi{nijica[1357].

[1345] P46.
[1346] Witness JJ, PT p. 7398.
[1347] Witness JJ, PT p. 7398.
[1348] Witness JJ, PT p. 7399.
[1349] Witness DD, PT pp. 7035-7036. According to the witness, since the inhabitants of the village accepted to surrender their weapons, the village was not torched like the other villages in the area.
[1350] Witness DD, PT pp. 7036-7037; witness JJ, PT p. 7399.
[1351] Witness DD, PT pp. 7036-7037; witness JJ, PT pp. 7400-7401.
[1352] Witness DD, PT pp. 7037-7038; witness JJ, PT pp. 7404-7406.
[1353] Witness JJ, PT pp. 7410-7414.
[1354] Witness JJ, PT pp. 7400-7402.
[1355] Witness DD, PT pp. 7041-7042.
[1356] P46.
[1357] P46.

606. Around 13 April 1993, HVO soldiers dug trenches above Vi{njica[1358]. The Croatian inhabitants, warned of an imminent attack, then left the village[1359].

607. The HVO attacked the villages of Polje Vi{nijica and Vi{nijica during the morning of 18 April 1993[1360]. As with the other villages apart from Gromiljak, Vi{njica was attacked in two phases: first artillery fire for half a day[1361], then, once Muslim resistance had been overcome[1362], the assaults of the infantry soldiers. Soldiers picked out the men of fighting age whom they sent to dig trenches[1363]. They also killed several civilians[1364] and locked some civilians in silos situated at the border of the village. They looted their houses and torched them by dousing them with petrol[1365].

608. At Vi{jnica, they burned 40 of the 150 houses belonging to Muslims[1366]. They looted the mosque and expelled the civilians[1367]. At Polje Vi{njica, the HVO also burned most of the Muslim houses and forced their inhabitants to flee[1368].

v) Rotilj

609. Before the April 1993 attack, Rotilj was a mainly Muslim village. At the 1991 census, it was made up of 440 Muslims, 17 Croats and 1 Yugoslav[1369]. The village is 4.6 km to the west of the Kiseljak barracks.

610. In the night of 17 to 18 April 1993, the HVO forces surrounded Rotilj[1370]. On 18 April, the Commander of the Parizovici HVO, Mato Bojo asked those responsible for the TO to surrender all the weapons in the possession of the Muslim inhabitants of the village[1371].

[1358] Witness AA, PT p. 6618.
[1359] Witness Christie, PT p. 7857.
[1360] Witness Christie, p. 5842 of the French transcript of the video entitled "We are all neighbours".
[1361] Witness AA, PT pp. 6621-6622; Witness Christie, PT, p. 5842 of the French transcript of the video entitled "We are all neighbours".
[1362] According to witness AA, the village of Vi{njica included a military unit of 10 to 20 very poorly armed men (PT pp. 6621-6622)
[1363] Witness AA, PT p. 6624.
[1364] Witness AA, PT pp. 6626-6627.
[1365] Witness AA, PT pp. 6626-6627.
[1366] P95; witness Baggesen, PT pp. 1965-1966, 22 August 1997.
[1367] Witness AA, PT pp. 6638-6640.
[1368] P95.
[1369] P46.
[1370] Witness KK, PT pp. 7928-7929.
[1371] Witness KK, PT p. 7931.

Despite the fact that the TO leaders agreed to the demand and although very few people had any weapons[1372], the HVO soldiers attacked the village early in the afternoon of 18 April 1993. The offensive started with artillery fire from the direction of Przevici[1373]. The civilians who had not resisted then took refuge in the basements of their homes[1374]. The attack was carried out by HVO[1375] infantry soldiers who searched the houses looking for weapons[1376] as soon as the shelling stopped and set fire to several of them. They also killed some civilians[1377].

611. Moreover, the HVO rounded up around 600 Muslims[1378], mainly women and elderly people[1379], including some from neighbouring villages[1380], in the south-east of the village. Those people could not leave[1381]the fifteen to twenty houses abandoned by their owners[1382], since they were constantly watched over by HVO marksmen[1383] hidden in the hills overlooking the village[1384]. They suffered from overcrowding, from the lack of electricity and especially from the lack of water and food[1385]. Several of them were taken by HVO soldiers to the front lines to dig trenches[1386].

612. During these assaults, seven Muslim civilians were killed[1387]. Commander Baggesen heard it said that a woman was raped before being killed, that an elderly couple had been burned alive and that a father and his son had been decapitated[1388]. Captain Lanthier, an officer with the Canadian armed forces who served with UNPROFOR from April to November 1993, also related that several people had been killed violently[1389]. Several dwellings were pillaged[1390]and torched[1391].

[1372] Witness KK, PT p. 7931.
[1373] Witness KK, PT p. 7932.
[1374] Witness KK, PT p. 7932.
[1375] Witness KK stated that he saw HVO soldiers in the village of Rotilj wearing black scarves on their faces (PT p. 7934).
[1376] Witness KK, PT p. 7934.
[1377] Witness KK, PT p. 7935; witness Lanthier, PT pp. 8255-8256.
[1378] P298; witness Liebert, PT. p. 8792.
[1379] Witness Lanthier, PT pp. 8296-8297.
[1380] Witness JJ, PT p. 7404; witness Liebert, PT p. 8792.
[1381] Witness AA, PT p. 6658; witness JJ, PT pp. 7409-7410.
[1382] Witness JJ, PT p. 7404; witness Liebert, PT p. 8792.
[1383] P298; witness Baggesen, PT of 22 August 1997 p. 1954.
[1384] Witness Baggesen, PT pp. 1952-1953.
[1385] P298; witness Landry, PT p. 7543; witness Liebert, PT p. 8792.
[1386] Witness JJ, PT pp. 7406-7407; witness KK, PT p. 7936; witness Lanthier PT pp. 8297-8298.
[1387] Witness KK, PT pp. 7943-7944; witness Liebert PT p. 8767.
[1388]Witness Baggesen, PT of 22 August 1997, pp. 1952-1953.
[1389] Witness Lanthier PT pp. 8255-8256.
[1390] Witness KK, PT pp. 7944-7945.

vi) Svinjarevo

613. Before the April 1993 fighting, Svinjarevo was an almost exclusively Muslim village. At the 1991 census, it was made up of 282 Muslims and one Yugoslav[1392]. The village is 7.3 km north of the Kiseljak barracks.

614. On 18 April 1993, towards 06:00 hours, the HVO launched its attack by firing[1393] 60, 80 and 120 millimetre mortars and anti-aircraft weapons[1394]. As soon as the shelling stopped, soldiers from the TO organised the evacuation of about 200 civilians from the village who went in the direction of the municipality of Visoko[1395]. The HVO infantry entered Svinjarevo and the neighbouring villages of Rausevac, Purišević, Japojrevo and Jehovac. It torched several houses belonging to Muslims[1396], sometimes using petrol[1397]. The soldiers also took civilians to the Kiseljak barracks where they were imprisoned for several weeks. The attacks carried on until 23 April 1993[1398].

615. During the offensives, ten Muslim civilians were killed[1399]. Several hundred people fled in the direction of Visoko. Not a single Muslim remained in Svinjarevo after these events[1400]. Ten houses were torched in Purišević and four houses in Rausevac[1401].

b) The attacks against the villages in the south of the municipality of Kiseljak

i) Grahovci and Han Ploca

616. Before the June 1993 hostilities, Grahovci was inhabited by 66 Muslims and 2 Croats[1402]. Han Ploca had a population of 259 Muslims and 45 Croats[1403]. Those villages are about ten km to the south of Kiseljak.

[1391] The witness Lanthier attempted to go to the village of Rotilj on 19 April, but was prevented from doing so by HVO soldiers forming a roadblock at the entry to the village (PT pp. 8279-8280).
[1392] P46.
[1393] Witness WW, PT pp. 9688-9689.
[1394] Witness WW, PT pp. 9732-9733.
[1395] Witness WW, PT p. 9691.
[1396] Witness WW, PT pp. 9689-9696.
[1397] Witness WW, PT pp. 9738-9739.
[1398] Witness WW, PT pp. 9698-9699.
[1399] Witness WW, PT pp. 9698-9699.
[1400] Witness WW, PT p. 9705.
[1401] Witness WW, PT pp. 9709-9710.

617. On 12 June 1993, the HVO ordered the inhabitants of the two villages to surrender their weapons[1404], which they refused to do[1405], partly because of the proximity of the Serbian front [1406]. Towards 14:00 hours[1407], the HVO artillery then shelled Grahovci and Han Ploca[1408]. The shelling was carried out with the assistance of the Bosnian Serb army[1409]. Many Muslim civilians fled, especially into the neighbouring woods[1410].

618. Once any resistance was overcome, on 13 June towards 18:00 hours[1411], the HVO infantry[1412] erupted into the villages and systematically looted and torched the houses and stables belonging to Muslims[1413]. It also beat[1414] and violently killed several inhabitants[1415]. The Han Ploca mosque was burned[1416] and its imam killed[1417]. Many civilians, mainly men of fighting age[1418], were taken prisoner and detained in the Kiseljak barracks[1419]. They were deprived of sufficient food, beaten and made to dig trenches[1420] .

619. All the Muslims left the village during the offensives and about sixty of them have since been declared missing[1421]. Their houses were burned and looted by the HVO soldiers[1422].

[1402] P46.
[1403] P46.
[1404] Witness QQ, PT p. 8936; witness RR, PT pp. 8973-8974.
[1405] Witness TT, PT p. 9343; witness UU, PT p. 9530.
[1406] Witness QQ, PT p. 8935. The villages of Grahovci and Han Ploca were 700m and 1 km respectively from the Serbian front.
[1407] Witness QQ, PT p. 8936.
[1408] Witness RR, PT pp. 8974-8975; witness UU, PT pp. 9530-9531.
[1409]. Witness TT, PT pp. 9328-9329; witness UU, PT pp. 9530-9531. The witness QQ stated that he saw a tank of the Serbian artillery firing six shells in the direction of Grahovci (PT p. 8938).
[1410] Witness RR, PT pp. 8975-8976; witness TT, PT pp. 9328-9329.
[1411] Witness QQ, PT p. 8937.
[1412] Witness QQ, PT p. 8939; witness UU, PT pp. 9531-9532.
[1413] Witness QQ, PT pp. 8937-8940; witness TT, PT pp. 9328-9329; witness UU, PT pp. 9531-9532.
[1414] Witness UU, PT pp. 9531-9532.
[1415] Witness RR, PT pp. 8989-8995.
[1416] Witness QQ, PT p. 8937; witness TT, PT pp. 9328-9329; witness UU, PT pp. 9532-9533.
[1417] Witness QQ, PT p. 8950; witness RR, PT pp. 8979-8980.
[1418] Witness TT, PT pp. 9329-9330.
[1419] Witness RR, PT pp. 8995-8996.
[1420] Witness TT, PT pp. 9329-9331.
[1421]Witness QQ, PT p. 8950. The witness UU put forward the figure of 95 to 100 for missing persons (PT pp. 9533-9534).
[1422] Witness RR, PT pp. 8983-8984.

ii) Tulica

620. Before the June 1993 hostilities, Tulica was a Muslim village. At the 1991 census, it was inhabited by 278 Muslims and one Croat[1423]. It is 12 km to the south of the Kiseljak barracks.

621. On 12 June 1993, Tulica was attacked by HVO soldiers and by the Maturice sabotage unit[1424]. As in April, they acted in two phases. Assisted by the Serbian forces stationed not far from the village[1425], they started their offensives at about 10:00 hours with artillery fire which went on until about 16:00 hours[1426]. The soldiers then launched an infantry attack. They held the women, children and elderly in a private dwelling. The men of fighting age were taken, then held in the Kiseljak barracks[1427]. Several prisoners were beaten by the barracks guards[1428] and taken to the front to dig trenches[1429]. During the digging work, they were again beaten by HVO soldiers[1430].

622. The HVO forces deliberately looted and torched most of the Muslim dwellings of the village[1431]. They also killed 12 people including 3 women[1432] and drove all the other Muslim residents away from Tulica[1433].

c) Conclusions

623. The offensives of April and June 1993 carried out by the HVO against the municipality of Kiseljak were systematic and massive. Moreover, they were all aimed against the Muslim civilian populations of the region.

[1423] P46.
[1424] Witness NN, PT pp. 8464-8471.
[1425] Witness OO, PT pp. 8662-8663; witness PP, PT p. 8724.
[1426] Witness OO, PT pp. 8634-8636.
[1427] Witness NN, PT pp. 8475-8476.
[1428] Witness NN, PT pp. 8477-8478; witness OO, PT pp. 8654-8655.
[1429] Witness NN, PT p. 8480; witness OO, PT pp. 8655-8656.
[1430] Witness OO, PT pp. 8655-8656.
[1431] Witness NN, PT pp. 8465-8469.
[1432] Witness NN, PT pp. 8470-8477; witness PP, PT pp. 8726-8727.
[1433] Witness OO, PT pp. 8671-8672.

i) The systematic and massive nature of the April and June 1993 attacks

624. There is no doubt whatsoever that these offensives were carried out in execution of a plan or an organised action agreed at a high level of the military hierarchy. This is shown by the fact that the following events occurred together:

- the attacks were launched by the HVO simultaneously on 18 April 1993 against all the villages to the north of the Kiseljak enclave and on 13 June against the villages to the south of the enclave[1434];

- the telephone lines in Rotilj were cut and that village encircled on the eve of the military operations ;

- the Croatian inhabitants of the village of Višnjica were warned of the offensives and left the area before the start of the hostilities;

- the offensives were carried out each time mainly by the same "Ban Jelaci}" Brigade with the help of other units which had been placed under the control of that brigade[1435];

- the attacks on the north of the Kiseljak enclave were carried out 48 hours after those carried out, in a similar manner, against the Muslim villages in the municipality of Vitez, in particular Ahmici, Nadioci, Pirici, and Šantici;

- several of these offensives, mainly those which were launched against the villages of Gomionica, Grahovci, Han Ploca and Tulica were carried out in concert with the Bosnian Serbs' artillery[1436];

[1434] Witness Lanthier, PT p. 8295. As Captain Lanthier, a Canadian army officer who served with UNPROFOR from October 1992 to May 1993, pointed out, the attacks had to be "synchronised" and not "the result of chance". According to witness KK, the 18 April attack: "was carried out in an organised manner. When I say "organised manner" I do that because I had – I know certain facts; namely, at the same time, the HVO attacked the villages of Rotilj, Vi{njica, Hercezi, Doci, Gromiljak, Gomionica, Jehovac, Svinjarevo. Therefore, these villages were all attacked on the same day, on 18 April 1993, so I believe this [...] was carried out with a previous plan" (PT p. 7925).

[1435] D300.

[1436] According to the witness Liebert: "We had ample evidence of very close co-ordination and co-operation between the HVO forces, the Bosnian-Croat forces and the Bosnian-Serb forces in our area"(PT p. 8793). That collaboration between the army of the Bosnian Serbs and the HVO was particularly evident in two other ways. The former helped the latter to operate displacements of civilian Croatian populations by providing methods of transport and by allowing them to pass onto their territory, towards HVO controlled zones, especially towards Vare{ and Kiseljak (Witness Liebert, PT, pp. 8773-8775 and witness Morsink, PT p. 9968). The Croatian

- roadblocks were put up by the HVO at the entrance to the main roads leading to Gomionica and Polje Višnjica[1437];

- finally, and more significantly, the offensives were carried out in the same manner.

On that last point, the Trial Chamber notes that all the attacks, except that on Gromiljak[1438], occurred in two clear phases: heavy artillery fire intended to defeat any Muslim inhabitants who refused to surrender, followed by infantry offensives.

625. Those soldiers proceeded in the same way each time: they violently killed certain Muslim civilians, confined those they had decided to spare and from among those, picked out the men of fighting age. The men were mainly taken to the Kiseljak barracks, where they were detained for several months and sent to the front in small groups to dig trenches. Other people, mainly women, children and the elderly were driven to the part of the village of Rotilj which was under HVO surveillance. In most of the villages, the infantry systematically looted, damaged or even destroyed the houses, farms and places of worship of the Muslims, usually by torching them.

626. It was also established that the attacks were massive. They affected at least ten Muslim villages in the Kiseljak municipality. During the attacks, around forty civilians were killed and 250 houses torched. Nearly all the Muslim dwellings in the villages of Behrici, Gromiljak, Gomionica and Polje Višnjica were destroyed. The mosques in Behrici, Gomionica, Gromiljak, Višnjica and Han Ploca were also looted, damaged or demolished.

---

authorities supplied fuel to the Serbian army which was subject to an embargo (witness Lanthier, PT pp. 8305-8306 and see also witness Morsink, PT p. 9968). According to the witness KK, as from the end of May 1992, "[...] there was an agreement between the Kiseljak HVO and the Serb Army" (PT pp. 7914-7915). The witness TT also testified that "co-operation between the Serbs and Croats in these parts was extremely good" (PT pp. 9332-9333).

[1437] Witness LL, PT pp. 8045-8046. The witness Baggesen tried to get to Gomionica and Polje Višnjica after the April 1993 events and was prevented from doing so by lots of HVO road blocks (PT pp. 2003-2007; P93).

[1438] That was probably because the village of Gromiljak was inhabited mainly by Croats that it was spared the HVO artillery.

ii) The civilian and Muslim character of the targeted populations

627. There is no doubt whatsoever that the attacks carried out by the HVO in April and June 1993 were not justified by strictly military reasons but also targeted Muslim civilians and their possessions.

628. In April 1993, the army of Bosnia-Herzegovina was mainly occupied in defending the regions of Visoko[1439], Koscan and Kralupi, which were being subjected to offensives by the Bosnian Serb army[1440]. Furthermore, the villages to the north of the Kiseljak enclave had hardly any military facilities to speak of, nor any trenches[1441].

629. Furthermore, the assets used by the Muslim soldiers to fight against these attacks were trivial compared to those used by the HVO[1442]. The HVO used heavy artillery and anti-tank artillery[1443], 60, 80 and 120 mm mortars and hand-held grenade launchers (RPG7)[1444].

630. Finally, and more fundamentally, it is undeniable that military surveillance had been organised[1445], particularly at Gomionica[1446], Hercezi[1447], Svinjarevo[1448] and Višnjica[1449], and that the army of Bosnia-Herzegovina was present at the time of the offensives carried out in the villages of Svinjarevo and especially Grahovci and Han Plo~a[1450]. Those two villages were very close to the Serbian front lines[1451] and to the territories under the control of the ABiH[1452]. It follows however from the nature and the scale of the crimes perpetrated that the

[1439] P298. As regards the village of Rotilj, the ECMM report signed by Lieutenant-Colonel Landry stated that "the village wasn't defended by any ABiH force, since all of the soldiers were deployed in the Visoko area".
[1440] Witness KK, PT p. 8001; witness LL, PT pp. 8044-8045; witness Lanthier, pp. 8331-8332.
[1441] Witness SS, PT pp. 9297-9300 and witness UU, PT p. 9545. The witness KK testified that there were no trenches nor any barracks at Rotilj (PT pp. 7995-7996).
[1442] Witness Liebert, PT pp. 8795-8798; witness RR, PT p. 8008; witness SS, PT pp. 9245-9246; witness UU, PT pp. 9530-9541. The witness KK stated that the Muslims from the village of Rotilj did not counterattack when attacked on 18 April 1993 because they were surrounded by HVO troops (PT pp. 7957-7958).
[1443] Witness Baggesen, PT pp. 1956-1957 of 22 August 1997
[1444] Witness Baggesen, PT pp. 1966-1967 of 22 August 1997
[1445] The witness KK stated that the headquarters of the Jasikovika military unit were in Vi{njica (PT pp. 7975-7976, 7978-7980)
[1446] Witness SS, PT pp. 9244-9245.
[1447] Witness JJ, PT p. 7398. According to the witness: "we organised ourselves in the village. There were about 15 able-bodied men there. We split between two ends of the village; we knew what we needed to protect."
[1448] A unit of about 70 people was stationed in the village of Svinjarevo (Witness WW, PT p. 9718)
[1449] Witness AA, PT pp. 6621-6622. In relation to the defence of the village of Vi{njica, the witness Christie stated that : "Muslim men decided to conduct their own patrol within the village. This amounted to six men who would gather in a house and two at a time they would walk around the village at night, between about 10.00 and 1.00 in the morning to protect their own houses"(PT pp. 9852-9853).
[1450] Witness WW, PT pp. 9719-9721.
[1451] P345.
[1452] Witness QQ, PT p. 8936.

HVO soldiers were not fighting only in order to overcome that armed resistance. They were also seeking to make the Muslim civilian populations flee the municipality and to ensure that they did not return[1453]. In order to achieve this the HVO soldiers mainly acted as follows:

- they terrorised the civilians by intensive shelling, murders and sheer violence;

- they systematically torched and destroyed their private homes and places of worship[1454], usually after looting them;

- they slaughtered the livestock and seized agricultural reserves;

- and finally, they arrested and detained in camps, then finally exchanged or expelled Muslim civilians towards territories under the control of the army of Bosnia-Herzegovina.

631. In that connection, the Trial Chamber notes that the Kiseljak authorities created an official commission responsible for driving civilians out of the region[1455]. Finally, it points out that the municipality in which 10,000 Muslims lived before the hostilities had only 800 remaining after[1456].

632. All these facts emerge clearly from the consistent findings of many witnesses, including several ECMM officers. According to the report of Major Lars Baggesen, the village of Gomionica was totally destroyed and all its inhabitants had gone[1457]. The report mentioned in relation to Polje Vi{njica that "most of the Muslim houses had been burned and most of the Muslims had left the village"[1458]. Captain Lanthier expressed his "horror in the face of the savagery of the acts"[1459]. He added that "the very nature of these acts was just

[1453] The witness Baggesen went to the municipality of Visoko a few days after the events and personally noted that there were 18,908 refugees there, including 1,038 from the municipality of Kiseljak from the villages of Svinjarevo, Jehovac, Gromiljak, Behri}i, Gomionica and Bilalovac (PT p. 2010; P94).
[1454] As witness LL said: "Only Muslim houses, exclusively Muslim houses, not a single Croat house was ever on fire. In the village of Gomionica, which was a Muslim village, there were several Croat houses, maybe two or three, and they remained standing, not a single bullet was shot at them. The targets were only Muslim houses"(PT p. 8069).
[1455] Witness LL, PT p. 8026, p. 8050; witness WW, PT p. 9705.
[1456] Witness Meijboom, PT. p. 10131.
[1457] P95.
[1458] P95.
[1459] Witness Lanthier, PT p. 8289.

horrifying"[1460]. Captain Liebert, a Canadian army officer, also noted the "surgical" nature of the damage inflicted on Rotilj and after his visit to the village declared:

> The impression it left with me is very vivid and very striking, because I was taken aback by the surgical nature of the damage, and I use that term because, as you drove through this area, there would be houses that were burnt out. There would be one or two or three, and right in the middle of them you would see another house that was still intact, and indeed, inhabited. And then a little further down the road, there would be more destroyed houses. There was no pattern to this or no immediate pattern and upon talking to the inhabitants, it quickly became clear that the damaged houses were basically the property of Bosnian Muslim civilians, and, in a lot of cases, the undamaged ones were the property of Bosnian Croats[1461]

He added:

> I think it was *very discriminating*, sir, and I believe the damage for the most part was relegated to Bosnian Muslim houses[1462].

According to the account given by Lieutenant-Colonel Remy Landry:

> Once we arrived, we saw that there had absolutely been some atrocities which had been committed. *Specific* houses had been burned, burnt houses between houses which had not at all been set on fire. [...] It was clear that the Muslim houses had been burned; that at least one women who was not able to escape on time had been raped and then killed with machine-gun bursts [...] We went to visit a house, if you can call it a house, where the people had been burned[1463].

633. Deborah Christie, a BBC journalist, testified to the discriminatory nature of the destruction at Vi{njica: "there would be a Croat house, then a Muslim house, then a Croat house and the Muslim one in the middle would be destroyed, severely damaged and on several occasions burned out"[1464]. She also said: "it was clear from the state of the houses, which we knew quite well by then, that the people had had *to leave in a terrible hurry*, that they had taken absolutely nothing"[1465].

634. In conclusion, and as was pointed out by Captain Lanthier, who was able to visit many of the villages in the Kiseljak enclave after the hostilities:

> What had happened in the Kiseljak pocket is what is known as *ethnic cleansing, where deliberately the citizens had been attacked, that is, those citizens of Muslim origin and*

[1460] Witness Lanthier, PT p. 8289.
[1461] Witness Liebert, PT, pp. 8753-8754.
[1462] Witness Liebert, PT, p. 8866 (emphasis added).
[1463] Witness Landry, PT pp. 7542-7543. See also P298.
[1464] Witness Christie, PT p. 7857 (emphasis added).
[1465] Witness Christie, PT p. 7857 (emphasis added).

> *only them*. The others had been left untouched. It wasn't specifically the villages that were attacked but specifically people within the villages. That was what allowed me – that is the conclusion I came to[1466]. [...] In my mind, it was clear, and even more so in retrospect, that the operations that were carried out in the Vitez and Kiseljak pockets constituted *ethnic cleansing* of the Muslim population living there. They were carried out in the military fashion. The tactics utilised and the use of the land and all the other factors, which I have already mentioned, indicates quite clearly that [the situation was not] that one day to the next, a farmer decides to exterminate his neighbours, but rather a systematic extermination [...] When you look at what happened in Vitez two days later, this thing continued in the Kiseljak pocket, and then several days later, in Breza, in this 302nd Brigade, I was told that the same thing was being prepared for Vare{ and Stupni Do. And I was told by this brigade that he feared for Stupni Do. History showed later on that the exact same thing was to happen there. So it was *systematic*, it was organised, and there was no doubt whatsoever that *this was a military operation against a civilian population*[1467].

He also stated: "except for [in one] house, [...] around Gromiljak, I didn't see *any presence of human beings* in those villages"[1468]. Major Baggesen also acknowledged that "it was obvious that ethnic cleansing had taken place in the area"[1469].

2. The responsibility of General Bla{ki}

635. To begin, the Trial Chamber will very succinctly recall the main arguments advanced by the Prosecution and the Defence. It will then analyse General Bla{ki}'s individual criminal responsibility for the crimes described above.

a) Arguments of the parties

i) The Prosecution

636. The Prosecutor asserted that General Bla{ki} ordered HVO units, and more specifically the Ban Jela~i} Brigade, to attack the villages in the north and south of the Kiseljak enclave on 18 April and 12 June 1993[1470]. She also maintained that by issuing such orders the accused must have known that violations of humanitarian law would very probably result[1471]. In support of these assertions, she presented *inter alia* two combat orders dated 17 April 1993 in which the accused instructed the commander of the Ban Jela~i} Brigade to seize the villages of Gomionica and Svinjarevo[1472]. Moreover, from the scope of the military

---

[1466] Witness Lanthier, PT p. 8293 (emphasis added).
[1467] Witness Lanthier, PT pp. 8337-8338 (emphasis added).
[1468] Witness Lanthier, PT p. 8293 (emphasis added).
[1469] Witness Baggesen. PT of 22 August 1997, p. 1967. Witness LL also maintained that the attacks were "followed by ethnic cleansing and evictions" (PT p. 8046).
[1470] Prosecutor's Brief, book VII, para. 2.204.
[1471] Prosecutor's Brief, para. 2.210.
[1472] Prosecutor's Brief, paras. 2.204 and 2.207.

operations conducted in April and June 1993 and the manner in which they were carried out, she surmised that they were planned by General Bla{ki} at a very high level in the command structure[1473]. The Prosecutor stated lastly that even though the HVO headquarters were geographically isolated from the Kiseljak region, the accused was closely connected to the military units deployed there as the combat reports which he received during the events showed[1474]. In view of this, she also noted that General Bla{ki} travelled to the Kiseljak[1475] enclave on several occasions and that he had available to him advanced communications[1476].

ii) The Defence

637. However, the Defence alleged that the accused did not know of the crimes perpetrated during the unlawful attacks upon the villages[1477]. It asserted firstly that since the army of Bosnia-Herzegovina controlled the road linking the Busova~a and Kiseljak entities as of January 1993, General Bla{ki} could only rarely travel to the enclave[1478]. The Defence further declared that he could only get there with UNPROFOR's assistance[1479]. It finally maintained that the telephone communications between the accused's headquarters and Kiseljak headquarters were regularly cut and intercepted by the ABiH[1480] and that the packet transmission system was neither effective nor rapid[1481].

638. In addition, the Defence contended that on 17 April 1993 the accused ordered the Ban Jela~i} Brigade to seize the positions held by the ABiH in Gomionica and Svinjarevo so as to prevent that army from coming to the aid of the Muslim forces attacking the HVO in the Busova~a and Vitez regions[1482]. Moreover, following the combat operations conducted by the ABiH in the Kiseljak region after 17 April, the accused issued a new order dated 19 April directing the Ban Jela~i} Brigade to take control of the Gomionica heights[1483]. According to the Defence, his objective was strictly military[1484]. Furthermore, in light of the reports which he received as to the progress of the fighting on the ground, he had no "reason to know,

[1473] Prosecutor's Brief, para. 2.252.
[1474] Prosecutor's Brief, para. 2.204.
[1475] Prosecutor's Brief, para. 2.208.
[1476] Prosecutor's Brief, para. 2.209.
[1477] Defence Brief, book VI, N, p. 403.
[1478] Defence Brief, book VI, N, pp. 403-406.
[1479] Defence Brief, book VI, N, p. 403, p. 405.
[1480] Defence Brief, book VI, N, p. 406.
[1481] Defence Brief, book VI, N, p. 407.
[1482] Defence Brief, book VI, N, pp. 408-409.
[1483] Defence Brief, book VI, N, pp. 409-410.
[1484] Defence Brief, book VI, N, p. 409.

however, that his orders were being destroyed and that civilians and civilian property were being deliberately attacked"[1485].

639. Lastly, the Defence supported that the Mostar HVO General Staff had a forward command post in the Kiseljak region[1486] and directly controlled the "operative group" in this zone[1487]. It asserted too that the return of Ivica Raji} in May 1993 as "HVO Operative Group Commander in Kiseljak"[1488] made the exercise of his functions especially difficult and uncertain[1489]. The Defence claimed that commander Raji} received orders directly from General Petkovi}, his personal friend[1490], and was highly regarded by the soldiers in the Kiseljak HVO, unlike General Bla{ki}[1491].

b) Discussion

640. Initially, the Trial Chamber will analyse the content of the military orders sent by the accused to the commander of the Ban Jela~i} Brigade. It will then infer from the systematic and widespread nature of the crimes perpetrated and the general context within which they occurred that the military operations conducted in April and June 1993 in the Kiseljak enclave were ordered by General Bla{ki} himself.

i) The combat preparation order and combat order

641. The Trial Chamber will first look at the contents of the combat preparation order[1492] and the combat order[1493] of 17 April 1993. It will next determine to whom the orders were sent and the military assets ordered to be used.

a. The texts of the combat preparation order and combat order

642. In orders issued at 09:10 hours and 23:45 hours on 17 April 1993, General Bla{ki} instructed the Kiseljak Ban Jela~i} Brigade to seize several Muslim villages in the municipality.

[1485] Defence Brief, book VI, N, p. 410.
[1486] Defence Brief, book VI, N, p. 412.
[1487] Defence Brief, book VI, N, p. 412.
[1488] Defence Brief, book VI, N, p. 413.
[1489] Defence Brief, book VI, N, pp. 412-419.
[1490] Defence Brief, book VI, N, p. 415.
[1491] Defence Brief, book VI, N, p. 415.
[1492] D299.
[1493] D300.

643. The first, a combat preparation order, was addressed to the commander of the brigade instructing him to prepare his troops *inter alia* to "engage in the blockade of Vi{njica and other villages that can be used by the enemy to launch an attack"[1494], to "take control of Gomionica and Svinjarevo "[1495] and to inform the accused as soon as he was ready to launch the offensives[1496]. The second order directed the "Ban Jela~i} Brigade Command Kiseljak" to launch those military operations at 05:30 hours on 18 April 1993 and to "capture Gomionica and Svinjarevo"[1497].

644. The Trial Chamber observes that in these orders General Bla{ki} used terms which were not strictly military and had emotional connotations which were such as to incite hatred and vengeance against the Muslim populations. The opening paragraph of the combat order began with the following assertion:

> [the] enemy continues to *massacre* Croats in Zenica where Muslim forces are *using tanks* to *fire* at people, mostly women and children[1498]

Using the same terms, the fourth paragraph added:

> Persist tomorrow with the attack or we will be wiped out because the MOS /Muslim armed forces/ and the Mujahedin are advancing against the Croats in Zenica *supported by tanks*[1499]

The ninth paragraph included an emphatic call to the responsibility of the commander who received the order to "maintain a sense of historic responsibility"[1500].

645. The same terms were again to be found in the combat preparation order of 17 April 1993, in particular in the opening paragraph:

> [t]he enemy is continuing the intense attacks against the forces of HVO and is trying to completely *eradicate* the Croats from the region and *destroy all the institutions* of HVO in the valley of the La{va. The probable goal of the aggressor, after the accord with the chetniks about the surrender of Srebrenica and other regions, is the military defeat of

---

[1494] D299.
[1495] D299.
[1496] D299.
[1497] D300.
[1498] D300 (emphasis added).
[1499] D300 (emphasis added).
[1500] D300 (emphasis added).

> HVO and the *inclusion of our regions into some kind of a greater Serbia* or New Yugoslavia.
>
> In the combats that *raged* yesterday, the enemy used the favourite method of the chetniks: *pushing women and children in front, to use them as a shield* and then to occupy the main strategic objects[1501].

The order's ninth paragraph also emphatically conferred an historic role upon the Kiseljak HVO commander and his troops:

> [k]eep in mind that *the lives of the Croats* in the region of La{va *depend upon your mission*. This region could become a *tomb* for all of us if you show a lack of resolution[1502].

646. Based only on the text, the Trial Chamber notes that the accused used particularly clear terms in entrusting the commander of the Ban Jela~i} Brigade with an attack mission. He gave the order to "engage in the blockade of Vi{njica and other villages"[1503] and to "take control of"[1504] or "capture"[1505] Gomionica and Svinjarevo. Despite the contention of the Defence, the terms used do not suggest that General Bla{ki} ordered the commander to capture only the ABiH positions allegedly located in the towns. On the contrary, the eighth paragraph implied that his task went well beyond that. The accused employed radical words in the order which have connotations of "eradication": "All assault operations must be successful and to that end, use units of the Military Police and civilian police for *the mop-up*"[1506].

b. The recipient of the orders

647. On 17 April 1993, the accused sent the combat preparation order and combat order to Mijo Bo`i} whom he had previously appointed to the post of Ban Jela~i} Brigade commander

---

[1501] D299 (emphasis added).
[1502] D299 (emphasis added). These same affirmations are also to be found in the combat orders issued at 18:45 hours and 21:40 hours on 19 April. The first states that "[t]he future of all Croats of Busova~a, Travnik, Vitez and Novi Travnik depends upon your success, whereas in Zenica /words illegible/ in *any concentration camp*, particularly in Gornja Zenica, where our people who fled from the centre of Zenica are being slaughtered even today. *There is a massacre*" (P456/49) (emphasis added). The second asserts that "[a]t the moment, the Croatian people of Zenica are going through a most critical period. *They are literally being slaughtered*" (P456/50).
[1503] D299.
[1504] D299.
[1505] D300.
[1506] D300 (emphasis added).

[1507]. Furthermore, at 16:45 hours on 18 April 1993, Mijo Bo`i} reported to the accused informing him, amongst other things, that the conflict had spread to Rotilj, Vi{njica, Doci, Hercezi and Bretovsko[1508].

648. It was Mijo Bo`i} himself who issued a criminal order on 27 January 1993[1509] which read: "After the preparation has been completed the local population is to be called to surrender unconditionally all weapons; otherwise *the villages will be burnt to the ground.* In case of refusal to surrender arms open strong and concentrated fire on all targets with PAT /anti-aircraft guns/, PAM /anti-aircraft machine guns/, and MB /mortars/ and proceed with *mopping up the area*"[1510]. It also stated that "Bukovci village must be taken by nightfall on condition that *we burn anything standing in our way*"[1511].

649. Despite the fact that Mijo Bo`i} never carried out this January order, by turning to him in April 1993 to direct military operations designed to "seal off", attack and "cleanse" villages inhabited to a very large extent by civilians, General Bla{ki} ordered or at least provoked the commission of crimes against Muslims and their property, including the razing of their houses.

c. Military assets

650. In the second paragraph of the combat order, the accused instructed that "all available artillery" be used and that Gomionica and Svinjarevo be captured "through *systematic targeting* (60, 82 and 120 mm MB /mortar launchers/)"[1512]. In paragraph 6 of the same order, he also ordered that "fire preparations for the attack must be strong and guarantee a successful attack"[1513].

651. By advocating the vigorous use of heavy weapons to seize villages inhabited mainly by civilians, General Bla{ki} gave orders which had consequences out of all proportion to military necessity and knew that many civilians would inevitably be killed and their homes destroyed.

[1507] Witness Bla{ki}, PT pp. 21699-21700.
[1508] D306.
[1509] General Bla{ki} was in Kiseljak on the day the order was issued (witness Bla{ki}, PT pp. 21700-21701).
[1510] P510 (emphasis added).
[1511] P510 (emphasis added).
[1512] D300.
[1513] D300.

d. Conclusions

652. Before reaching any conclusions, the Trial Chamber recalls that the attack of April on the villages, especially Svinjarevo, Gomionica and Vi{njica, proceeded according to the combat order signed by the accused[1514] – heavy artillery fire followed up by infantry sent in to "mop up".

653. The Trial Chamber maintains that even though General Bla{ki} did not explicitly order the expulsion and killing of the civilian Muslim populations, he deliberately ran the risk of making them and their property the primary targets of the "sealing off" and offensives launched on 18 April 1993. It draws this assertion from the following in particular:

- the categorical and hate engendering content of the combat preparation order and combat order;

- the fact that the orders were addressed to a commander who had himself previously threatened to burn a village down;

- and finally, the fact that they advocated the use of heavy weapons against villages inhabited for the most part by civilians.

ii) The widespread and systematic nature of the crimes perpetrated

654. The Trial Chamber points out that the two aforesaid orders did not initiate all the military operations conducted in Kiseljak in April and June 1993.

655. To start, the Trial Chamber indicates that other orders were sent by the accused to the Ban Jela~i} Brigade at the same period, in particular at 18:45 hours[1515] and at 21:40 hours[1516] on 19 April. The former explained *inter alia* that it was necessary to "attack in groups and only diagonally from Ko~atale and [ikulja"[1517]. The latter recalled that Gomionica had to be

[1514] D300. Paragraph 10 of the order states: "Begin the operation on 18 April 1993 at 0530 hours".
[1515] P456/49.
[1516] P456/50.
[1517] P456/49.

taken "tonight or in the early morning, because the main forces of the MOS /Muslim armed forces/ are at Busova-a [...]"[1518].

656. The Trial Chamber also sets forth that General Bla{ki} often spoke to his troops. It asserts that even though it was difficult to reach Kiseljak due to the war-time circumstances the HVO army had taken hold of the town's communications buildings and had sufficiently advanced technical means in order to communicate with the officers in the field on a regular basis[1519]. In this connection, the Trial Chamber points out that the combat preparation order demanded a report from the commander of the Ban Jela~i} Brigade before 23:30 hours confirming that he was ready to conduct operations. At 23:45 hours, the accused sent out the attack order. It is thereby proved that, contrary to the claims of the accused, the communications between Vitez and Kiseljak were indeed working.

657. Further, as it has affirmed previously, the Trial Chamber is convinced that it does not have all the orders issued by the accused during the period covered by the charges. This is borne out by the irregular numbering of the documents provided to the Trial Chamber by the parties to the hearings.

658. Moreover, the reports which the accused received during the events[1520] and the orders which he issued during 1993, especially those appointing[1521] and dismissing[1522] commanders, persuaded the Trial Chamber that General Bla{ki} did indeed command military operations in the Kiseljak region and effectively controlled how they developed. In addition, he claimed in a interview for the newspaper *Danas* in October 1993:

[1518] P456/50.

[1519] Witness Lanthier affirmed that "[...] the HVO had excellent communications among the various locations of its headquarters, particularly the presence of telephones and civilian lines, because the PPT building was under HVO control in Kiseljak and those telephone lines were working so they could use telephones to communicate. They could use faxes. [...] Also, that there were high frequency antennae, and there were also telephones that showed that there were satellite dishes on the roofs of the headquarters. I saw all of that and so they could see that there was a great deal of possibility to maintain communications among the various headquarters, which allowed the commander to exercise commander control over his troops" (PT p. 8333). According to witness Liebert: "[...] what I did see was the – what I would say was symptomatic of an effective chain of command and communication system" (PT p. 8797). Witness Morsink also pointed out that the HVO soldiers "[...] had good telephone communications, they had good fax communications, and I saw several HVO officers carrying small portable radios, so I think also the communication part was well-organised. They controlled all the switching stations of the telephone lines, so they could, in fact, decide who was having connections, who not" (PT p. 9909).

[1520] D305, D306, D323.

[1521] *Cf.* P456/68.

[1522] *Cf.* P456/53, P456/64, P456/68.

> [the separated municipalities] are carrying out, in a co-ordinated and organised manner, all commands connected with the defence of the people and Croatian territories. This physical separation is not an essential or decisive factor, because we figured in our planning that the temporary physical separation of these areas could occur. Travnik is the first operative group, Kiseljak the second, @ep~e the third, and Sarajevo the fourth. *All operative groups are under my command, and the chain of leadership and command functions absolutely. Without interruption.*[1523]

659. More fundamentally and in addition to these important elements, the Trial Chamber holds that the indubitable conclusion to be drawn from the manner in which the offensives progressed and the systematic and widespread nature of the crimes perpetrated is that the military operations of April and June 1993 were ordered at the highest level of the HVO military command by the Central Bosnia Operative Zone commander - General Bla{ki}. In this regard, the Trial Chamber will recall three striking points already brought out:

- the offensives conducted in April in the municipality of Vitez and to the north of Kiseljak and in June to the south of Kiseljak all evolved along similar lines;

- the attacks on Kiseljak were on each occasion led mostly by HVO troops, and more precisely by the Ban Jela~i} Brigade whose commander received orders directly from the accused.

- and finally, the offensives all produced the same result: the systematic expulsion of Muslim civilian inhabitants from their villages and, in most cases, the destruction of their dwellings and the plunder of their property.

iii) The general context of persecution of the Muslim populations

660. The Trial Chamber observes that the HVO military offensives were merely the ultimate outcome of an overall policy of persecution of the Muslim populations pursued by the Croatian military and political authorities. In agreeing to be the Kiseljak region military commander in April 1992 and then Central Bosnia Operative Zone commander in June of

[1523] P380 (emphasis added). The Trial Chamber interprets the statement as a reflection of the actual situation and, not as the Defence preferred, as a propaganda operation to maintain the HVO troops' morale.

that same year, the accused fully subscribed to this policy from the very moment of his posting.

iv) Conclusions

661. The Trial Chamber is of the view that the content of the military orders sent to the Ban Jela~i} Brigade commander, the systematic and widespread aspect of the crimes perpetrated and the general context in which these acts fit permit the assertion that the accused ordered the attacks effected in April and June 1993 against the Muslim villages in the Kiseljak region. It also appears that General Bla{ki} clearly had to have known that by ordering the Ban Jela~i} Brigade to launch such wide-ranging attacks against essentially civilian targets extremely violent crimes would necessarily result. Lastly, it emerges from those same facts that the accused did not pursue a purely military objective but that by using military assets he also sought to implement the policy of persecution of the Muslim civilian populations set by the highest HVO authorities and that, through these offensives, he intended to make the populations in the Kiseljak municipality take flight.

E. The shelling of Zenica

662. Towards midday on 19 April 1993, Zenica town centre was targeted by several artillery shells. The testimony and exhibits admitted by the Trial Chamber indicate that the shells hit very busy parts of town, such as the shopping district and the municipal market[1524] - moreover, at a peak time. In fact, it seems that at this exact time of day, commercial traffic was considerable and there were between two to three thousand people in the geographical area bombarded[1525].

663. The Prosecution contended that many civilians died or were severely wounded by the shelling. The exhibits and testimony confirmed the allegation which the Defence, moreover, did not dispute[1526]. That the persons killed or wounded were civilians is also beyond doubt.

664. Likewise, the Defence did not contest that much civilian property was destroyed. In view of the exhibits, the civilian nature of the material damage inflicted by the shelling is

[1524] P224; witness Veseljak, PT of 22 January 1998, p. 5946.
[1525] P221/10, P221/11, P221/13, P221/14, P221/15; witness Veseljak, PT of 22 January 1998, p. 5946.

unquestionable[1527]. In addition, witnesses attested to the fact that there were no military facilities near the impact points of the shelling - nor even facilities of a military nature[1528].

665. The precise number of shells fired into Zenica town centre remains unknown but was not argued over by the parties. The Prosecution put the figure at nine shells[1529] whilst the Defence mentioned several shells[1530] without providing any further details.

666. The main difficulty which the Trial Chamber had to resolve centred on how to establish which troops were involved in the shelling. On this point, it became apparent that the arguments of the parties differed greatly and that identification of the perpetrators and those responsible for the bombardment was less important than a study of the case-file conducted in as much detail as possible and, in particular, of the information available on the artillery pieces probably used and their technical characteristics.

667. The Trial Chamber first need an exact understanding of the arguments and method used by each of the two parties.

1. The Prosecution argument

668. The Prosecution maintained that the shells were fired from a 122 mm howitzer belonging to the HVO troops positioned in Puti~evo 16 km west of Zenica[1531]. This assertion was based on the analysis of the depositions given by witnesses Baggesen, Veseljak and W. The Prosecution argument, supported by the testimony of the three said persons, was presented in two main sections which formed the bases for the calculation method used by the Prosecutor.

669. The first section consisted of determining the calibre of the shell by analysing the depth and size of the crater formed by the artillery piece and how the shell fragmented within the craters. Relying on examination of the craters at the sites shelled, witnesses Baggesen and

---

[1526] P220, P221; witness Beganovi}, PT of 21 January 1998, pp. 5899-5901; witness Veseljak, PT of 22 January 1998, pp. 5944-5945.
[1527] P221 and P224.
[1528] Witness Baggesen, PT of 22 August 1997, pp. 1941-1942; witness W, PT p. 6103.
[1529] Prosecutor's Brief, book 5, pp. 135-136.
[1530] Defence opening statement, PT p. 11236-11237.
[1531] Prosecutor's Brief, book 7, p. 70.

W reached the conclusion that the shell's calibre was 122 mm[1532]. Determining the shell's calibre allowed its azimuth and range to be subsequently established.

670. The second section consisted of establishing from which direction the shell was fired. The direction can be ascertained from the position of the crater and examination of the marks left by the shell's explosion, bearing in mind that the trajectory followed by the shell is inversely related to the direction of the shell impact marks. In the present case, the three witnesses considered that the shells originated from the west of Zenica, in particular from the HVO positions to the west of the town[1533].

671. According to the Prosecution, the conclusion reached as to the calibre and trajectory of the shells was a decisive argument which demonstrated that the HVO troops were behind the Zenica shelling. The Prosecutor further deemed that additional evidence corroborated the conclusion. She claimed that the contemporary military context strongly suggested that the shelling of Zenica was an intentional riposte by the HVO to the ABiH counter-offensive[1534]. Moreover, she asserted that the VRS artillery could not have been responsible for the shelling in light of the type of shell employed and the geographical location of the troops when the shelling occurred[1535].

2. The Defence argument

672. The Defence contended that the shelling could not be ascribed to HVO troops. It claimed that even if it was "not possible to identify with precision the origin of those shells"[1536] everything went to prove that, on the contrary, it was the Bosnian Serb army which was behind the attack on Zenica. In order to demonstrate that the HVO was not responsible, the Defence put forth several arguments relating both to the military context and to the analysis of the calibration of the shells used.

673. Firstly, the VRS allegedly shelled Zenica on a regular basis from April to July 1993 and the marketplace was within firing range of the Serbian artillery positioned around Vla{i}[1537].

[1532] Witness Baggesen, PT of 22 August 1997, PT pp. 1940-1941; witness W, PT pp. 6019-6020.
[1533] Witness Baggesen, PT of 22 August 1997, PT pp. 1940-1941; witness Veseljak, PT pp. 5592-5593; witness W, PT p. 6027.
[1534] Prosecutor's Brief, book 5, p. 142 and book 7, p. 70.
[1535] Prosecutor's Brief, book 7, pp. 72-73.
[1536] Defence opening statement, PT pp. 11237-11238.
[1537] Defence opening statement, PT p. 11237-11238; Defence Brief, p. 92.

674. In addition, a telephone call between Lieutenant-Colonel Stewart and Tihomir Bla{ki} shows that the calibre of the shell which hit the marketplace was not 122 mm but 155 mm[1538]. It was, moreover, only during his trial that Tihomir Bla{ki} supposedly learnt of the theory that a 122 mm howitzer had been used[1539]. The Defence maintained that the HVO troops were not equipped with this type of artillery piece at the time of the acts since they had been moved from Travnik to Mostar on 8 January 1993[1540].

675. Lastly, the Defence further submitted that Professor Jankovi}'s testimony refuted the arguments advanced by the Prosecution witnesses. Based on mathematical calculations made according to standardised models and using the hypothetical calculations put forward by the Prosecution, the witness considered that the two types of Russian and Yugoslav 122 mm howitzer likely to have been used in the acts could not have reached the centre of Zenica from the HVO positions west of the town because of their insufficient range[1541]. In addition, Professor Jankovi} thought that the method of examining the shell crater employed by the Prosecution witnesses to determine the range, angle of descent and direction of the projectile fired was incorrect[1542].

3. Conclusions

676. Analysis of the respective arguments propounded by the Prosecution and Defence allowed the Trial Chamber to focus in on the nature and specificity of the two arguments. It actually appeared that the calculation method employed by the Prosecution was pragmatic and deductive in that it opted for reasoning based on observation. It thus differed from that of the Defence which was based on the data presented by the Prosecution and was more abstract and mathematical insofar as it relied on rules and official standards.

677. Admittedly, the arguments put forward by the Defence were not such as to invalidate wholly the Prosecution argument. The Trial Chamber had to note in particular the coincidence of the attacks of the Croatian forces of 16-18 April 1993, the necessary reaction of the Muslim forces in the face of such attacks and the circumstance by which Zenica was

[1538] Witness Bla{ki}, PT pp. 18985-18986.
[1539] Witness Bla{ki}, PT pp. 18988-18989.
[1540] Defence Brief, pp. 92 and 93.
[1541] Witness Jankovi}, PT pp. 17254-17259.

both the town with the largest Muslim population near to Vitez and the headquarters of the ABiH 3rd Corps[1543]. Notwithstanding this, in the eyes of the Trial Chamber, the Prosecutor's demonstration was not sufficiently convincing and the Defence produced evidence such as to cast reasonable doubt onto whether the shelling at issue could be imputed to the HVO. The Prosecution's demonstration relative to the calibre and trajectory of the shells used to shell Zenica town seemed insufficient when compared to that of the Defence. The sketches submitted by the Prosecution in support of its demonstration suffered from vagueness[1544] whilst those produced by the Defence witness were unquestionably scientific[1545]. Professor Jankovi}, whom the Trial Chamber further asked for additional information pursuant to Rule 98 of the Rules[1546] with the consent of the Prosecution, offered comparative mathematical calculations liable to contradict those presented by the Prosecution. Even though the Prosecution attempted to prove in other ways that the shell used was 122 mm, it did not sufficiently demonstrate that the HVO artillery positions, as located to the west of the city by the Prosecution, could reach Zenica town with this type of shell as occurred on 19 April 1993. Moreover, despite the fact that, in the eyes of the Trial Chamber, the argument that the howitzer was moved several kilometres by the HVO is plausible, the Prosecution was not able to prove that such was the case.

678. Consequently, the issue of the identity of the troops involved in the shelling of Zenica could not be resolved by the Trial Chamber because the Prosecutor did not demonstrate beyond all reasonable doubt that the HVO troops or other elements under the command of the accused were behind the shelling. The Trial Chamber is therefore of the view that there is reason to declare General Bla{ki} not guilty of the counts brought against him based on the shelling of Zenica town on 19 April 1993.

F. Detention related crimes

679. Counts 15 to 20 were grouped together because they all deal with the deprivation of freedom suffered by many Muslims and the crimes committed against them at the time.

[1542] Witness Jankovi}, PT pp. 17276-17283.
[1543] The inverse would equally be true: if one were to suppose that the ABiH were responsible for the break out of the conflict on 16 April 1993, the Croatian forces would evidently have wanted to conduct a terrorisation operation to halt the Muslim attacks.
[1544] See for example P230.
[1545] D526 and C1.

1. Inhuman and cruel treatment

680. The indictment alleges that from January 1993 to January 1994, Bosnian Muslims were detained by the HVO in Vitez cinema hall, Kaonik prison near Busova~a, Vitez veterinary station, Dubravica primary school, the SDK offices in Vitez, Kiseljak barracks, Rotilj village and the houses of Ga~ice[1547].

681. The detainees were allegedly used as human shields, beaten, forced to dig trenches and subjected to physical and mental violence, threats and inhuman treatment, in particular by being confined in cramped or overcrowded facilities and being deprived of sufficient food and water. Some of them were reportedly killed or wounded while being forced to dig trenches in the Kiseljak, Vitez and Busova~a municipalities[1548].

682. Accordingly, the accused allegedly committed a grave breach covered by Article 2(b) of the Tribunal's Statute (inhuman treatment - count 15) and a violation of the laws or customs of war covered by Article 3 of the Statute and recognised by Article 3(1)(a) of the Geneva Conventions (cruel treatment - count 16)[1549].

a) Arguments of the parties

683. The Prosecution submitted that the acts or omissions constituting inhuman or cruel treatment committed by General Bla{ki} or his subordinates caused great physical or mental suffering or serious physical and mental injury to the Bosnian Muslim detainees and attacked their human dignity. The acts on which the counts rely cover most of the physical or mental violence, especially the verbal abuse, beatings, theft of the detainees' personal effects, forced labour, digging of trenches and rape. The criminal omissions purportedly concerned the failure of the HVO to meet their obligations to treat the Bosnian Muslim detainees with humanity and to guarantee them acceptable living conditions[1550].

[1546] PT p. 17337.
[1547] Second amended indictment, para. 12.
[1548] Second amended indictment, paras. 13-14.
[1549] The unlawful detention of these persons is not specified in the indictment. *See also* the Prosecutor's Brief, book 6, VIII, 2.2.
[1550] Prosecutor's Brief, book 6, IX, 6-7.

684. The Defence held that the Bosnian Muslims' freedom of movement in the village of Rotilj was not limited and that they could not consequently have been detained. It argued that a roadblock was erected by the HVO at the village's checkpoint in order to protect the Muslim inhabitants from any danger. This checkpoint did not supposedly prevent the Muslim inhabitants from leaving Rotilj because the main road was not the only route out of the village[1551].

685. The Defence further deemed that Tihomir Bla{ki} was not guilty of the charges by which the Bosnian Muslim detainees were deprived of sufficient food and water and confined in cramped facilities. It contended that both the supply of food and water and the facilities were adequate at the detention sites at Vitez cinema, Kaonik prison, Vitez veterinary hospital, Kiseljak barracks, Rotilj village and the houses in Ga~ice. Likewise, the persons assigned to the work teams were neither short of food or water nor confined in cramped facilities. In any case, the Defence maintained that the Prosecution had not managed to demonstrate that the detainees were in a worse situation that the Croats detained by the ABiH[1552].

686. Finally, the Defence contended that the work conditions of the teams were not generally dangerous, improper or discriminatory and thereby did not constitute a breach of the Geneva Conventions. Moreover, the teams were formed in accordance with the law of the HZHB and the Republic of BH and the accused was convinced that they were lawful. In the opinion of the Defence, even if the use of work teams constituted a breach of the Conventions, General Bla{ki}'s mistake as regards the law should exonerate him of all responsibility in this respect. In conclusion, the Defence claimed that the Prosecution did not charge the accused with the use of work teams in dangerous conditions and that, accordingly, such an indictment could not incur his responsibility[1553].

b) Conclusions

687. The Trial Chamber will review the crimes alleged by municipality.

[1551] Defence Brief, IX, B.
[1552] Defence Brief, IX, D.
[1553] Defence Brief, IX, F.

i) Busova~a municipality

688. During the first half of 1993, male Muslim civilians, particularly from Busova~a municipality[1554], were imprisoned by the HVO at Kaonik prison[1555], a former JNA warehouse a little over 10 kilometres from the Hotel Vitez[1556]. The prison was made up of approximately twenty rooms, about 9 square metres, transformed for the purpose into cells to hold Muslims[1557]. With perhaps as many as 400 persons detained by the HVO, as for example after the January 1993 campaign, the prison was overcrowded[1558]. The hygiene and comfort conditions as well as the quality and quantity of food were poor[1559]. Personal valuables were confiscated there[1560]. Further, exaction was sadistically meted out upon detainees[1561] by HVO soldiers. For example, detainees were forced to beat one another[1562].

689. Detainees at Kaonik prison were also compelled to dig trenches under guard of HVO soldiers. They were led in groups to different sites[1563]. The detainees taken off to the front were in danger – some were killed by gunfire[1564]. Work was strenuous and long, food insufficient[1565]. In addition, detainees were abused by their guards. For instance, some were refused permission to take cover while fire was being exchanged, some were beaten[1566] and others underwent mock executions[1567].

ii) Kiseljak municipality

690. On 23 April 1992, the HVO took over a former JNA barracks in Kiseljak where Tihomir Bla{ki} set up one of his headquarters[1568]. As of April 1993 until approximately November 1993[1569], the barracks were also used as a detention centre to hold many male

[1554] The prisoners in Kaonik did not originate solely from the Municipality of Busova~a. Witness Y, for example, was arrested in Vitez and detained at the cultural centre in the town. Then, along with 13 other detainees, he was transferred to Kaonik prison where he remained from 5 to 14 May 1993. PT pp. 6509-6511.
[1555] Witness Nuhagi}, PT pp. 5214-5215, pp. 5228-5229, pp. 5247-5248; witness T, PT pp. 5769-5770, pp. 5771-5805.
[1556] Witness Leach, PT of 27 June 1997, PT p. 259; witness Nuhagi}, PT pp. 5228-5229.
[1557] Witness T, PT pp. 5771-5772; witness Nuhagi}, PT pp. 5228-5229.
[1558] Witness Mcleod, PT p. 6388.
[1559] Witness Nuhagi}, PT pp. 5215-5217, pp. 5228-5229; witness T, PT pp. 5804-5806.
[1560] Witness BB, PT pp. 6677-6678, pp. 6681-6682.
[1561] Witness Y, PT pp. 6522-6523.
[1562] Witness U, PT pp. 5880-5882. The Trial Chamber notes that the Trial Chamber seised of the *Aleksovski* case reached the same conclusion. *Aleksovski* Judgement, para. 228.
[1563] Witness U, PT pp. 5877-5880; witness Z, PT pp. 6594-6596.
[1564] Witness BB, PT pp. 6684-6685.
[1565] Witness BB, PT pp. 6686-6688.
[1566] Witness BB, PT pp. 6684-6685.
[1567] Witness Z, PT pp. 6594-6596.
[1568] Witness MM, PT p. 8229; witness Friis-Pedersen, PT pp. 5485-5486.
[1569] Witness Friis-Pedersen, PT pp. 5485-5486.

Muslim civilians captured by the HVO in the villages of Kiseljak municipality[1570]. At one time, there were also women and children interned at the prison[1571]. The detainees endured difficult living conditions. In particular, hygiene and food were poor[1572]. Furthermore, HVO soldiers and military policemen were responsible for many beatings and for brutal physical and mental violence inflicted on detainees. Thus, for instance, in pitch darkness detainees received engine oil with which to "wash"[1573].

691. In addition, from April 1993 until January 1994[1574], Muslims from Kiseljak municipality were held captive in the village of Rotilj. The Trial Chamber recalls that the detainees were prevented from leaving the village, especially because they were being watched by snipers positioned in the hills around the village. The Muslims were therefore kept in an HVO detention camp.

692. The prisoners of Rotilj were forced to endure particularly harsh living conditions. The village was overcrowded and the people crammed into those houses which had not been destroyed. They lacked medicines and there was insufficient water and food. The Trial Chamber points to the murders and acts of physical violence, including rape, which occurred in the village.

693. Furthermore, the men detained in Kiseljak barracks and Rotilj were compelled by the HVO to dig trenches[1575]. In so doing, some detainees near the front-line were killed or wounded during exchanges of fire[1576]. Forced labour sometimes lasted a long time and the detainees were exposed to bad weather[1577]. In addition, they were mistreated by the Military Police[1578] who, for example, sometimes inflicted sadistic bodily harm on them. Thus, one witness related how they placed a cigarette up his nostril while threatening to kill him[1579]. The guards prohibited the detainees from taking cover whilst fire was being exchanged[1580].

[1570] Witness AA, PT p. 6619, pp. 6652-6653; witness DD, PT pp. 7035-7038, pp. 7058-7059; witness JJ, PT pp. 7393-7394, pp. 7410-7411.
[1571] Witness Lanthier, PT p. 8303.
[1572] Witness TT, PT pp. 9332-9334.
[1573] Witness TT, PT pp. 9332-9334, p. 9348.
[1574] In fact, up until March, witness TT, PT pp. 9334-9335.
[1575] Witness DD, PT pp. 7050-7051; witness AA, PT pp. 6656-6658.
[1576] Witness AA, PT p. 6655; witness TT, PT p. 9342.
[1577] Witness TT, PT p. 9342.
[1578] Witness TT, PT p. 9342.
[1579] Witness OO, PT p. 8657.
[1580] Witness OO, PT p. 8657.

iii) Vitez municipality

694. On 16 April 1993, HVO soldiers detained a large number of male Muslim civilians in Vitez veterinary station[1581]. The station was inside a municipal building located approximately 900 metres from the Hotel Vitez[1582]. Seventy-six detainees were locked in the basement and in rooms at the top of the building[1583]. In the basement there was so little room that the detainees could only crouch. The air inside was humid and suffocating. The elderly were finally transferred to the veterinary station's examination room[1584]. On the fourth day of detention[1585], the detainees were taken off to other detention centres such as Dubravica school[1586].

695. Located in a municipal building near to Vitez railway station and just over two and a half kilometres from the Hotel Vitez[1587], Dubravica primary school was the billet for the Vitezovi unit and the Ludwig Pavlovi} Brigade[1588]. During the second half of April 1993, the school also served as an HVO detention centre. Two hundred Muslim men, women and children from the villages of Vitez municipality were detained there[1589]. They suffered from a lack of food and comfort[1590]. Furthermore, the women and children were terrorised and threatened by their guards[1591]. Women were raped by HVO soldiers and members of the Military Police[1592].

696. Vitez cultural centre was in a municipal building barely a hundred metres from Bla{ki}'s headquarters at the Hotel Vitez[1593]. The building was originally used as a head office by the political parties in Vitez. Mario ^erkez, commander of the HVO Vitez Brigade, had established his headquarters there[1594]. Beginning on 16 April 1993, between 300 to 500

[1581] Witness Zeco, PT of 26 September 1997, pp. 2808-2810; witness D, PT of 24 September 1997, pp. 2700-2701; witness Beso, PT of 26 August 1997, PT p. 2217, p. 2219.
[1582] Witness Leach, PT of 27 June 1997, pp. 272-273.
[1583] Witness Zeco, PT of 26 September 1997, pp. 2809-2811.
[1584] Witness D, PT of 24 September 1997, pp. 2700-2701.
[1585] Witness Zeco, PT of 26 September 1997, pp. 2818-2819.
[1586] Witness Zeco, PT of 26 September 1997, pp. 2818-2819.
[1587] P32, witness Zeco, PT of 26 September 1997, pp. 2818-2819; witness Leach, PT of 27 June 1997, pp. 272-274.
[1588] Witness Sefkija Djidi}, PT of 29 July 1997, pp. 1226-1227; witness HH, PT p. 6836.
[1589] Witness Zeco, PT of 26 September 1997, pp. 2819-2820; witness XX, PT p. 10466 and pp. 10468-10469.
[1590] Witness Fatima Ahmi}, PT pp. 3967-3968; witness G, PT pp. 3867-3868.
[1591] Witness Fatima Ahmi}, PT pp. 3967-3968.
[1592] Witness Elvir Ahmi}, PT pp. 3265-3268; witness Fatima Ahmi}, PT pp. 3967-3970.
[1593] Witness Leach, PT of 27 June 1997, pp. 272-273.
[1594] Witness Bla{ki}, PT pp. 22469-22470.

Muslim civilians were detained under guard of the Military Police and HVO soldiers[1595]. In the cellar, a large number of detainees, including some ill pensioners, had to sit or stand on the coal stored there[1596]. Since the number of detainees grew rapidly, they were transferred to other rooms in the building, such as the cinema hall, which also became overcrowded[1597]. Towards the end of the month some of the pensioners and ill were released[1598] but other detainees, particularly ABiH or SDA members and intellectuals[1599], were transferred to other detention centres, such as Kaonik prison[1600].

697. The village of Ga~ice lies in the municipality of Vitez approximately two kilometres from the town of Vitez[1601]. After the attack on the village on 20 April 1993, a group of 180 women, children, elderly men and Muslim civilians were assembled in a few of the remaining houses[1602] under the control of the HVO soldiers[1603]. The living conditions were particularly harsh[1604]. After approximately two weeks, the HVO took them off to territory controlled by Muslim forces[1605].

698. In mid April 1993, 63 men mostly of fighting age were detained by the HVO for several days in the SDK building in Vitez. Guarded by the Military Police, the detainees were confined in three overcrowded and cold facilities[1606].

699. A significant number of the detainees at the cultural centre, the veterinary station, Dubravica school and the SDK building were forced to dig trenches by HVO soldiers [1607]. It was strenuous and dangerous work. At the front-line, some were killed or wounded[1608], especially when the HVO did not allow them to lie down to protect themselves from

---

[1595] Witness Y, PT p. 6509, pp. 6512-6514; witness Beso, PT of 26 August 1997, p. 2232; witness Pezer, PT of 19 August 1997, pp. 1570-1571.
[1596] Witness Mujezinovi}, PT of 20 August 1997, p. 1711.
[1597] Witness Y, PT p. 6509; witness Beso, PT of 26 August 1997, p. 2232.
[1598] Witness Y, PT p. 6510.
[1599] Witness Pezer, PT of 19 August 1997, pp. 1577-1578.
[1600] Witness Y, PT p. 6510.
[1601] Witness Hrusti}, PT p. 4791.
[1602] Witness Hrusti}, PT pp. 4815-4817.
[1603] Witness Hrusti}, PT pp. 4818-4819; witness ZZ, PT pp. 10845-10846.
[1604] Witness ZZ, PT pp. 10845-10846.
[1605] Witness ZZ, PT pp. 10846-10847; witness Hrusti}, PT pp. 4825-4826.
[1606] Witness Kavazovi}, PT of 26 August 1997, pp. 2319-2321.
[1607] Witness Pezer, PT of 19 August 1997, pp. 1570-1571; witness Zeco, PT of 26 September 1997, p. 2816; witness G, PT pp. 3868-3869; witness Kavazovi}, PT of 26 August 1997 pp. 2320-2321.
[1608] Witness Zeco, PT of 26 September 1997, pp. 2817-2818; witness XX, PT pp. 10470-10471; witness Y, PT p. 6515.

shooting[1609]. During one incident in particular, HVO soldiers killed one detainee and threatened to kill another[1610].

700. In conclusion, the Trial Chamber adjudges that in the case in point the material element and *mens rea* of the crimes of inhuman treatment (count 15) and cruel treatment (count 16) as defined above have been satisfied. The Trial Chamber takes note of the following acts and omissions:

- inflicting physical and mental violence upon the detainees, at the various aforesaid detention sites and whilst they were forced to dig trenches;

- placing the detainees in a life-threatening situation by taking them to the front or nearby;

- the atmosphere of terror reigning in the detention facilities;

- the cases of long-term detention[1611], in several camps under difficult circumstances[1612].

Moreover, the Trial Chamber adds that the cruel or inhuman treatment was inflicted by HVO soldiers and the Military Police and that the victims were Bosnian Muslims. For the most part they were civilians - the remainder being *hors de combat* - and therefore were protected persons for the reasons explained earlier.

[1609] Witness D, PT of 24 September 1997, pp. 2704-2705.
[1610] Witness D, PT of 24 September 1997, pp. 2707-2708.
[1611] In general the maximum stay in detention within a single facility does not seem to have been extremely long: Kaonik – 2 months; Kiseljak barracks – 2 months; Rotilj – 2 months; veterinary station – 4 days; Dubravica school – 20 days; cultural centre - 2 weeks; Ga-ice – 16 days; and, finally, the SDK building – a few days.
[1612] For example, after the HVO attack in April, witness DD was forced to remain in his village. He was interned in Rotilj village from 6 September to 20 September and then in the Kiseljak barracks until 30 September. He then dug trenches for a month at Kre{evo before again being interned at the Kiseljak barracks until 15 November. In the end, he was interned in Rotilj village until he was exchanged on 14 January 1994, witness DD, PT pp. 7035-7060. Likewise, between April and 6 November 1993, witness JJ was interned in his village, in Rotilj and at the Kiseljak barracks. Witness JJ, PT p. 7399, p. 7405, pp. 7410-7411, p. 7421. Lastly, witness TT was detained from June 1993 until March 1994 in various locations, including the Kiseljak barracks. Witness TT, PT pp. 9328-9335.

2. Taking of hostages

701. The indictment states that from January 1993 to January 1994 Bosnian Muslim civilians were taken hostage by the HVO and used both in prisoner exchanges and in order to bring to a halt Bosnian military operations against the HVO[1613]. The accused thus allegedly committed a grave breach covered by Article 2(h) of the Tribunal's Statute (taking civilians as hostages - count 17) and a violation of the laws or customs of war covered by Article 3 of the Statute and recognised by Article 3 of the Geneva Conventions (taking of hostages - count 18).

a) Arguments of the parties

702. The Prosecution explained that counts 17 and 18 were based on the HVO's taking of Bosnian Muslim detainees incarcerated *inter alia* at the cinema, the veterinary station, Dubravica school and Kaonik prison as hostages on 19 and 20 April 1993.

703. The Prosecution contended that the large number of detainees (2,223) to whom death threats were allegedly made on 19 and 20 April led to the unavoidable conclusion that all the Bosnian Muslim detainees in the hands of the Croatian forces in the region at all the detention facilities must be considered as HVO hostages. To begin with, very many civilians were at the detention facilities. In any case, and for the purposes of Article 3 of the Statute, the Prosecution asserted that the victims had not taken an active part in the hostilities. The HVO next clearly sought to use all means available to it to compel the ABiH to end its counter-attack. Lastly, the Prosecution alleged that a death threat hung over the lives of the hostages[1614].

704. In the opinion of the Defence, even though General Bla{ki} exercised command responsibility within the CBOZ, the detention of Bosnian Muslim civilians was justified on security and safety grounds. A lawful act of this type could not therefore be characterised as taking of hostages. Moreover, the Defence asserted that it had not been established that the persons who participated in the alleged hostage-taking had had the specific intention to profit therefrom[1615].

[1613] Second amended indictment, para. 15.
[1614] Prosecutor's Brief, book 6, IX, 8.
[1615] Defence Brief, IX, C.

b) Conclusions

705. In order to reconstruct the incidents of 19 and 20 April 1993, the Trial Chamber will rely *inter alia* on the testimony of Dr. Muhamed Mujezinovi}, a Bosnian Muslim and member of the Vitez War Presidency at the time[1616].

706. On 19 April 1993, Dr. Mujezinovi} was taken off by two HVO soldiers to Vitez cultural centre. In an office were Mario ^erkez and five other persons all wearing HVO uniforms. Mario ^erkez said that the ABiH troops were advancing into town and that the witness had to obey his orders. He told the witness:

> that [he] had to call the command of the Third Corps, to call Alija Izetbegovi}, Haris Silajd`i}, Ejub Gani} and whoever [he] knew, and to tell them that if the BH-Army continued advancing towards the town, that they have 2,223 captured Muslims. [^erkez] emphasised, women, children, and that he would kill all of them. [^erkez] also told [him] that [he] would have to go on local television, and to ask the Muslims of Stari Vitez to surrender their arms.[1617]

Dr. Mujezinovi} telephoned the ABiH 3rd Corps commander, General Had`ihasanovi}, and made a speech on television calling the Muslims to hand over their arms. Other persons called together by Dr. Mujezinovi} also sent Dario Kordi}'s message to their respective acquaintances[1618].

707. On the following morning, two local HDZ officials, Ivan [anti} and Pero Skopljak, arrived to repeat the threat made by Mario ^erkez. Lastly, Dr. Mujezinovi} was forced to sign a document put in front of him by Ivan [anti} according to which the Muslims and Croats agreed *inter alia* to implement the Vance-Owen Plan even before it had been signed by the Serbs[1619].

708. In light of the foregoing, the Trial Chamber is of the view that all the Muslims in the hands of the Croatian forces interned at the aforesaid detention facilities on 19 and 20 April 1993 were threatened with death. This is incontestably so at least for those detained at Vitez cultural centre. Although not all were necessarily civilians, all were persons placed *hors de*

[1616] Witness Muhamed Mujezinovi}, PT of 20 August 1997, pp. 1673-1674, pp. 1705-1722.
[1617] Witness Muhamed Mujezinovi}, PT of 20 August 1997, p. 1707.
[1618] This part of the testimony is corroborated by witness Y, PT p. 6656.
[1619] P86.

combat. Moreover, the Trial Chamber is of the opinion that, in this instance, detention could in no way be deemed lawful because its main purpose was to compel the ABiH to halt its advance. The Trial Chamber points out that Mario ^erkez was the commander of the HVO Vitez Brigade and, in this role, was directly under the orders of General Bla{ki}. The offences mentioned in counts 17 and 18 are hereby constituted.

3. Inhuman and cruel treatment: human shields

709. According to the indictment, Bosnian Muslim civilians were used as human shields to prevent the Bosnian army from firing on HVO positions or to force Bosnian Muslim combatants to surrender. The HVO allegedly used human shields in January or February 1993 in the village of Merdani and on 16 and 20 April 1993 in Vitez[1620].

710. Thus, the accused allegedly committed a grave breach covered by Article 2(b) of the Tribunal's Statute (inhuman treatment - count 19) and a violation of the laws or customs of war covered by Article 3 of the Statute and recognised by Article 3(1)(a) of the Geneva Conventions (cruel treatment - count 20).

a) The arguments of the parties

711. The Prosecution submitted that the HVO's use of Bosnian Muslim detainees as human shields was based on three events or distinct types of action. First, on 19 and 20 April 1993, the Bosnian Muslims detained at Vitez cinema were allegedly used as human shields in an attempt to halt the ABiH shelling the CBOZ and Vitez Brigade headquarters. Then, on 20 April 1993, the HVO purportedly placed 250 Muslim men, women and children around the Hotel Vitez for about three hours in order to try and halt the ABiH shelling of that zone. Last, the HVO was allegedly engaged in a widespread practice consisting of using the detainees forced to dig trenches on the front-line positions as human shields. The detainees thus placed in a dangerous situation around (or in) buildings constituting military objectives were allegedly victims of great physical and mental suffering or of serious attacks upon their human dignity[1621].

[1620] Second amended indictment, para. 16.
[1621] Prosecutor's Brief, book 6, IX, 9.

712. On this point, the Defence did not prefer any other arguments than those used more generally in respect of detention issues.

b) Conclusions

713. To start with, the Trial Chamber reiterates its conclusion that the use of detainees to dig trenches at the front under dangerous circumstances must be characterised as inhuman or cruel treatment. The motive of their guards is of little significance.

714. Around 20 April 1993, Vitez and in particular the HVO headquarters at the Hotel Vitez were shelled[1622]. That same day, following the attack on Ga~ice village by Croatian forces, a column of 247 Muslim men, women and children[1623] was directed to a spot just in front of the Hotel Vitez. Once there, the men were led off elsewhere[1624]. Witness Hrusti} was seated in a shell crater opposite the Hotel:

> One of the soldiers said, while we were standing there, "you are going to sit here now and let your people shell you, because they have been shelling us up to now, and you better sit down and wait".[1625]

The persons assembled were watched over by soldiers inside the Hotel Vitez. They told them that whoever moved would be instantly cut down. After about two and a half to three hours, the persons were taken back to their village[1626].

715. Moreover, the Trial Chamber recalls that on 19 and 20 April 1993, many Muslim civilians were detained at Dubravica school, also the billet of the Vitezovi, and at Vitez cultural centre, the headquarters of Mario ^erkez. Nonetheless, although it is conceivable that a military force might seek to protect its headquarters unlawfully by detaining members of the enemy there, the Prosecution did not prove beyond all reasonable doubt that the detainees in question were aware of a potential attack against which they were allegedly used as protection. Unlike for the Hotel Vitez, it was not established that the detainees at Dubravica school and Vitez cultural centre suffered as a result of being used as human shields.

[1622] P187; D273; witness Marin, PT pp. 12307-12309 ; PT pp. 24084-24085.
[1623] Witness Hrusti}, PT pp. 4809-4816; witness ZZ, PT pp. 10844-10845.
[1624] Witness Hrusti}, PT pp. 4814-4815.
[1625] Witness Hrusti}, PT pp. 4814-4816.
[1626] Witness Hrusti}, PT pp. 4815-4816.

716. In conclusion, the Trial Chamber is of the view that on 20 April 1993, the villagers of Ga~ice served as human shields for the accused's headquarters in Vitez. Quite evidently, this inflicted considerable mental suffering upon the persons involved. As they were Muslim civilians or Muslims no longer taking part in combat operations, the Trial Chamber adjudges that, by this act, they suffered inhuman treatment (count 19) and, consequently, cruel treatment (count 20).

4. Individual criminal responsibility of General Bla{ki}

a) Arguments of the parties

717. The Prosecution submitted that the crimes described above were committed by persons either acting pursuant to an order or plan of Tihomir Bla{ki}, at his incitement or with his aid and encouragement[1627]. Moreover, the Prosecutor highlighted that pursuant to Article 7(3) of the Statute the evidence also demonstrated that the accused was criminally responsible for the crimes[1628].

718. The Defence maintained that none of the evidence proved that General Bla{ki} gave the orders or actively participated in any other way in committing the detention related crimes. In addition, the Defence asserted that General Bla{ki} had no command responsibility over the detention related crimes since he did not know nor had he any reason to know that ill-treatment was being meted out. In the opinion of the Defence, the accused took many measures either to prevent the crimes or to punish the perpetrators thereof and he had no authority to control or sanction the administrators of the detention centres in central Bosnia[1629].

[1627] Prosecutor's Brief, book 7, XII, 3.
[1628] Prosecutor's Brief, book 7, XIV, 3.
[1629] Defence Brief, IX.

b) Conclusions

i) Inhuman and cruel treatment (counts 15 and 16)

719. The Trial Chamber will first determine General Bla{ki}'s responsibility for the crimes committed in the detention centres and then examine his responsibility in respect of the trench digging.

a. Detention centres

720. The above analyses demonstrate that the illegal confinement and detention of male Muslim civilians was a recurring feature of the attacks conducted by the HVO in the municipalities of Busova~a, Kiseljak and Vitez. Hence, these persons were detained in a manifestly organised way. In this respect, the Trial Chamber highlights that HVO soldiers informed some Muslims that they were being detained under order[1630]. Other persons were transported in HVO buses to the prison in Kiseljak[1631]. Lastly, as the Trial Chamber will conclude below, General Bla{ki} ordered that many detainees be used to dig trenches throughout the CBOZ and some detainees were ultimately exchanged[1632]. The Trial Chamber deems that such a degree of organisation demonstrates that the highest levels of authority within the HVO were involved and therefore finds that the evidence establishes beyond all reasonable doubt that General Bla{ki} ordered the detentions.

721. The Trial Chamber holds that General Bla{ki} is responsible for the violence committed in the detention facilities pursuant to the principle of command responsibility enshrined in Article 7(3) of the Statute.

i. Tihomir Bla{ki} exercised "effective control" over the perpetrators of the crimes

722. The Trial Chamber recalls that all the detention centres were located in the CBOZ which General Bla{ki} commanded from 27 June 1992[1633]. The perpetrators of the crimes at the detention centres were HVO soldiers and also members of the Military Police.

[1630] Witness T, PT pp. 5770-5771; witness Zeco, PT of 26 September 1997, pp. 2809-2810.
[1631] Witness TT, PT pp. 9330-9331.
[1632] Witness Djula Djidi}, PT pp. 4344-4345; witness Z, PT pp. 6595-6596.
[1633] Witness Bla{ki}, PT p. 21299.

723. It is not contested that General Bla{ki} commanded the regular troops of the HVO. The Trial Chamber is moreover convinced that the accused exercised effective control over the Military Police within the meaning of Article 7(3) of the Statute.

724. In this respect, as it has already asserted, the Trial Chamber recalls that General Bla{ki} was in command of the soldiers and Military Police implicated in the attacks on Ahmi}i, Lon~ari and O~ehni}i in April 1993. It further affirms that pursuant to the rules on the training and activities of the Military Police[1634], this group was under the authority of the accused as commander of the CBOZ when it came to accomplishing daily operational tasks. As one witness heard by the Trial Chamber explained:

> The commander of the Operative Zone vis-à-vis a military policeman, regardless of whether he is in the reserve formation or active formation, could impose only disciplinary measure, and the greatest disciplinary measure that he could take was 15 days' detention. After a 15-day detention, the military policeman would be returned to his unit and would continue to perform his regular duties. The commander of the Operative Zone, if there was a criminal act in question on the part of the military policeman, the commander could [...] make a proposal for the prosecution of that individual and send that request to the military disciplinary judiciary or the chief of the military police, head of the military police administration, for him to undertake such measures[1635].

725. The Trial Chamber thereby concludes that, throughout the period during which the previously described crimes were committed, General Bla{ki} incontestably held at least the material power to prevent the Military Police from perpetrating crimes or to punish the perpetrators thereof.

ii. Tihomir Bla{ki} "knew or had reason to know" that crimes had been committed

726. Having arrived at the conclusion that General Bla{ki} ordered that Muslims be detained, the Trial Chamber will next review whether he knew that crimes were being perpetrated at each of the detention sites.

727. The Trial Chamber recalls that the detainees at Kaonik prison were Muslim civilians. They were detained by HVO soldiers who were also responsible for violent acts at the prison.

[1634] D523.
[1635] PT pp. 24020-24021.

728. The Defence contended that in January 1993 General Bla{ki} was isolated in Kiseljak and therefore did not know that civilians were being detained and subjected to ill-treatment[1636]. However, the accused himself declared that on 27 January 1993 he ordered the release of civilian detainees at Kaonik prison[1637]. His power to order the release of prisoners[1638] shows that he could actually find out about the circumstances in which the civilians were being detained. In this connection, the Trial Chamber notes that at the time, Bla{ki} knew that the Red Cross had become involved when it was informed that detainees were being ill-treated[1639].

729. Moreover, Kaonik prison was very near Vitez and the warden of Kaonik prison admitted to being under the authority of the Vitez and Busova~a HVO commanders[1640]. Accordingly, the Trial Chamber reaches the conclusion that General Bla{ki} did know of the acts of violence which occurred over the first half of 1993 at Kaonik prison.

730. The Trial Chamber recalls that for about 8 months in 1993 many Muslims were detained in Kiseljak barracks. Violence was inflicted upon the detainees by HVO soldiers and military policemen. The particular fact that the detention centre was located in the same complex as Kiseljak HVO headquarters[1641] allows the Trial Chamber to conclude that General Bla{ki} must have known that acts of violence were taking place.

731. Murders and physical violence took place in Rotilj for the extended period of time that the HVO held Muslim civilians there. The Trial Chamber is of the view that through his subordinates, General Bla{ki} must have known what was going on in the village which lay 4.6 kilometres from HVO Kiseljak headquarters[1642]. From this perspective, the Trial Chamber underlines in particular that Mario Bradara, deputy commander of the Kiseljak HVO, acknowledged that he was aware of the detentions in Rotilj[1643].

[1636] Defence Brief, IX, A.1 and G.
[1637] Witness Bla{ki}, PT pp. 21659-21660.
[1638] The delay between Bla{ki}'s order and the actual release of the prisoners has nothing to do with Bla{ki}'s authority over his subordinates but was down to the involvement of the Red Cross. Witness Bla{ki}, PT pp. 21660-21661.
[1639] Witness Nuhagi}, PT pp. 5216-5217.
[1640] General Bla{ki} issued orders to the prison wardens directly and in particular to the warden of the Busova~a district military prison, D373 and D391, witness Mcleod, PT p. 6387.
[1641] General Bla{ki} even had his headquarters there, witness Friis-Pedersen, PT pp. 5485-5486.
[1642] Witness Leach, PT of 27 June 1997, p. 262.
[1643] Witness Lanthier, PT p. 8260, pp. 8299-8300.

732. General Bla{ki} admitted to the Trial Chamber that he knew that civilians were being detained at Dubravica primary school[1644]. These included *inter alia* the women and children who had been placed around General Bla{ki}'s command post for two weeks. Nonetheless, he announced that he had not made any effort to investigate the circumstances under which people were detained because the civilian authorities and Red Cross were dealing with the matter[1645]. In addition, the Trial Chamber points out that the school also served as the billet of the Vitezovi. As a result, in the opinion of the Trial Chamber, General Bla{ki} could not have been unaware of the atmosphere of terror and the rapes which occurred at the school.

733. The Trial Chamber accordingly concludes that General Bla{ki} did know of the circumstances and conditions under which the Muslims were detained in the facilities mentioned above. In any case, General Bla{ki} did not perform his duties with the necessary reasonable diligence. As a commander holding the rank of Colonel, he was in a position to exercise effective control over his troops in a relatively confined territory[1646]. Furthermore, insofar as the accused ordered that Muslim civilians be detained, he could not have not sought information on the detention conditions. Hence, the Trial Chamber is persuaded beyond all reasonable doubt that General Bla{ki} had reason to know that violations of international humanitarian law were being perpetrated when the Muslims from the municipalities of Vitez, Busova~a and Kiseljak were detained.

iii. Tihomir Bla{ki} did not take the necessary and reasonable measures to punish the perpetrators of the crimes

734. The Defence highlighted that General Bla{ki} had no authority to control or sanction the detention centre administrators[1647]. Nevertheless, as established above, the Trial Chamber identified HVO soldiers or the Military Police as being the perpetrators of the crimes. The evidence demonstrated that the accused did not duly carry out his duty to investigate the crimes and impose disciplinary measures or to send a report on the perpetrators of these crimes to the competent authorities[1648].

[1644] Witness Bla{ki}, PT pp. 22225-22226.
[1645] Witness Bla{ki}, PT pp. 22226-22227.
[1646] Witness Duncan, PT pp. 9061-9063; witness Lanthier, PT pp. 8260-8265; D333 and D334, General Bla{ki} ordered captured civilians be treated humanely; D366, General Bla{ki} ordered that the civilians be released and provided with security.
[1647] Defence Brief, IX, A.3.
[1648] Witness Marin, PT pp. 13822-13823 , pp. 8898-8901; witness Bla{ki}, PT pp. 21808-21811.

b. Trench digging

735. The Trial Chamber concluded that many detainees were forced to dig trenches on the front in dangerous conditions. These persons were detained at various facilities within the CBOZ – Kaonik prison, Kiseljak barracks, Rotilj village and in the town of Vitez at the cultural centre, the veterinary station, Dubravica school and the SDK building. While the detainees worked they suffered mental and physical violence inflicted by HVO soldiers and the Military Police.

736. The Defence refused to acknowledge that General Bla{ki} ordered or endorsed the use of civilian detainees to dig trenches[1649]. It argued that he was convinced that the work teams were lawful[1650]. Further, both the Kaonik prison warden[1651] and some HVO commanders admitted that using civilian detainees to dig trenches was necessary and that they were carrying out orders[1652]. One international observer considered that the HVO had deliberately used detainees for the purposes[1653].

737. General Bla{ki} declared that it was not he who decided where the work teams went. He also stated that he was aware that the Geneva Conventions forbade forced labour on the front-lines[1654]. Notwithstanding this, the evidence proves that the accused effectively directed work teams by requiring them to dig trenches on the front-line[1655]. In this respect, the Trial Chamber further recalls that those performing forced labour at the front were guarded by HVO soldiers.

738. With particular regard for the degree of organisation required, the Trial Chamber concludes that General Bla{ki} ordered the use of detainees to dig trenches, including under dangerous conditions at the front. The Trial Chamber also adjudges that by ordering the forced labour Bla{ki} knowingly took the risk that his soldiers might commit violent acts against vulnerable detainees, especially in a context of extreme tensions.

[1649] Defence Brief, IX, F.
[1650] Defence Brief, IX, F.
[1651] Witness Mcleod, PT pp. 6384-6387.
[1652] Witness Zeco, PT of 26 September 1997, pp. 2826-2827; witness Morsink, PT pp. 9895-9897.
[1653] Witness Buffini, PT pp. 5576-5577.
[1654] Witness Bla{ki}, PT p. 22773.
[1655] P715; P716; P717 .

ii) The taking of hostages (counts 17 and 18)

739. Bla{ki} admitted knowing that civilian detainees were at various locations in Vitez around 17 April 1993 but denied having ordered their detention[1656]. He then contradicted himself by stating that he had ordered that the detainees be treated humanely and he also stated that he had had the power to release them[1657].

740. The Trial Chamber notes that Mario ^erkez (commander of the Vite{ka Brigade and a direct subordinate of Bla{ki})[1658], other HVO military representatives and Ivan [anti} and Pero Skopljak (local HVO civilian officials) were all directly involved in the taking of hostages on 19 and 20 April 1993. In addition, they clearly referred to the threat posed by the ABiH's military advance towards the town of Vitez[1659].

741. The Trial Chamber concludes that although General Bla{ki} did not order that hostages be taken, it is inconceivable that as commander he did not order the defence of the town where his headquarters were located. In so doing, Bla{ki} deliberately ran the risk that many detainees might be taken hostage for this purpose.

iii) Inhuman and cruel treatment: human shields (counts 19 and 20)

742. On 20 April 1993, 247 detainees were in front of the Hotel Vitez, General Bla{ki}'s headquarters in Vitez. Despite his presence in the building for a large part of the afternoon, the accused claimed that he knew nothing of it[1660]. However, there were many HVO soldiers in and around the Hotel whose frontage was glass[1661]. One of the soldiers said to one of the detainees in front of the Hotel that he would go and tell the commander[1662]. Moreover, the officer responsible for operations under General Bla{ki}, Slavko Marin, implicitly admitted that the civilians from Ga~ice village were put in danger[1663]. Finally, the Trial Chamber

[1656] Witness Bla{ki}, PT pp. 22469-22470, pp. 22475-22476.
[1657] Witness Bla{ki}, PT pp. 22475-22477.
[1658] D242.
[1659] The Trial Chamber notes that on 19 and 20 April 1993, the ABiH was successfully attacking the HVO which was in a difficult military situation; P242; witness Walters, PT p. 3406.
[1660] Witness Bla{ki}, PT pp. 22463-22464.
[1661] Witness Hrusti}, pp. 4815-4816.
[1662] Witness Hrusti}, pp. 4814-4815.
[1663] Witness Marin, pp. 13567-13568.

recalls that on 20 April 1993 the ABiH set in motion an extremely threatening offensive of which General Bla{ki} was well aware.

743. The Trial Chamber is therefore convinced beyond all reasonable doubt that on 20 April 1993 General Bla{ki} ordered civilians from Ga~ice village to be used as human shields in order to protect his headquarters.

IV. FINAL CONCLUSIONS

744. The Trial Chamber concludes that the acts ascribed to Tihomir Bla{ki} occurred as part of an international armed conflict because the Republic of Croatia exercised total control over the Croatian Community of Herceg-Bosna and the HVO and exercised general control over the Croatian political and military authorities in central Bosnia.

745. The accused was appointed by the Croatian military authorities. Following his arrival in Kiseljak in April 1992, he was designated chief of the Central Bosnia Operative Zone on 27 June 1992 and remained there until the end of the period covered by the indictment. From the outset, he shared the policy of the local Croatian authorities. For example, he outlawed the Muslim Territorial Defence forces in the municipality of Kiseljak.

746. From May 1992 to January 1993, tensions between Croats and Muslims continued to rise. At the same time, General Bla{ki} reinforced the structure of the HVO armed forces with the agreement of the Croatian political authorities.

747. In January 1993, the Croatian political authorities sent an ultimatum to the Muslims, *inter alia*, so as to force them to surrender their weapons. They sought to gain control of all the territories considered historically Croatian, in particular the La{va Valley. Serious incidents then broke out in Busova~a and Muslim houses were destroyed. After being detained, many Muslim civilians were forced to leave the territory of the municipality.

748. Despite the efforts of international organisations, especially the ECMM and UNPROFOR, the atmosphere between the communities remained extremely tense.

749. On 15 April 1993, the Croatian military and political authorities, including the accused, issued a fresh ultimatum. General Bla{ki} met with the HVO, military police and Vitezovi commanders and gave them orders which the Trial Chamber considers to be genuine attack orders. On 16 April 1993, the Croatian forces, commanded by General Bla{ki}, attacked in the municipalities of Vitez and Busova~a.

750. The Croatian forces, both the HVO and independent units, plundered and burned to the ground the houses and stables, killed the civilians regardless of age or gender, slaughtered

the livestock and destroyed or damaged the mosques. Furthermore, they arrested some civilians and transferred them to detention centres where the living conditions were appalling and forced them to dig trenches, sometimes also using them as hostages or human shields. The accused himself stated that twenty or so villages were attacked according to a pattern which never changed. The village was firstly "sealed off". Artillery fire opened the attack and assault and search forces organised into groups of five to ten soldiers then "cleansed" the village. The same scenario was repeated in the municipality of Kiseljak several days later. The Croatian forces acted in perfect co-ordination. The scale and uniformity of the crimes committed against the Muslim population over such a short period of time has enabled the conclusion that the operation was, beyond all reasonable doubt, planned and that its objective was to make the Muslim population take flight.

751. The attacks were thus widespread, systematic and violent and formed part of a policy to persecute the Muslim populations.

752. To achieve the political objectives to which he subscribed, General Bla{ki} used all the military forces on which he could rely, whatever the legal nexus subordinating them to him.

753. He issued the orders sometimes employing national discourse and with no concern for their possible consequences. In addition, despite knowing that some of the forces had committed crimes, he redeployed them for other attacks.

754. At no time did he even take the most basic measure which any commander must at least take when he knows that crimes are about to be or have actually been committed. The end result of such an attitude was not only the scale of the crimes, which the Trial Chamber has explained, but also the realisation of the Croatian nationalists' goals - the forced departure of the majority of the Muslim population in the La{va Valley after the death and wounding of its members, the destruction of its dwellings, the plunder of its property and the cruel and inhuman treatment meted out to many.

V. PRINCIPLES AND PURPOSES OF SENTENCING

A. Applicable provisions

755. In imposing the appropriate sentence on the accused, the Trial Chamber is guided by the Statute and the Rules which make reference to the general practice regarding prison sentences in the courts of the former Yugoslavia.

1. Statute

756. The relevant provisions of the Statute are Articles 7, 23 and 24. Article 7, which deals with individual criminal responsibility, stipulates *inter alia* that:

> 2. The official position of any accused, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.
>
> 4. The fact that an accused person acted pursuant to an order of a government or of a superior shall not relieve him of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal determines that justice so requires.

757. Articles 23 and 24 state:

> Article 23
> Judgement
>
> 1. The Trial Chambers shall pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law.
>
> 2. The judgement shall be rendered by a majority of the judges of the Trial Chamber, and shall be delivered by the Trial Chamber in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.
>
> Article 24
> Penalties
>
> 1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia.

2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

2. Rules of Procedure and Evidence

758. Rule 101 of the Rules, entitled "Penalties", determines the maximum sentence which the Tribunal may pass, that is life imprisonment, and the elements which the Trial Chamber takes into consideration when passing sentence, notably:

> the factors mentioned in Article 24, paragraph 2, of the Statute, as well as such factors as [...] any aggravating circumstances; [...] any mitigating circumstances including the substantial co-operation with the Prosecutor by the convicted person before or after conviction; [...] the general practice regarding prison sentences in the courts of the former Yugoslavia [...]

3. General practice regarding prison sentences

759. Keeping in mind the foregoing provisions, the Trial Chamber has recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia[1664]. Reference to the practice is only indicative and not binding. Whenever possible, the Tribunal examines the texts and relevant judicial practice of the former Yugoslavia. However, it could not be legally bound by them in determining the sentences and sanctions it imposes for crimes falling under its jurisdiction[1665].

760. The practice for determining prison sentences in the courts of the former Yugoslavia is based on the provisions of Chapter 16[1666] and Article 41(1)[1667] of the SFRY criminal code.

[1664] Article 23 of the Statute and Rule 101 of the Rules.

[1665] Sentencing Judgement, *The Prosecutor v. Dra`en Erdemovi}*, Case no. IT-96-22-T, 29 November 1996 (hereinafter the "*Erdemovi}* Sentencing Judgement of 29 November 1996"), para. 40; Judgement and Sentence, *The Prosecutor v. Jean Kambanda*, Case no. ICTR-97-23-S, 4 September 1998 (hereinafter the "*Kambanda* Judgement and Sentence"), para. 23; *Furund`ija* Judgement, para. 285; *Aleksovski* Judgement, para. 242; Sentence, *The Prosecutor v. Jean Paul Akayesu*, Case no. ICTR-96-4-T, 2 October 1998 (hereinafter the "*Akayesu* Sentence"), paras. 12-14; Sentence, *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Case no. ICTR-95-1-T, 21 May 1999 (hereinafter the "*Kayishema-Ruzindana* Sentence"), paras. 5-7.

[1666] Chapter XVI of the Criminal Code of the former Yugoslavia "Crimes against peace and international law", Articles 141-156 and Articles 38 "Imprisonment", 41 "Sentences" and 48 "Concurrence of offences". Crimes against peace and international law were subject to 5 to 15 years in prison or the death penalty, or twenty years in prison where the death sentence is replaced by a prison sentence or for aggravated murder.

[1667] Article 41(1) of the Criminal Code of the SFRY: "For a given offence, the court shall set the limits prescribed by law for the offence and shall consider all the circumstances which might influence the severity of the penalty (mitigating and attenuating circumstances) and, in particular: the level of criminal responsibility, the motives for the offence, the intensity of the threat or assault on the protected object, the circumstances under which the offence was committed, the previous history of the perpetrator of the offence, his personal circumstances and conduct subsequent to the perpetration of the offence and any other circumstances relating to the character of the perpetrator."

Nonetheless, the Trial Chamber is not limited by the practice of the courts of the former Yugoslavia and it may draw upon other legal sources in order to determine the appropriate sentence.

4. Purposes and objectives of the sentence

761. The determination of a "fair" sentence, that is to say a sentence consonant with the interests of justice, depends on the objectives sought. The Trial Chamber hearing the *^elebi}i* case noted four parameters to be taken into account in fixing the length of the sentence: retribution, protection of society, rehabilitation and deterrence. According to the Trial Chamber, deterrence:

> is probably the most important factor in the assessment of appropriate sentences for violations of international humanitarian law. Apart from the fact that the accused should be sufficiently deterred by appropriate sentence from ever contemplating taking part in such crimes again, persons in similar situations in the future should similarly be deterred from resorting to such crimes[1668].

762. As the Trial Chamber hearing the *Tadi}* case recently recalled, pursuant to Security Council resolutions 808 and 827, the Tribunal's mission is to put to an end serious violations of international humanitarian law and to contribute towards the restoration and maintenance of peace in the former Yugoslavia[1669]. To achieve these objectives, the Trial Chamber must, in accordance with the case-law of the two *ad hoc* Tribunals, pass a sentence consonant with the above defined objectives[1670].

763. In addition, as observed in the *Erdemovi}* case:

> the International Tribunal sees public reprobation and stigmatisation by the international community, which would thereby express its indignation over heinous crimes and denounce the perpetrators, as one of the essential functions of a prison sentence for a crime against humanity[1671]

[1668] *^elebi}i* Judgement, para. 1234.
[1669] Sentencing Judgement, *The Prosecutor v. Du{ko Tadi}*, Case no. IT-94-1-T*bis*-R117, 11 November 1999 (hereinafter the "*Tadi}* Appeals Sentencing Judgment"), para. 7.
[1670] *Tadi}* Appeals Sentencing Judgment, para. 9; *^elebi}i* Judgement, paras. 1231 and 1234; *Furund`ija* Judgement, para. 288; *Kayishema-Ruzindana* Sentence, para. 2; Sentence, *The Prosecutor v. Omar Serushago*, Case no. ICTR-98-39-S, 5 February 1999 (hereinafter the "*Serushago* Sentence"), para. 20; *Akayesu* Sentence, para. 19; *Kambanda* Judgement and Sentence, para. 28.
[1671] *Erdemovi}* Sentencing Judgement of 29 November 1996, para. 65.

764. Finally, the Trial Chamber shares the opinion of the Trial Chamber hearing the *Furund`ija* case, that is, such reasoning is not applicable only to crimes against humanity but also to war crimes and other serious violations of international humanitarian law[1672].

B. Sentencing

765. The factors taken into account in the various Judgements of the two International Tribunals to assess the sentence must be interpreted in the light of the type of offence committed and the personal circumstances of the accused. This explains why it is appropriate to identify the specific material circumstances directly related to the offence in order to evaluate the gravity thereof and also the specific personal circumstances in order to adapt the sentence imposed to the accused's character and potential for rehabilitation. Notwithstanding this, in determining the sentence, the weight attributed to each type of circumstance depends on the objective sought by international justice. Keeping in mind the mission of the Tribunal, it is appropriate to attribute a lesser significance to the specific personal circumstances. Although they help to explain why the accused committed the crimes they do not in any event mitigate the seriousness of the offence. Furthermore, these circumstances may aggravate the responsibility of an accused depending on the position he held at the time of the acts and on his authority to prevent the commission of crimes.

1. The accused

766. Tihomir Bla{ki} was born on 2 November 1960 in the municipality of Kiseljak in Bosnia-Herzegovina. He lived in the town of Bretovsko. His parents were working class and his father died at the front during the conflict. He has a sister and a brother. Tihomir Bla{ki} has been married since 1987 and is the father of two young boys. His wife looks after their children and Tihomir Bla{ki}'s brother[1673]. Tihomir Bla{ki} was trained at the Belgrade Military Academy from 1979-1980 and subsequently promoted at regular intervals, first to the rank of Captain First Class within the former JNA, then to the ranks of Colonel and Chief-of-Staff of the HVO Mostar headquarters within the HVO and lastly to the rank of General assigned to the General Inspectorate within the army of the Republic of Croatia. He is a member of the General Inspectorate of this army. Tihomir Bla{ki} surrendered to the Tribunal

[1672] *Furund`ija* Judgment, para. 289.
[1673] PT pp. 20186-20187.

on 1 April 1996. He is presently being detained at the United Nations Detention Unit in Scheveningen, The Hague, The Netherlands.

2. Mitigating circumstances

767. Superior orders and co-operation with the Prosecutor are the only two mitigating circumstances explicitly set forth by the Statute and the Rules[1674]. The Tribunal has full discretion in respect of any other relevant mitigating circumstances.

a) The material mitigating circumstances

768. The fact that the accused did not directly participate may be taken as a mitigating circumstance when the accused holds a junior position within the civilian or military command structure. However, the Trial Chamber considers that the fact that commanders, such as Tihomir Bla{ki} at the time of the crimes, played no direct part cannot act in mitigation of the sentence when found guilty.

769. Duress, where established, does mitigate the criminal responsibility of the accused when he had no choice or moral freedom in committing the crime. This must consequently entail the passing of a lighter sentence if he cannot be completely exonerated of responsibility. The Trial Chamber points out that over the period covered by the present indictment Tihomir Bla{ki} did not act under duress whilst in his post. Accordingly, he does not enjoy any mitigating circumstances.

770. It appears that, independently of duress, the context in which the crimes were committed, namely the conflict, is usually taken into consideration in determining the sentence to be imposed. Such was the case in the *Tadi}*[1675], *^elebi}i*[1676] and *Aleksovski*[1677] cases. Though mentioned in these cases, this factor does not seem to have been decisive in

[1674] Article 7(4) of the Statute and Rule 101(B)(ii) of the Rules.
[1675] Sentencing Judgement, *The Prosecutor v. Du{ko Tadi}*, Case no. IT-94-1-T, 14 July 1997, (hereinafter the "*Tadi}* Sentencing Judgment"), para. 70: "the Trial Chamber cannot ignore these events, how they may bear on the offences of Du{ko Tadi}, and how they illuminate his role and thus his personal circumstances", and para. 72: "the virulent propaganda that stoked the passions of the citizenry [...] was endemic and contributed to the crimes committed in the conflict".
[1676] *^elebi}i* Judgement, para. 1248: "It is relevant, and crucial, to take into account the circumstances in which the events occurred as well as the social pressures and hostile environment within which the accused was operating". For application in each instance: para. 1245 (Muci}) and 1283-1284 (Land`o).

fixing the sentence. Nonetheless, the Trial Chamber brings out the explanations given by Tihomir Bla{ki} whilst testifying to the disorganisation of the armed forces due, essentially, to the lack of experienced troops and the want of proper training and suitable materiel. It also observes the crimes allegedly committed by the other party and the difficulty of controlling the spontaneous reactions of some Croats. Nonetheless, even were they verified, these allegations are still not such as to constitute an excuse for a commander such as Tihomir Bla{ki} - *a fortiori* once it has been established as in this instance that the accused acted in accordance with a discriminatory policy which he deliberately implemented. The Trial Chamber finds the accused guilty of crimes against humanity and thereby excludes the possibility of disorder ensuing from an armed conflict constituting a mitigating circumstance.

b) Personal mitigating circumstances

771. Article 24(2) of the Statute allows the personal status of the accused to be taken into account in determining the sentence. Thus, where the elements effectively contribute to the determination of the sentence, the sanction must fit the crime's perpetrator and not merely the crime itself[1678] in accordance with the requirement of individualisation. As a human being, the accused has a conscience, a personal history and a character which may explain the process which led to the accused committing the crimes whose seriousness justifies his being tried before the Tribunal.

772. The Trial Chamber notes that the mental state of the accused was not invoked in this case[1679].

773. The accused's conduct after committing the crimes says much about his personality insofar as it reveals both how aware the accused was of having committed crimes and, to some extent, his intention to "make amends" by facilitating the task of the Tribunal[1680]. Such conduct includes co-operation with the Prosecutor, remorse, voluntary surrender and pleading guilty.

[1677] *Aleksovski* Judgement, para. 6.
[1678] Lafave and Israel, *Criminal Procedure* (1991), p. 1102, quoted from the *Tadi}* Sentencing Judgement, para. 61.
[1679] Sub-rule 67(A)(ii) of the Rules.

774. Co-operation with the Prosecutor is the only circumstance explicitly provided for within the terms of the Rules[1681]. By this simple fact, it takes on a special importance. The earnestness and degree of co-operation with the Prosecutor decides whether there is reason to reduce the sentence on this ground. Therefore, the evaluation of the accused's co-operation depends both on the quantity and quality of the information he provides[1682]. Moreover, the Trial Chamber singles out for mention the spontaneity and selflessness of the co-operation which must be lent without asking for something in return[1683]. Providing that the co-operation lent respects the aforesaid requirements[1684], the Trial Chamber classes such co-operation as a "significant mitigating factor"[1685]. The Trial Chambers have, on several occasions, ruled that failure to co-operate constitutes an aggravating circumstance. Here, the Trial Chamber notes that the accused has not co-operated with the Office of the Prosecutor.

775. Remorse was taken into account as a mitigating circumstance in the *Erdemovi}*[1686], *Akayesu*[1687] and *Serushago* cases[1688]. The Trial Chamber hearing the *Kambanda* case noted that the accused did not express any regrets even when the Trial Chamber presented him with the opportunity to do so[1689]. However the remorse expressed by the accused must be established as being real and sincere. Consequently, the Trial Chamber in the *Jelisi}* case indicated that it was not satisfied that the remorse expressed by the accused was sincere[1690]. In this instance, the Trial Chamber notes that the feeling of remorse must be analysed in the light of not only the accused's statements but also of his behaviour (voluntary surrender, guilty plea). The Trial Chamber points out that, from the very first day of his testimony, Tihomir Bla{ki} expressed profound regret and avowed that he had done his best to improve the

---

[1680] *Kambanda* Judgement and Sentence, para. 54: "The Trial Chamber has furthermore been requested to take into account in favour of Jean Kambanda that his guilty plea has also occasioned judicial economy, saved victims the trauma and emotions of trial and enhanced the administration of justice".
[1681] Sub-rule 101(B)(ii) of the Rules.
[1682] *Erdemovi}* Sentencing Judgement of 29 November 1996, para. 99-101 and the Sentencing Judgement, *The Prosecutor v. Dra`en Erdemovi}*, Case no. IT-96-22-T*bis*, 5 March 1998 (hereinafter the "*Erdemovi}* Sentencing Judgement of 5 March 1998"), para. 16 (iv); *Kambanda* Judgement and Sentence, para. 47.
[1683] *^elebi}i* Judgement, para. 1279: "the Trial Chamber does not consider any attempt at plea bargaining to be a mitigating factor in the matter of sentencing".
[1684] And especially when it has contributed not only to the disclosure of information which is new or corroborates known information but also to the identification of other perpetrators of crimes (against whom the accused agrees to testify during their trial).
[1685] *Kambanda* Judgement and Sentence, para. 47; the *Erdemovi}* Sentencing Judgement of 5 March 1998, para. 16 (iv).
[1686] *Erdemovi}* Sentencing Judgement, paras. 96-98; *Erdemovi}* Sentencing Judgement of 5 March 1998, para. 16.
[1687] *Akayesu* Sentence, para. 35(i).
[1688] *Serushago* Sentence, paras. 40-41.
[1689] *Kambanda* Judgement, para. 51.
[1690] Judgement, *The Prosecutor v. Goran Jelisi}*, Case no. IT-95-10-T, 14 December 1999 (hereinafter the "*Jelisi}* Judgement"), para. 127.

situation although this proved insufficient[1691]. The Trial Chamber observes that there is a flagrant contradiction between this attitude and the facts it has established - having given orders resulting in the commission of crimes the accused cannot claim that he attempted to limit their consequences. His remorse thus seems dubious.

776. Voluntary surrender is deemed a significant mitigating circumstance in determining the sentence. The factor has been analysed in three cases to date. In the *Erdemovi}* case, it was deemed to indicate that the remorse expressed by the accused was sincere and thus a ground for reducing the sentence. However, it was selected as a self-contained mitigating circumstance in the *Serushago* case[1692]. More recently, the Trial Chamber in the *Kupre{ki}* case indicated that the voluntary surrender of accused constituted a factor operating in mitigation of the sentence[1693]. In the present case, even though his name appeared in an indictment alongside those of five other co-accused, Tihomir Bla{ki} voluntarily surrendered himself on 1 April 1996, that is approximately a year before the arrest of one of the other co-accused and eighteen months before another of the co-accused was handed over. However, as he himself stated during the hearings, he only surrendered himself once he had very carefully prepared his defence, to the point that he could retrace his movements down to the very minute even at the most critical moments of the conflict. The accused declared that he made preparations using documents which were no longer in his possession and which the Trial Chamber was unable to obtain.

777. A guilty plea, where entered, may in itself constitute a factor substantially mitigating the sentence. In this case, Tihomir Bla{ki} did not plead guilty. Although the Trial Chamber understands that the accused would contest the ascribability of the crimes, it does not however accept the fact that he took so much time to acknowledge that the crimes did indeed take place, particularly in Ahmi}i, crimes which the accused himself had ascribed to the Muslims or Serbs[1694], before stating at trial that they had been perpetrated, more specifically, by the Military Police[1695].

778. The case-law of the two *ad hoc* criminal Tribunals on rehabilitation takes the young age of the accused into account as a mitigating circumstance. The assessment of youth varies

[1691] PT pp. 17286-17287.
[1692] *Serushago* Sentence, para. 34.
[1693] *Kupre{ki}* Judgement, para. 853: "The fact that Zoran Kupre{ki} and Mirjan Kupre{ki} voluntarily surrendered [...] is a factor in mitigation of their sentence"; *cf. also* paras. 860 and 863.
[1694] P380; witness Duncan, PT pp. 1198-1199.

– whilst the ICTY considers accused aged between 19 and 23 at the time of the facts as being young[1696], the ICTR selects ages from 32 to 37[1697]. In the present case, the Trial Chamber notes that Tihomir Bla{ki}, now 39 years old, was 32 at the time of the facts. It points out that this is not an unusually young age for a operative zone commander in time of armed conflict. However it must be stated that the accused was given considerable responsibilities, notably in organising the army and the conduct of military operations at a particularly critical period. Although he was a professional officer, the Trial Chamber considers that his age is to some degree a mitigating circumstance.

779. Finally, the Trial Chambers have often found it appropriate to review the accused's personal history - socially, professionally and within his family. It is essential to review these factors because they may bring to light the reasons for the accused's criminal conduct.

780. The character traits are not so much examined in order to understand the reasons for the crime but more to assess the possibility of rehabilitating the accused. The Judgement rendered in the *Erdemovi}* case states that the accused can be reformed and that he represents no danger[1698]. High moral standards are also indicative of the accused's character[1699]. Thus, the Trial Chamber bears in mind not only the fact that Tihomir Bla{ki} does not have a criminal record but also his keen sense for the soldiering profession which he considers a duty. In this respect, the Trial Chamber must take note of the exemplary behaviour of the accused throughout the trial, whatever the judgement as to his statements as a witness. The accused also appeared particularly at ease as regards the military aspect. It is appropriate to note that several witnesses attested to the professionalism of the accused and his organisational skills. He is a man of duty. He is also a man of authority who barely tolerated non-compliance with his orders. He is a man of conviction and his commitment to the Croatian cause is undoubted.

[1695] Witness Bla{ki}, PT pp. 18935-18937 and p. 18948.
[1696] *Furund`ija* Judgement, para. 284: 23 years; *^elebi}i* Judgement, para. 1283: *Land`o* 19 years; *Erdemovi}* Sentencing Judgement of 29 November 1996, para. 109 and *Erdemovi}* Sentencing Judgement of 5 March 1998, para. 16 (iv): 23 years.
[1697] *Serushago* Sentence, para. 39; *Kayishema-Ruzindana* Sentence, para. 12 (Ruzindana).
[1698] *Erdemovi}* Sentencing Judgement of 29 November 1996, para. 110 and *Erdemovi}* Sentencing Judgement of 5 March 1998, para. 16 (i).
[1699] *Erdemovi}* Sentencing Judgement of 5 March 1998, para. 16 (i); *Akayesu* Sentence, para. 35 (iii). *A contrario*, see the *^elebi}i* Judgement, para. 1256.

781. Another indication that the accused's character is reformable is evident in his lending assistance to some of the victims[1700]. In this regard, the Trial Chamber notes that Tihomir Bla{ki} allegedly maintained, here and there, good relations with the Muslims throughout the conflict. Accordingly, he supposedly participated in Muslim festivals, stayed in touch with the family of a Muslim friend and protected a Muslim woman whose husband was threatened[1701]. Notwithstanding this, the Trial Chamber observes that these good relations were sporadic and above all on an individual basis. These factors are all the less decisive when one notes that criminals frequently show compassion for some of their victims even when perpetrating the most heinous of crimes.

782. Nevertheless, in a case as serious as this and also insofar as many accused share these personal factors, the Trial Chamber must find that their weight is limited or even non-existent when determining the sentence[1702].

3. Aggravating circumstances

a) The scope of the crime

i) How the crime was committed

783. The fact that the crime was as egregious as it was is a qualitative criterion which can be gleaned from its particularly cruel or humiliating nature. The Trial Chambers have pointed out, in this regard, the extreme cruelty of the beatings[1703], the sadism with which they were inflicted and the especial humiliation which ensued. The cruelty of the attack is clearly a significant consideration when determining the proper sentence. In this case, the heinousness of the crimes is established by the sheer scale and planning of the crimes committed which resulted in suffering being intentionally inflicted upon the Muslim victims regardless of age,

---

[1700] *^elebi}i* Judgement, para. 1270; *Erdemovi}* Sentencing Judgement of 5 March 1998, para. 16 (i); *Serushago* Sentence, para. 37 (v): assistance to victims; *Akayesu* Sentence, para. 35 (ii).
[1701] On 5 November 1993 (PT pp. 19851-19852).
[1702] *Furund`ija* Judgement, para. 284. Having recalled the personal mitigating circumstances, the Trial Chamber notes: "this may be said of many accused persons and cannot be given any significant weight in a case of this gravity".
[1703] *Tadi}* Sentencing Judgement, para. 11 and the detailed description of the bodily harm given in the third part of the *Tadi}* Judgement; *Kayishema-Ruzindana* Sentence, para. 18; *^elebi}i* Judgement, paras. 1260-1267 and paras. 1272-1276.

sex or status. In this respect, the Trial Chamber wishes to bring out the particularly heinous nature of the crimes at Ahmi}i where, during a carefully prepared attack, many Muslim children, women and adults were systematically murdered and sometimes burnt alive in their homes, the houses plundered and set alight and the mosques and religious buildings destroyed. Such facts constitute a decisive aggravating circumstance.

784. The number of victims has been raised on several occasions as an aggravating circumstance and reflects the scale of the crime committed[1704]. By noting that the crimes were committed systematically, the Trial Chambers also took into account as aggravating circumstances the recurrence of the crimes[1705]. The number of victims must also be considered in relation to the length of time over which the crimes were perpetrated[1706]. In this case, the Trial Chamber not only points to the high number of victims but also the violence of the crimes and the fact that they were repeated, discriminatory and systematic. The Trial Chamber recalls that a very large number of Muslim civilians had their homes forcibly taken away from them. This excludes the very large number of victims who had to take flight. The brutal murder of Muslim civilians in Ahmi}i over a brief time-span is a blatant illustration.

785. The motive of the crime may also constitute an aggravating circumstance when it is particularly flagrant. Case-law has borne in mind the following motives: ethnic and religious persecution[1707], desire for revenge[1708] and sadism[1709]. Resultantly, the Trial Chamber considers that it is essential to review the motives of the crimes violating international humanitarian law imputed to the accused[1710]. Here, the Trial Chamber takes note of the ethnic and religious discrimination which the victims suffered. In consequence, the violations are to be analysed as persecution which, in itself, justifies a more severe penalty.

[1704] *Tadi}* Sentencing Judgement, paras. 11-55. The Trial Chamber reviewed in detail the circumstance surrounding each offence and the role of the accused in each of them by performing a victim by victim analysis which ultimately resulted in particular in highlighting the number of victims. *Erdemovi}* Sentencing Judgement of 5 March 1998, para. 15. *Kambanda* Judgement and Sentence, para. 42: "The magnitude of the crimes involving the killing of an estimated 500,000 civilians in Rwanda, in a short span of 100 days constitutes an aggravating fact" (footnote removed); *Kayishema-Ruzindana* Sentence, para. 26: passing down a more severe sentence on Kayishema was justified, *inter alia*, by the fact that he was found guilty on 4 counts of genocide (compared to 1 for Ruzindana).

[1705] *Aleksovski* Judgement, para. 235; in the instance, the Trial Chamber did not retain "repeated malice". *A contrario*, had it been established, there is no doubt that it would have been regarded as an aggravating factor.

[1706] *Erdemovi}* Sentencing Judgement of 29 November 1996, para. 85 and *Erdemovi}* Sentencing Judgement of 5 March 1998, para. 15; *Kambanda* Sentence, para. 42; *Akayesu* Sentence, para. 26 (iv).

[1707] *Tadi}* Sentencing Judgement, para. 45.

[1708] *^elebi}i* Judgement, para. 1235.

[1709] *Ibid.* para. 1269 and para. 1281.

[1710] *Ibid.* para. 1235.

ii) Effects of the crime upon the victims

786. The status of the victims may be taken into account as an aggravating circumstance. Judgements have indicated that the victims were civilians and/or women[1711]. This Trial Chamber notes that in this case many crimes targeted the general civilian population and within that population the women and children. These acts constitute an aggravating circumstance[1712].

787. The physical and mental effects of the bodily harm meted out to the victims were also seen as aggravating circumstances[1713]. The criterion is thus characterised by its subjectiveness. In the *Tadi}*, *^elebi}i* and *Furund`ija* cases, the Trial Chambers observed that the offences had been committed in circumstances which could only aggravate the crimes and the victims' suffering[1714]. Those cases where bodily injury led to death have also been noted[1715]. Consequently, victims' suffering is one factor to be taken into account when determining the sentence. The Trial Chamber here points not only to the suffering inflicted upon the victims while the crimes were being committed through the use of indiscriminate, disproportionate and terrifying combat means and methods, such as "baby bombs", flame-throwers, grenades and a booby-trapped lorry, but also the manifest physical and mental suffering endured by the survivors of these brutal events. Thus, along with the physical or emotional scars borne by the victims, their suffering at the loss of loved ones and the fact that most of them are still unable to return to their homes to this day must also be mentioned.

b) The degree of the accused's responsibility

i) Command position

788. In the case-law of the two Tribunals, there can be no doubt that command position may justify a harsher sentence, which must be that much harsher because the accused held a

[1711] *Furund`ija* Judgement, para. 283.
[1712] *Ibid.* and *Tadi}* Sentencing Judgement, para. 56; *^elebi}i* Judgement, para. 1268.
[1713] *^elebi}i* Judgement, paras. 1226, 1260 and 1273.
[1714] *Tadi}* Sentencing Judgement, para. 56.
[1715] *Ibid.*, para. 29: "While Du{ko Tadi} was not found guilty of having killed any of the prisoners, his participation in the beating of prisoners encouraged the beating of other prisoners by camp guards and visitors in such circumstances that death could and in fact did result, which aggravates the nature of his crime".

high position within the civilian or military command structure[1716]. In this instance, actual authority exercised seems more decisive than command authority alone[1717]. The Judgements of the ICTR on the issue are of particular importance in view of the high level of command authority held by some of the accused[1718]. The Trial Chambers observed that the case-law of the Tribunal classifies command position as an aggravating circumstance[1719]. In the Judgement rendered in the *^elebi}i* case, the Trial Chamber nevertheless noted that command position does not necessarily entail a harsher sentence and that the accused may enjoy mitigating circumstances if he had only "constructive knowledge" of the crimes[1720]. However the Trial Chamber stated that:

> it would constitute a travesty of justice, and an abuse of the concept of command authority, to allow the calculated dereliction of an essential duty to operate as a factor in mitigation of criminal responsibility[1721].

789. Therefore, when a commander fails in his duty to prevent the crime or to punish the perpetrator thereof he should receive a heavier sentence than the subordinates who committed the crime insofar as the failing conveys some tolerance or even approval on the part of the commander towards the commission of crimes by his subordinates and thus contributes to encouraging the commission of new crimes. It would not in fact be consistent to punish a simple perpetrator with a sentence equal or greater to that of the commander. From this viewpoint, the Trial Chamber recalls that in the *Tadi}* case the Appeals Chamber found that a prison sentence above twenty years would be excessive given the relatively low rank of Du{ko Tadi} within the command structure.[1722] Command position must therefore systematically increase the sentence or at least lead the Trial Chamber to give less weight to the mitigating circumstances, independently of the issue of the form of participation in the crime. The Trial Chamber observes that as commander of the Central Bosnia Operative Zone at the time of the facts, Tihomir Bla{ki} held a senior command position. As indicated above, the Trial Chamber is of the opinion that the accused had more than a constructive knowledge of the crimes. It is satisfied beyond all reasonable doubt that General Bla{ki} ordered attacks

---

[1716] *Eichmann* case, 29 May 1962, 36, ILR, 1968, p. 237: "The degree of responsibility generally increases as we draw further away from the man who uses the fatal instrument with his own hands and reach the higher level of commands".
[1717] *Serushago* Sentence, para. 29: "He was a *de facto* leader of the Interahamwe in Gisenyi. Within the scope of the activities of these militiamen, he gave orders which were followed"; *Akayesu* Sentence, para. 36(ii).
[1718] *Kambanda* Judgement, paras. 44, 61, 62; *Akayesu* Sentence para. 26.
[1719] *Kupre{ki}* Judgement, para. 862; *Furund`ija* Judgement, para. 283 and *^elebi}i* Judgement, paras. 1240-1243 and para. 1268.
[1720] *^elebi}i* Judgement, paras. 1219-1220.
[1721] *Ibid.* para. 1250.

which targeted the Muslim civilian population and thereby incurred responsibility for crimes committed during these attacks or at least made himself an accomplice thereto and, as regards those crimes not ensuing from such orders, he failed in his duty to prevent them and did not take the necessary measures to punish their perpetrators after they had been committed.

ii) Form of participation

790. Active and direct participation in the crime means that the accused committed by his own hand all or some of the crimes with which he is charged. Direct participation in the crime is accordingly an aggravating circumstance which will more often than not be held against the actual perpetrators rather than against the commanders[1723]. The relevant precedents set down by the Judgements delivered in the *Tadi}* and *Furund`ija*[1724] cases are quite significant. In the case in hand, the Trial Chamber points out that Tihomir Bla{ki} did not take a direct and active part in the crimes. Nonetheless, at the time of the facts, the accused held a command position which made him responsible for the acts of his subordinates. Accordingly, although the fact that he did not take a direct and active part does not constitute an aggravating circumstance in itself, it can in no way counterbalance the aggravation arising from the accused's command position[1725].

791. Therefore, it can be concluded that command position is more of an aggravating circumstance than direct participation. This holds true insofar as, although direct participation by the commander does constitute an aggravating circumstance, the fact that he does not participate directly may not conversely justify a reduction in the sentence

792. Informed and voluntary participation means that the accused participated in the crimes fully aware of the facts. It was specified as an aggravating circumstance in the *Tadi}*[1726] case and in all the Judgements rendered by the ICTR[1727]. The importance of this factor varies in

---

[1722] Discussion, *The Prosecutor v. Du{ko Tadi}*, Case no. IT-94-1-A and IT-94-1-A*bis* (hereinafter the "Judgement in Sentencing Appeals"), paras. 55-57.
[1723] Taking into account abuse of command authority as an aggravating circumstance results in raising the sentence of a superior to at least the same level if not higher.
[1724] *Furund`ija* Judgement, paras. 281-282.
[1725] *^elebi}i* Judgement, para. 1252.
[1726] *Tadi}* Sentencing Judgement, para. 57 and *Tadi}* Appeals Sentencing Judgment, para. 20: in determining the sentence the Chamber took into account the fact that Tadi} knew of the attack upon the non-Serb civilian population and his enthusiastic support for the attack.
[1727] *Kambanda* Sentence, para. 61(B)(vi); *Akayesu* Sentence, para. 36(i); *Serushago* Sentence, para. 30; *Kayishema-Ruzindana* Sentence, para. 13.

case-law depending on the degree of enthusiasm with which the accused participated. Informed participation is consequently a less aggravating circumstance than willing participation. Not only does the accused's awareness of the criminality of his acts and their consequences and of the criminal behaviour of his subordinates count but also his willingness and intent to commit them. Once such intent is established, it is likely to justify an additional aggravation of the sentence. In the case in hand, the Trial Chamber brings out the informed and voluntary participation of Tihomir Bla{ki} in the crimes ascribed to him. As a professional soldier who, as he himself explained, took a course on the law of armed conflicts while in the former JNA, the accused knew perfectly well the range of his obligations. It is inconceivable that Tihomir Bla{ki} was unable to assess the criminal consequences stemming from the violations of such obligations.

iii) Premeditation

793. The premeditation of an accused in a crime tends to aggravate his degree of responsibility in its perpetration and subsequently increases his sentence. Premeditation is a classic aggravating circumstance in national legal practice. For this reason, it was taken into account by the ICTY and ICTR in the *Tadi}*, *^elebi}i*, *Kambanda* and *Serushago* cases. The Trial Chamber here holds that, insofar as the accused has been found guilty of crimes against humanity, these circumstances may not be taken into account.

4. Credit for time served

794. Under Sub-rule 101(D) of the Rules, any person found guilty is entitled to "the period which [he] was detained in custody pending surrender to the Tribunal or pending trial or appeal" being deducted from the sentence. Consequently, in calculating the sentence, the fact that the accused has been detained by the Tribunal since 1 April 1996, that is three years, eleven months and two days as of the day of this Judgement, must be considered.

5. The sentence

795. Neither the Statute nor the Rules lays down expressly a scale of sentences applicable to the crimes falling under the jurisdiction of the Tribunal. Article 24(2) of the Statute draws

no distinction between crimes when determining the sentence. The Trial Chamber passes only prison sentences, the maximum being life imprisonment pursuant to Sub-rule 101(A) of the Rules.

796. However, the principle of proportionality, a general principle of criminal law, and Article 24(2) of the Statute call on the Trial Chamber to bear in mind the seriousness of the offence and could consequently constitute the legal basis for a scale of sentences. The first question which arises therefrom concerns the existence of a scale of seriousness of the crimes over which the Tribunal has jurisdiction. The question of transposing this scale when determining the sentence only comes up later.

a) Legal bases and consequences of an objective ranking of the crimes

797. To date, the issue of the legal basis for ranking the crimes does not appear to have been the focus of many discussions[1728]. In the *Erdemovi}* case, the Appeals Chamber outlined the principle of a scale of seriousness of the crimes although the legal arguments put forward in support of the said principle were not unanimously agreed upon. In their separate opinion, Judges McDonald and Vohrah advanced two arguments for a scale of seriousness of the crimes. First, they indicated a natural distinction between crimes against humanity and war crimes in order to justify the intrinsically more serious nature of the crimes against humanity[1729]. In their respective separate opinions in the *Erdemovi}* and *Tadi}* cases[1730], Judge Li and Judge Robinson signalled their disagreement on the matter noting that a crime against humanity is not a crime against the whole of mankind but a crime against "humaneness, i.e. a certain quality of behaviour". The Trial Chamber however observes that although the two meanings of the word "humanity" are allowable, the second in no way acts

[1728] Judgement, *The Prosecutor v. Dra`en Erdemovi}*, Case no. IT-96-22-A, 7 October 1997 (hereinafter the "*Erdemovi}* Judgement"), Joint Separate Opinion of Judge McDonald and Judge Vohrah, paras. 20-27 and Separate and Dissenting Opinion of Judge Li; *Erdemovi}* Sentencing Judgement of 5 March 1998, Separate Opinion of Judge Shahabuddeen; *Tadi}* Appeals Sentencing Judgment, Separate Opinion of Judge Robinson.

[1729] *Erdemovi}* Judgement, para. 21: "It is in their very nature that crimes against humanity differ in principle from war crimes. Whilst rules proscribing war crimes address the criminal conduct of a perpetrator towards an immediate protected object, rules proscribing crimes against humanity address the *perpetrator's conduct not only towards the immediate victim but also towards the whole of humankind*" (emphasis added) and the *Erdemovi}* Sentencing Judgement of 29 November 1996: "But crimes against humanity also transcend the individual because when the individual is assaulted, humanity comes under attack and is negated. It is therefore the concept of humanity as victim which essentially characterises crimes against humanity".

[1730] *Erdemovi}* Judgement, Separate and Dissenting Opinion of Judge Li, para. 26 and reference to definition given by Egon Schwelb in "Crimes against Humanity", 23 *British yearbook of International Law* (1946), p. 195; *Tadi}* Appeals Sentencing Judgment, Separate Opinion of Judge Robinson, page 9.

in mitigation of the seriousness *per se* of a crime against humanity which retains a different nature from a war crime.

798. Secondly, the fact that a crime against humanity is distinguishable from a war crime by its ingredients is raised – crimes against humanity are not isolated acts committed at random but rather acts which, as their perpetrator is aware, have much more serious consequences because of their additional contribution to a widespread pattern of violence[1731]. However, a crime against humanity must not necessarily be considered more serious than a war crime[1732]. The comparison must be made between two similar underlying crimes[1733].

799. Accordingly, an outline of the hierarchy of crimes emerges from the case-law of the two *ad hoc* Tribunals but its legal value does not seem to have been established at the present time[1734].

b) The principles set by the case-law of the two Tribunals

i) The principles

800. A hierarchy of crimes seems to emerge from the case-law of the ICTR. The Trial Chamber seised of the *Kambanda* case[1735] established a complete scale of seriousness of the crimes which was taken up in the subsequent Judgements of the ICTR[1736]. The following hierarchy of crimes falling under the jurisdiction of the Tribunal may therefore be compiled:

[1731] *Erdemovi}* Judgement, Joint Separate Opinion of Judge MacDonald and Judge Vohrah, para. 21 and reference to the analysis of the legal ingredients of a crime against humanity made in the *Tadi}* Sentencing Judgement.
[1732] *Ibid.*, Separate and Dissenting Opinion of Judge Li, para. 19-20.
[1733] An assessment of the seriousness of crimes is made "all things being equal".
[1734] *Tadi}* Appeals Sentencing Judgment, Separate Opinion of Judge Robinson, p. 2: "That decision of the Appeals Chamber in *Erdemovi}*, which is discussed in this Sentencing Judgment ("Judgment"), is, of course, binding on Trial Chambers as to the relative gravity of crimes against humanity and war crimes; and it is only because I am bound by it that I have concurred in those sections of this Judgment" (emphasis added).
[1735] *Kambanda* Sentence, para. 10-16.
[1736] *Akayesu* Sentence, paras. 3-11; *Serushago* Sentence, paras. 12-16; *Kayishema-Ruzindana* Sentence, para. 9.

1) "The crime of crimes": genocide[1737]

2) Crimes of an extreme seriousness: crimes against humanity

3) Crimes of a lesser seriousness: war crimes[1738]

The ICTR has thus supposedly established a genuine hierarchy of crimes and this has been used in determining sentences as witnessed by the fact that the crime of genocide was punished by life imprisonment[1739].

801. The ICTY has not yet transposed this hierarchy of crimes to the sentencing phase. Until now only the *Tadi}* case has the distinctive feature whereby the accused has been found guilty of crimes against humanity and war crimes for the same acts and was sentenced separately for each characterisation specified. In view of this, it should also be noted that the sentences imposed for crimes against humanity were systematically one year longer than those for war crimes. Even in the *Erdemovi}* case, the Appeals Chamber did not clearly use the hierarchy of offences, as established in the Judgement, in order to determine the corresponding applicable sentence[1740]. Recently in the *Tadi}* case, the Appeals Chamber noted that in determining the sentence there is no distinction in law between the seriousness of a crime against humanity and that of a war crime[1741]. In setting the sentence, the Chamber indicated:

> [t]he authorized penalties are also the same, the level in any particular case being fixed by reference to the circumstances of the case[1742].

802. Ultimately, it appears that the case-law of the Tribunal is not fixed. The Trial Chamber will therefore confine itself to assessing seriousness based on the circumstances of the case.

[1737] *Kambanda* Judgement, para. 16: "The crime of genocide is unique because of its element of *dolus specialis* (special intent) which requires that the crime be committed with the intent 'to destroy in whole or in part, a national, ethnic, racial or religious group as such'".
[1738] *Ibid.*, para. 9.
[1739] Except for the sentences passed down on Serushago and Ruzindana.
[1740] *Erdemovi}* Sentencing Judgement of 5 March 1998: if the sentence was reduced to 5 years for violations of the laws or customs of war from 10 years for a crime against humanity, the recharacterisation of the crime was not the sole decisive factor in determining the sentence, since in the Sentencing Judgement duress was selected as a decisive mitigating circumstance; *cf.* Separate Opinion of Judge Shahabuddeen, p. 10.
[1741] *Tadi}* Judgement in Sentencing Appeals, para. 69. Also note the Separate Opinion of Judge Cassese.
[1742] *Ibid.*, para. 69.

ii) The method for assessing seriousness

803. The objective method for assessing the seriousness of a crime is linked to the intrinsic seriousness of the crime's legal characterisation. It is not the seriousness of the crime committed in the case in point which is borne in mind but the seriousness of the characterisation specified. The subjective method for assessing the seriousness relates to the seriousness *in personam* of the crime[1743].

804. In addition to the seriousness *per* se of the crime, it is also appropriate to take into account its seriousness *in personam*[1744]. Although the subjective seriousness is not taken into account in the scale of seriousness of the crimes, it is a factor in the second phase of determining the sentence and thereby ensures that the circumstances of the case may be duly taken into account in setting the sentence. It is not contrary to the principle of individualisation of the sentence to rely on a scale of seriousness of the crimes. The scale of sentences will follow from the relationship between and the evaluation of the objective seriousness, if relevant, and the subjective seriousness of the crimes. It is understood that the weight of the second factor, that is the subjective seriousness, should not, other than in exceptional circumstances, cancel out the first factor, that is the objective seriousness. Furthermore and where necessary, the imposition of a minimum sentence to be served would give some scope for the sentence to be fine-tuned[1745]. However, the Trial Chamber notes that this notion is not universally accepted in the various legal systems.

c) A single sentence

805. The Trial Chamber is of the view that the provisions of Rule 101 of the Rules do not preclude the passing of a single sentence for several crimes. In this regard, the Trial Chamber takes note that although until now the ICTY Trial Chambers have rendered Judgements imposing multiple sentences, Trial Chamber I of the ICTR imposed single sentences in the *Kambanda*[1746] and *Serushago*[1747] cases.

[1743] *^elebi}i* Judgement, para. 1226.
[1744] *Erdemovi}* Judgement, para. 10; *Kambanda* Sentence, para. 29.
[1745] *Tadi}* Sentencing Judgement, para. 76: "Minimum term recommendation"; Article 132-133 of the French Criminal Code.
[1746] *Kambanda* Sentence.
[1747] *Serushago* Sentence.

806. Moreover, the Trial Chamber recalls that in the cases brought before the military Tribunals at Nuremberg and Tokyo, a single sentence was passed even for multiple crimes.

807. Here, the crimes ascribed to the accused have been characterised in several distinct ways but form part of a single set of crimes committed in a given geographic region during a relatively extended time-span, the very length of which served to ground their characterisation as a crime against humanity, without its being possible to distinguish criminal intent from motive. The Trial Chamber further observes that crimes other than the crime of persecution brought against the accused rest fully on the same facts as those specified under the other crimes for which the accused is being prosecuted. In other words, it is impossible to identify which acts would relate to which of the various counts - other than those supporting the prosecution for and conviction of persecution under count 1 which, moreover, covers a longer period of time than any of the other counts. In light of this overall consistency, the Trial Chamber finds that there is reason to impose a single sentence for all the crimes of which the accused has been found guilty.

6. Conclusion

808. In conclusion, the Trial Chamber holds that in this case, the aggravating circumstances unarguably outweigh the mitigating circumstances and that the sentence pronounced accurately reflects the degree of seriousness of the crimes perpetrated and the faults of the accused given his character, the violence done to the victims, the circumstances at the time and the need to provide a punishment commensurate with the serious violations of international humanitarian law which the Tribunal was set up to punish according to the accused's level of responsibility.

VI. DISPOSITION

FOR THE FOREGOING REASONS, THE TRIAL CHAMBER, in a unanimous ruling of its members,

FINDS Tihomir Bla{ki} GUILTY:

of having ordered a crime against humanity, namely persecutions against the Muslim civilians of Bosnia, in the municipalities of Vitez, Busova~a and Kiseljak and, in particular, in the towns and villages of Ahmi}i, Nadioci, Piri}i, [anti}i, O~ehni}i, Vitez, Stari Vitez, Donja Ve~eriska, Ga~ice, Lon~ari, Grbavica, Behri}i, Kazagi}i, Svinjarevo, Gomionica, Gromiljak, Polje Vi{njica, Vi{njica, Rotilj, Hercezi, Tulica and Han Plo~a/Grahovci between 1 May 1992 and 31 January 1994 (count 1) for the following acts:

- attacks on towns and villages;

- murder and serious bodily injury;

- the destruction and plunder of property and, in particular, of institutions dedicated to religion or education;

- inhuman or cruel treatment of civilians and, in particular, their being taken hostage and used as human shields;

- the forcible transfer of civilians;

and by these same acts, in particular, as regards an international armed conflict, General Bla{ki} committed:

- a violation of the laws or customs of war under Article 3 of the Statute and recognised by Article 51(2) of Additional Protocol I: unlawful attacks on civilians (count 3);

- a violation of the laws or customs of war under Article 3 of the Statute and recognised by Article 52(1) of Additional Protocol I: unlawful attacks on civilian objects (count 4);

- a grave breach, under Article 2(a) of the Statute: wilful killing (count 5);

- a violation of the laws or customs of war under Article 3 and recognised by Article 3(1)(a) of the Geneva Conventions: murder (count 6);

- a crime against humanity, under Article 5(a) of the Statute: murder (count 7);

- a grave breach under Article 2(c) of the Statute: wilfully causing great suffering or serious injury to body or health (count 8);

- a violation of the laws or customs of war under Article 3 and recognised by Article 3(1)(a) of the Geneva Conventions: violence to life and person (count 9);

- a crime against humanity under Article 5(i) of the Statute: inhumane acts (count 10);

- a grave breach under Article 2(d) of the Statute: extensive destruction of property (count 11);

- a violation of the laws or customs of war under Article 3(b) of the Statute: devastation not justified by military necessity (count 12);

- a violation of the laws or customs of war under Article 3(e) of the Statute: plunder of public or private property (count 13);

- a violation of the laws or customs of war under Article 3(d) of the Statute: destruction or wilful damage done to institutions dedicated to religion or education (count 14);

- a grave breach under Article 2(b) of the Statute: inhuman treatment (count 15);

- a violation of the laws or customs of war under Article 3 of the Statute and recognised by Article 3(1)(a) of the Geneva Conventions: cruel treatment (count 16);

- a grave breach under Article 2(h) of the Statute: taking civilians as hostages (count 17);

- a violation of the laws or customs of war under Article 3 of the Statute and recognised by Article 3(1)(b) of the Geneva Conventions: taking of hostages (count 18);

- a grave breach, under Article 2(b) of the Statute: inhuman treatment (count 19);

- a violation of the laws or customs of war under Article 3 of the Statute and recognised by Article 3(1)(a) of the Geneva Conventions: cruel treatment (count 20),

In any event, as a commander, he failed to take the necessary and reasonable measures which would have allowed these crimes to be prevented or the perpetrators thereof to be punished, and

NOT GUILTY of counts 3 and 4 in relation to the shelling of the town of Zenica,

and therefore,

SENTENCES Tihomir Bla{ki} to forty-five years in prison;

STATES that the length of time he has been detained for the Tribunal, that is the period from 1 April 1996 until the date of this Judgement, shall be deducted from the overall length of the sentence.

Done in French and English, the French version being authoritative.

Done this third day of March
At The Hague
The Netherlands.

/signed/

Claude Jorda
President of the Trial Chamber

/signed/

Mohamed Shahabuddeen

/signed/

Almiro Rodrigues

[Seal of the Tribunal]

Judge Shahabuddeen appends a declaration to this Judgement.

DECLARATION OF JUDGE SHAHABUDDEEN

I agree with the judgment but, as I had made a reservation in a previous case concerning the subject of international armed conflict, I state below my views on some aspects of that matter as it relates to this case.

The main question concerns the test to be applied where the impugned state is alleged to have acted through a foreign military entity, as distinguished from direct military intervention. Paragraph 27 of a joint opinion of Judges Vohrah and Nieto-Navia spoke of "overall control"; that was in *Aleksovski*, decided by a Trial Chamber on 25 June 1999. A test similarly named appeared in the judgment rendered, shortly afterwards, by the Appeals Chamber in *Tadic* on 15 July 1999. It was in respect of this test that I entered the reservation above-mentioned. The present Trial Chamber applies this test. Institutionally, I agree with the Trial Chamber in following the judgment of the Appeals Chamber on the point. Individually, however, I have a different approach and would like to preserve it, although it leads to the same conclusion as that produced in this case by the overall control test.

A prefatory consideration is that, as it was said by Judge Gros, "a change in terminology does not suffice to avoid a problem".[1] The problem of determining whether a state is in armed conflict with another state through a foreign military entity is not resolved by asking whether there is "overall control" unless this term is understood by reference to a criterion which enables the court to decide whether such control exists in the particular circumstances of any case.

It seems to me that this criterion is to be found by asking what is the degree of control which is *effective* in any set of circumstances to enable the impugned state to use force against the other state through the intermediary of the foreign military entity concerned. It is only that standard which can help to determine whether "overall control" for one purpose is "overall control" for another. For example, what is overall control for the purpose of committing breaches of international humanitarian law need not be overall control for the purpose of using force short of committing such breaches, as is possible. It was in respect of the former purpose (which is not germane here) that *Nicaragua* spoke

[1] *Gulf of Maine, I.C.J. Reports 1984*, p. 363, para. 6, dissenting opinion.

of the need for specific instructions.[2] I do not read that case as intended to say that, as a matter of law, proof of specific instructions is necessarily required where the question is whether a state was using force through a foreign military entity short of committing breaches of international humanitarian law, which is all that the prosecution has to prove in support of its proposition that an "armed conflict" had arisen between two states within the meaning of Article 2, first paragraph, of the Fourth Geneva Convention.

In all cases, the juridically meaningful criterion is whether there is effective control. Whether there is such control has to be considered in the light of the particular purpose in view. This means that it may be necessary to distinguish between the criterion and evidence of satisfaction of the criterion. In some cases, proof of satisfaction of the criterion may conceivably require evidence of specific instructions; in others it may not. But, whatever may be the evidence required to satisfy it, the criterion remains that of effectiveness. There is no way of eliminating the concept; it is both constant and ineradicable. Any needed flexibility is provided by its operation.

Thus, a criterion of universal applicability displaces a number of tests (apparent in the *Tadi}* appeal judgment) to determine what is but a single issue, namely, whether the acts of others (individuals or groups, organised or not) are acts of the impugned state – whether a neighbouring state or a distant state. In the result, it may be doubted whether analysis is promoted by adding the word "overall" to the word "control" unless recourse is had to a criterion of effectiveness to determine whether there is overall control in any circumstances. A test is not by itself sufficient and is not therefore adequate if, to apply it in particular circumstances, it is necessary to have recourse to another test of more fundamental applicability.

As mentioned above, as a matter of institutional correctness, I agree with the Trial Chamber in following the Appeals Chamber as to the test to be applied. In my respectful individual opinion, however, the effective control test to be extracted from the judgment of the International Court of Justice in *Nicaragua* is sound. The defence was right in contending for that test, but I cannot see that, in the circumstances of this case, it produces effects which differ from those resulting from the overall control test.

A second question concerns the argument of the defence that the ICRC-sponsored agreement of 22 May 1992 showed that the parties, together with the ICRC, regarded the

---

[2] *Nicaragua v United States of America,* I.C.J. Reports 1986, p. 14.

conflict as internal, and not as international.[3] The argument is based on the fact that, under the agreement, the parties committed themselves to abide by the substantive rules of internal armed conflict set out in common Article 3 of the Geneva Conventions and in addition agreed, on the strength of the third paragraph of that article, to apply certain provisions of the Conventions concerning international armed conflict.

It appears to me that the proposition that the ICRC must have held the view that the conflict was internal is not the same as the proposition that the ICRC must have held that it was *only* internal. The Appeals Chamber itself recognised that the same armed conflict may have both internal and international aspects.[4] As the Appeals Chamber put it:

> "Taken together, the agreements reached between the various parties to the conflict in the former Yugoslavia bear out the proposition that, when the Security Council adopted the Statute of the International Tribunal in 1993, it did so with reference to situations that the parties themselves considered at different times and places as either internal or international armed conflicts, or as a mixed internal-international conflict".[5]

It was therefore open to the parties to agree on the regulation of their conflict in so far as it was internal without thereby excluding the possibility that it also had international aspects. An admission that it had these latter aspects was not likely to be made so long as any intervening external state was in a position to exercise influence on key parties to the agreement; if there had to be such an admission, there might have been no agreement. Likewise, it was competent for the ICRC to encourage the parties to regulate the conflict in so far as it was internal without thereby necessarily taking the position that the conflict was *only* internal.

Further, the position was an evolving one. The agreement was made on 22 May 1992. Even if the armed conflict was exclusively internal on that date, it did not follow that it remained so. From paragraph 26 of their opinion in *Aleksovski*, it appears that the majority in that case accepted that the conflict became international but that they considered that this happened after the end of the period covered by the indictment in that

---

[3] For supporting argument, see *Tadic Interlocutory Appeal on Jurisdiction*, (1994-1995)1 ICTY JR, p. 433, para. 73, and para. 16 of the joint opinion in *Aleksovski*, IT-95-14/1-T of 25 June 1999.
[4] *Tadi}* Interlocutory Appeal on Jurisdiction, (1994-1995), 1 ICTY JR 357, p. 433, para. 72; and see ibid., p. 441, para. 77.
[5] Ibid., p. 435, para. 73.

case. Their view of the time (seemingly, April 1993) with effect from which the conflict became international does not of course bind this Trial Chamber.

A third question concerns a view that there could have been no international armed conflict in this case because, if there were, that would lead to the absurdity of holding that persons having the nationality of Bosnia and Herzegovina who were held by the HVO were protected persons on the ground that the HVO was acting for a foreign state[6] whose nationality the victims did not have, but that such persons were not protected persons if held by the ABiH since they would have the nationality of the state for which the latter was acting. In the result, atrocities would be punishable as grave breaches in the former case, but not in the latter.

The difficulty can be overcome by argument to the effect that, on one ground or another, in a particular situation Bosnian Croat victims of the ABiH did not in fact have the nationality of Bosnia and Herzegovina for purposes of the Fourth Geneva Convention, recourse being had to the broad objects of the relevant provisions. But it is right to recognise that those possibilities have a limit beyond which the victims indisputably have the same nationality as that of the state in whose hands they find themselves. What then, when that limit is reached?

The hypothesis given above in relation to victims of the HVO assumes a common nationality of the victims and those by whom they were directly victimised, the former being nevertheless protected persons on the ground that the latter were acting as agents of a state whose nationality the victims did not have. That agency element is missing in a case in which citizens of a state are victimised by the armed forces of the same state who are acting only for that state and not for another. In such a situation, the victims have the nationality of the party in whose hands they find themselves and are not protected persons.

The resulting difference between the two situations is obvious. But the lack of symmetry is superficial and does not attract an absurdity argument. In one case, the captors would have been acting as agents of a foreign state; not so in the other. The law itself is symmetrical. If a party puts itself within the reach of its sanctions for a reason which does not apply to another, there can be no complaint on the ground of inequality in

---

[6] See *Tadic Interlocutory Appeal on Jurisdiction*, p. 439, para. 76; and see and compare *Prosecutor v. Delalic*, IT-96-21-T, 16 November 1998, paras. 245-266.

the operation of the law. In the result, there is no such absurdity as to justify rejection of the view that there was an international armed conflict in this case.

A fourth and last question concerns a submission by the defence that, in accordance with the *Tadi} Interlocutory Appeal on Jurisdiction* decision rendered by the Appeals Chamber on 2 October 1995 and the judgment given by the Trial Chamber in *Aleksovski* on 25 June 1999, the mere intervention of foreign troops in a conflict between local forces does not convert the conflict from a local one into an international one. This holding, said the defence, denies the judgment rendered in *Celebi}i* on 16 November 1998 and the review decision given in the *Raji} Indictment* case on 13 September 1996, when the opposite position was taken.[7]

I understand the submission to contemplate this situation: There is an armed conflict between a secessionist group and the government of the state. A foreign state intervenes militarily in support of the secessionist group and is resisted by the local state. The external military intervention clearly constitutes an armed conflict between states for the purpose of making the Fourth Geneva Convention applicable. But does the internal conflict itself become an armed conflict between states?

The answer is in the affirmative if the foreign state assumes control over the secessionist group such that the use of force by the secessionist group becomes a use of force by the foreign state against the local state, thereby giving rise to an armed conflict between states within the meaning of Article 2, first paragraph, of the Fourth Geneva Convention.

Where that is so, a remaining question is whether the local armed conflict can retain any part of its original internal character. It seems to me that an affirmative answer is indicated both by principle and by authority. As to principle, it is difficult to see why an ongoing internal armed conflict should suddenly and necessarily lose that character altogether because of foreign intervention. The circumstance that a secessionist group is using force under the control of a foreign state does not necessarily mean that it cannot be also using the same force on its own account. As to authority, words used in the *Tadi} Interlocutory Appeal on Jurisdiction* decision suggest the possibility of dual characterisation. For example, paragraph 72 of that decision spoke of the armed conflict

---

, T.25248-9, Mr Nobilo.

in that case being "characterised as both internal and international" or as having "some combination" of internal and international aspects.

Thus, I think the defence is right to the extent that foreign intervention does not of necessity deprive an internal armed conflict of its internal character altogether – it may, but it may not. However, I do not think it is necessary to pursue the matter further. The conclusion of the Trial Chamber, with which I respectfully agree, is that, in the particular circumstances of the case, Croatia was always in overall control of the HVO; that conclusion is unqualified. No room is left for a finding that the armed conflict was in part internal or to explore the legal implications of such a finding.

Done in both English and French, the English text being authoritative.

Mohamed Shahabuddeen

Dated this third day of March 2000
At The Hague
The Netherlands

PROSECUTION INDEX OF AUTHORITIES

13. *Prosecutor v. Delalić et al.*, IT-96-21-T, Decision on the Motion of the Prosecutor for the Admissibility of Evidence, 19 January 1998.

3198

IN THE TRIAL CHAMBER

Before: Judge Adolphus G. Karibi-Whyte, Presiding

Judge Elizabeth Odio Benito

Judge Saad Saood Jan

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 19 January 1998

PROSECUTOR

v.

ZEJNIL DELALIC
ZDRAVKO MUCIC also known as "PAVO"
HAZIM DELIC
ESAD LANDZO also known as "ZENGA"

DECISION ON THE MOTION OF THE PROSECUTION FOR THE ADMISSIBILITY OF EVIDENCE

The Office of the Prosecutor:

Mr. Grant Niemann

Ms. Teresa McHenry

Mr. Giuliano Turone

Counsel for the Accused:

Ms. Edina Residovic, Mr. Ekrem Galijatovic, Mr. Eugene O'Sullivan, for Zejnil Delalic

Mr. Zeljko Olujic, Mr. Michael Greaves, for Zdravko Mucic

Mr. Salih Karabdic, Mr. Thomas Moran, for Hazim Delic

Mr. John Ackerman, Ms. Cynthia McMurrey, for Esad Landzo

I. INTRODUCTION

3199

1. Pending before this Trial Chamber of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 ("International Tribunal") is a motion requesting the admission of a number of documents and videotapes into evidence ("Motion") which the Office of the Prosecutor ("Prosecution") orally presented on 31 October 1997. Oral arguments continued on 3, 5 and 6 November 1997. The background to the Motion is the following.

2. On 18 March 1996 members of the Austrian police, in response to a request for co-operation from the Prosecution, carried out searches in a number of locations in Vienna, Austria. Among the localities searched were the premises of the company "Inda-Bau", a firm with which the accused Zejnil Delalic ("Delalic") is alleged by the Prosecution to have close links, and the apartment of the accused Zdravko Mucic ("Mucic"). In the course of this operation a large number of videotapes and twelve folders containing documents were seized at the premises of Inda-Bau. A further four videotapes and certain documents were seized in Mucic's apartment.

3. After having heard the testimony of four officers of the Austrian police appearing as witnesses for the Prosecution on matters relating to this operation, the Trial Chamber, in an oral decision of 12 September 1997, admitted the twelve folders found at the premises of the Inda-Bau company into evidence. In this decision, the Trial Chamber was satisfied that the chain of custody had been established, and admitted the folders but not their contents. In a subsequent decision on 22 October 1997, the Trial Chamber admitted into evidence two of the documents allegedly originally contained in these folders, together with portions of a video-recording allegedly seized at Inda-Bau (exhibits 137, 141 and portions 00.00 - 02. 41 and 11.49 - 16.26 of exhibit 114). These exhibits were admitted on the basis of the evidence given by the Prosecution witness General Pasalic, who in his testimony was able to authenticate the documents and who recognised the contents of the videotape as a recording of an interview given by himself in December 1992.

4. Among the four members of the Austrian police who appeared before the Trial Chamber was District Inspector Thomas Moerbauer, who in his evidence described how he, subsequent to the seizures, had examined and prepared an index of the documents contained in the twelve folders found at Inda-Bau. In the course of his testimony Moerbauer was presented by the Prosecution with a number of documents and asked to verify them as documents originally contained in the twelve folders seized at Inda-Bau.

5. The Prosecution now moves to have the documents presented to Moerbauer, together with a number of videotapes allegedly seized at Inda-Bau and the accused Mucic's apartment, admitted into evidence. These are exhibit numbers 110, 111, 112, 115, 116, 117, 118, 119, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 135, 143, 144, 145, 146 and 147 A-C ("the exhibits").

THE TRIAL CHAMBER, HAVING CONSIDERED the oral arguments of the parties,

HEREBY ISSUES ITS DECISION.

II. DISCUSSION

A. Applicable Provisions

3200

6. It is appropriate to set out in full certain provisions of the Rules of Procedure and Evidence of the International Tribunal ("Rules") which were cited to the Trial Chamber during oral argument.

Rule 89

General Provisions

(A) The Rules of evidence set forth in this Section shall govern the proceedings before the Chambers. The Chambers shall not be bound by national rules of evidence.

(B) In cases not otherwise provided for in this Section, a Chamber shall apply rules of evidence which will best favour a fair determination of the matter before it and are consonant with the spirit of the Statute and the general principles of law.

(C) A Chamber may admit any relevant evidence which it deems to have probative value.

(D) A Chamber may exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial.

(E) A Chamber may request verification of the authenticity of evidence obtained out of court.

Rule 95

Exclusion of certain evidence

No evidence shall be admissible if obtained by methods which cast substantial doubt on its reliability or if its admission is antithetical to, and would seriously damage the integrity of the proceedings.

B. Pleadings

1. The Prosecution

7. The Prosecution asserts that the exhibits should be admitted into evidence since they are relevant to the charges set out in the Indictment and have probative value. According to the Prosecution, the oral decision of 12 September 1997 confirmed that the chain of custody of the exhibits has been established. Moreover, the Prosecution argues that the exhibits have been recognised by the witness Moerbauer during his testimony as documents and tapes seized in Vienna by the Austrian police.

8. The Prosecution states that in order to establish the relevance and probative value of the exhibits, some showing of reliability is required. In this respect the Prosecution asserts that the contents of the exhibits, together with the place and circumstances in which they were found, provide sufficient indicia of reliability. In the opinion of the Prosecution, the fact that some of the other items which were seized at the Inda-Bau premises have been admitted into evidence already, after authentication by the witness General Pasalic, further adds to the reliability of the exhibits. It is further argued that there exists an

3201

inter-relationship between the exhibits, and that the showing of this inter-relationship proceeds to demonstrate the authenticity and reliability of the documents and tapes now sought to be admitted.

9. The exhibits are, according to the Prosecution, relevant and of probative value to the charges since they directly or indirectly relate to the position held by Delalic, and to a lesser extent Mucic, in the Konjic area in 1992. This is essential to the question of command responsibility with which Delalic and Mucic are charged in the Indictment. Moreover, the Prosecution is of the opinion that all the exhibits corroborate the evidence already received by the Trial Chamber relating to the situation in the Konjic area at the time of the alleged offences.

2. The Defence

10. Counsel for all four accused ("Defence") object to the admission of the exhibits. The Defence argues that the documents and videotapes sought to be admitted are both irrelevant and lack probative value as they are completely unreliable. Moreover, Counsel for Delalic insists that the Prosecution has been unable to demonstrate the origins of the exhibits. Counsel submits that although the witness Moerbauer in his testimony stated that he, in the process of preparing an index of the documents seized at Inda-Bau, put a mark on every individual document, he was during the course of his testimony unable to identify any such mark on the documents now sought to be admitted. Counsel therefore submits that there is no proof that the documents presented to the Trial Chamber are the same as those seized at Inda-Bau. Concerning those videotapes allegedly seized at Inda-Bau which the Prosecution now presents to the Trial Chamber (exhibits 115 and 116), Counsel argues that it is not proven that they were indeed found at the Inda-Bau company. According to the Defence the Prosecution has not explained a discrepancy which exists between the number of tapes initially reported seized and the number subsequently counted in the process of indexing and filing of the tapes.

11. The Defence suggests that the Trial Chamber adopts a clear procedure for the admission of evidence. According to the Defence, what needs to be established is first the authenticity and reliability of the documents. The Defence adopts the view that proof of the authorship of the documents is crucial in this respect, and divides the documents now before the Trial Chamber into three categories. First, there are those which purport to be written by a third person who is not a party to the present proceedings and who has not been called to testify and authenticate the documents. According to the Defence, these documents are in effect hearsay evidence and it is submitted that their admission would be contrary to the right of the accused to have the witnesses against themselves examined. The Defence asserts that since the Prosecution has failed to call the alleged authors of these documents to give evidence in court so that they could be cross-examined, there is no way by which the reliability of the contents of this category of documents can be tested. A second set of documents is those that are purported to be written by one of the accused. The Defence emphasises that the Prosecution never has made any attempt to have the relevant accused authenticate any of these documents, and concludes that there is no proof whatsoever that they were in fact written by the accused. A third type of document presented is those which bear no signature and where there is no clear indication of who the author might be. According to the Defence it is, in view of this lack of evidence of authorship, simply impossible to demonstrate reliability and trustworthiness in relation to this category of documents.

12. The Defence rejects the approach taken by the Prosecution whereby one document, the reliability of which has not been established and which is not in evidence, is used to corroborate another document. In the opinion of the Defence it is an improper procedure when one unreliable document is used to corroborate another, and it is submitted that the alleged links between the documents are tenuous and consist of suppositions by the Prosecution. The Defence maintains that the authenticity and reliability of

3202

the documents sought to be admitted has not been established and therefore objects to their admission.

13. According to the Defence, it is only as a second step in the process of deciding the admissibility of evidence that the Trial Chamber can move on to consider the relevance and probative value of the exhibits. In this respect the Defence contends that the evidence sought to be admitted by the Prosecution is completely irrelevant and should for that reason not be admitted. The Defence argues that the documents do not refer to the Celebici camp and often only give an account of events which are wholly unrelated to the charges in the Indictment and which go beyond the time-frame with which the Indictment is concerned.

14. The Defence concludes that these irrelevant and unreliable documents clearly cannot have any probative value. The Defence, therefore, submits that the exhibits should not be admitted.

C. Findings

15. The question before the Trial Chamber is that of the admissibility of evidence, a matter where the national legal systems of the world have adopted diverging approaches. The procedure of the International Tribunal, with its unique mixture of common and civil law features, does not conform to any one tradition in this respect. In contrast to the common law, where questions of admissibility and exclusion of evidence occupy a prominent place in criminal procedure, the ten provisions of the Rules which regulate all evidentiary matters in the proceedings before the International Tribunal do not contain a detailed set of technical rules relating to this issue.

16. The question of admissibility of evidence before the International Tribunal is governed by Section 3 of the Rules which is entitled "Rules of evidence". The approach adopted by the Rules is clearly one in favour of admissibility as long as the evidence is relevant and is deemed to have probative value (Sub-rule 89(C)), and its probative value is not substantially outweighed by the need to ensure a fair trial (Sub-rule 89(D)). Evidence may further be excluded on the grounds given in Rules 95 and 96. Sub-Rule 89(E) relates to the authentication of evidence out of Court. Finally, Sub-rule 89(B) contains a provision of a residual nature which, in cases not otherwise provided for in the Rules, permits the application of such rules of evidence as will best favour a fair determination of the matter in question and which are consistent with the Statute and general principles of law.

17. Of these provisions, Sub-rule 89(C) is of particular pertinence to the issue before the Trial Chamber. According to the plain text of this provision, the two requirements for the admissibility of evidence are those of relevance and probative value. In relation to the question of the substantive meaning of these requirements, the Trial Chamber notes that evidence which is of probative value within the common law tradition has been defined as "evidence that tends to prove an issue"[1]. As concerns relevance, it is often said that this concept in itself contains an implicit requirement of probative value. Thus it has been remarked by one prominent commentator on the subject that:

> [t]here are two components to relevant evidence: materiality and probative value. Materiality looks to the relation between the propositions for which the evidence is offered and the issues in the case....The second aspect of relevance is probative value, the tendency of evidence to establish the proposition that it is offered to prove[2].

Similarly the Supreme Court of Canada, in *R. v. Cloutier* (2 S.C.R. 709, 731) has endorsed the following

3203

statement by Sir Rupert Cross[3]:

> For one fact to be relevant to another, there must be a connection or nexus between the two which makes it possible to infer the existence of one from the existence of the other. One fact is not relevant to another if it does not have real probative value with respect to the latter.

As the Trial Chamber noted in its Decision on the Prosecution's Oral Request for the Admission of Exhibit 155 into Evidence and For an Order to Compel the Accused, Zdravko Mucic, to Provide a Handwriting Sample (19 January 1998) ("Mucic Handwriting Decision") it is, however, obvious that these are concepts that beg of a clear and easy definition *in abstracto*. Their application calls for evaluations based on human experience as well as logic[4], and will depend upon the particular circumstances of the case and the nature of the evidence sought to be admitted.

18. In its decision on the admissibility of hearsay evidence in the case of *Prosecutor v. Dusko Tadic* (Decision on the Defence Motion on Hearsay, 5 August 1996, IT-94-1-T, 5 August 1996,), Official Record at Registry page ("RP") D 11597 - D 11588) ("Hearsay Decision") a majority of Trial Chamber II (Judges McDonald, presiding and Vohrah, separate opinion by Judge Stephen) found that the Rules implicitly require that reliability be a component of admissibility. The Trial Chamber agrees with the reasoning of that decision, and considers reliability to be an inherent and implicit component of each element of admissibility in the sense described below. It is clear that if evidence offered is unreliable, it cannot be either relevant or of probative value. As such, it is inadmissible under Sub-rule 89(C).

19. The Defence contends, however, that a determination of reliability should be seen as a separate, first step in assessing a piece of evidence offered for admission, and argues that it is only if this first hurdle has been passed that the Trial Chamber can proceed to consider the relevance and probative value of the evidence. This view of reliability as a separate requirement, independent of those provided for by Sub-rule 89(C), has been rejected by the Trial Chamber in the Mucic Handwriting Decision. As the Trial Chamber there noted, it is a cardinal rule of construction of legislation that where the words of a provision are clear and unambiguous, the task of interpretation does not arise. So it is with Sub-rule 89 (C) and it is, therefore, neither necessary nor desirable to add to that provision a condition of admissibility which is not expressly prescribed for by that provision.

20. While the importance of the rules on admissibility in common law follows from the effect which the admission of a certain piece of evidence might have on a group of lay jurors, the trials before the International Tribunal are conducted before professional judges, who by virtue of their training and experience are able to consider each piece of evidence which has been admitted and determine its appropriate weight. As noted above, it is an implicit requirement of the Rules that the Trial Chamber give due considerations to indicia of reliability when assessing the relevance and probative value of evidence at the stage of determining its admissibility. However, this terminology may leave some room for misunderstanding, and could possibly be misperceived as demanding that a binding determination be made at this stage as to the genuineness, authorship or credibility of evidence. For this reason the Trial Chamber wishes to make clear that the mere admission of a document into evidence does not in and of itself signify that the statements contained therein will necessarily be deemed to be an accurate portrayal of the facts. Factors such as authenticity and proof of authorship will naturally assume the greatest importance in the Trial Chamber's assessment of the weight to be attached to individual pieces of evidence. The threshold standard for the admission of evidence, however, should not be set excessively high, as often documents are sought to be admitted into evidence, not as ultimate proof of guilt or innocence, but to provide a context and complete the picture presented by the evidence gathered.

3204

21. The Defence argues that the admission of documents whose alleged authors are not appearing as witnesses in the present proceeding amounts to a deprivation of the right of the accused under Article 21 (4)(e) of the Statute of the International Tribunal ("Statute") to have the witnesses brought against them examined, and that as such it is incompatible with the Trial Chamber's obligation under Article 20(1) of the Statute to ensure a fair trial. For this reason, and with reference to Rules 89(D) and 95, it is asserted that the Trial Chamber should refuse admission of such documents into evidence.

22. It is clear from the relevant provisions of the Rules that there is no blanket prohibition on the admission of documents simply on the ground that their purported author has not been called to testify in the proceedings. Instead the conditions for admissibility are those contained in Sub-rule 89(C) which have been discussed above. Furthermore, should the Trial Chamber consider the probative value of any particular exhibit of this character to be substantively outweighed by the need to ensure a fair trial, it may be excluded in accordance with Sub-Rule 89(D). There is, however, no ground for a general finding to the effect that the probative value of documents of this category is so outweighed by any prejudicial effects that they should be considered generally inadmissible. It is a different matter that the probative value of such evidence by necessity will be affected by the fact that it has not received the scrutiny involved in the cross-examination of a witness. This is an important factor to which the Trial Chamber will give due consideration at the stage of assessing the weight to be attached to exhibits of this nature.

23. The Trial Chamber will now proceed to consider the admissibility of the exhibits at issue. In its discussion the Trial Chamber will distinguish between the documents on the one hand and the videotapes on the other. The Trial Chamber does not consider it necessary to treat each exhibit separately, but will rather group them into appropriate categories.

1. Documents

24. In considering the documents which allegedly form part of material seized at the Inda-Bau premises in Vienna, the Trial Chamber will first address the objection of the Defence that the Prosecution has not proven where the documents come from. Secondly, the documents will be grouped into three categories and discussed per group.

25. The Defence alleges that the witness, Moerbauer who was brought before the International Tribunal to authenticate the documents, was unable to retrieve the marks he had put on the documents subsequent to their seizure. The Prosecution, on the other hand, correctly points to the testimony of this witness who, on the basis of the inventory he prepared, was able to confirm that each of the documents now sought to be admitted was seized at the premises of the Inda-Bau company and put in one of the binders admitted into evidence by the Trial Chamber by its decision of 12 September 1997. Moreover, in his testimony Moerbauer was able to identify from which particular binder the individual documents presented to him were taken. There can be, therefore, no doubt that the witness Moerbauer positively identified every document now before the Trial Chamber as being a document found at the Inda-Bau premises.

26. For the admissibility of each individual exhibit it needs to be shown that the offered evidence is both relevant and of probative value. In view of their common origin and context, however, the Trial Chamber considers it appropriate to evaluate the admissibility of the documents grouped into the following three categories. The first group consists of documents which have already been admitted. Secondly, there are a number of documents which are particularly relevant to the case. A third, larger group of documents are suggested to be of more general relevance only.

(a) Documents already admitted.

3205

27. Of the documents seized at Inda-Bau, the Trial Chamber has already admitted the documents numbered as exhibits 137 and 141. These exhibits have been admitted through the testimony of General Pasalic who was able to authenticate the documents on 22 October 1997. The Defence has not presented any additional information which could give rise to the exclusion of these documents at this stage. It is, therefore, unnecessary to consider those documents again. The exhibits 137 and 141 remain admitted into evidence.

28. Exhibit 118 consists of the order for appointment of Zejnil Delalic as commander of Tactical Group 1 and was recognised by the accused Delalic during an interview with the Prosecution on 22 and 23 August 1996 at Scheveningen. A copy of the document was consequently annexed to the record of interview which has been admitted as exhibit 99 by the Trial Chamber's Decision on the Motion for the Exclusion of Evidence by the Accused Zejnil Delalic, dated 25 September 1997 (RP D 5162- D 5180). The exhibit is further identical to the document which was admitted through the testimony of Dr Marie-Janine Calic as exhibit 71 by the Trial Chamber's decision of 24 March 1997. The Defence has not presented any information which could give rise to the exclusion of exhibits 71 and 99, and they remain admitted into evidence. It is not necessary to reconsider the admissibility of this document. On the Prosecutor's motion it is admitted as exhibit 118.

(b) Documents of particular relevance.

29. The second group of documents presented to the Trial Chamber for admission consists of document of particular relevance to the charges of command responsibility against the accused Delalic. The documents numbered as exhibits 117, 130, 131, 132, 144 and 147A all refer in some way to the position of Delalic as commander of Tactical Group 1. It is clear that these documents fulfil the first requirement for admissibility under Sub-rule 89(C) since they are directly relevant to certain of the charges set out in the Indictment.

30. Exhibit 144 is a report allegedly written by Delalic which gives an account of the incidents which occurred in the Konjic area in 1992. The letter produced as exhibit 117 contains very similar information, as does exhibit 130 which is a report allegedly written by Mucic giving a rather detailed account of the incidents which occurred in Konjic in 1992, and the role played by certain persons including Delalic. Similarly exhibit 147 A, which is a registration card for the United Association of War Veterans of the Republic of Bosnia and Herzegovina, contains a description of Delalic as co-ordinator and later commander of Tactical Group 1. Exhibits 131 and 132 are purportedly written by the Deputy Commander of Tactical Group 1, Edib Saric. This account of the events and the position held by Saric corresponds to the information contained in the document previously admitted as exhibit 137. The information provided by these documents is further consistent with that given by the witness General Pasalic, and that contained in other documents now presented to the Trial Chamber.

31. The documents now at issue were all found at the premises of Inda-Bau, a company with which Delalic had some form of association and where he was observed by the Austrian Police a few days before the seizure. The pattern of events described in the documents is, to an extent, consistent between the documents themselves, and generally corresponds to witness statements and documents already admitted into evidence. It is therefore warranted to conclude, at this stage, that sufficient indicia of reliability have been established for the documents presented to the Trial Chamber to be deemed both relevant and *prima facie* of probative value. As such they are admissible. It should again be emphasised that this decision does not in any way constitute a binding determination as to the authenticity or trustworthiness of the documents sought to be admitted. These are matters to be assessed by the Trial Chamber at a later stage in the course of determining the weight to attached to these exhibits.

(c) Documents of general relevance

32. The third group of documents which the Prosecution seeks to admit are numbered exhibits 119, 121, 122, 123, 124, 125, 126, 127, 128, 129, 133, 135, 143, 145, 146 and 147 B - C. The general focus of these exhibits is again to show that Zejnil Delalic was appointed commander of Tactical Group 1, that he regarded himself as such and was so regarded by others. Similarly, Mucic appears as commander of the Celebici prison. Altogether these exhibits tell a story of the activity of Delalic and Mucic in the Konjic area in 1992. As such, they corroborate the exhibits 118, 137, 141, 144 and 147A which have been properly admitted into evidence. They are documents which were found in the Inda-Bau premises, and which were not obtained under circumstances which render reliance upon them objectionable. Specifically relating to exhibit 125, the Trial Chamber notes that the Defence's challenge to the authenticity and reliability of this document must be seen in the light of the fact that an identical document was submitted by Counsel for Delalic on 27 October 1997 and was marked but not tendered as Defence (Delalic) exhibit D82/1.

33. In English law, according to the doctrine of *res gestae*, a fact may be held relevant to a fact in issue on account of its contemporaneity with the matter under investigation. This may be so if it throws light on the matter under investigation by reason of the proximity in time, place or circumstance in such a manner as to constitute part of the event being investigated. Hence, when a statement is made contemporaneously with the occurrence of the act or event being inquired, such a statement is admissible for the purposes of explaining the existence of the act or event. Such evidence is therefore, as an exception to the hearsay rule, admissible as part of the *res gestae*.

34. It is a correct proposition of law that the proper person to justify or explain the circumstances of an act or event is the person who acted. However, it is difficult in certain circumstances to have direct evidence of the act or statement of the actor. Hence, statements are admissible if made roughly contemporaneously with the subject matter under enquiry by the actor related to the issue, and having connections with it. This is, in the opinion of the Trial Chamber, the position of this third category of the exhibits. That the statement was made by the actor or another participant can be determined from circumstantial evidence unequivocally pointing towards the fact. For instance, exhibits 124 and 125 are statements relating to the escape of Delalic from Konjic. Statements which acknowledge the escape, statements that Zejnil Delalic had donated 2000 uniforms to soldiers and had worked without rest for twenty-four hours, can only be referable to Delalic as the maker. Similarly, other exhibits contain spontaneous statements relating to the events in which the accused Delalic was involved. This is the case for instance with his assertion of innocence of accusations of dishonesty or flight from the region. It is not necessary in the situation to prove that the statements are true. It is sufficient that they were made: that in the circumstances it is part of the *res gestae*.

35. The Trial Chamber is of the opinion that the exhibits tendered contain statements made contemporaneously with the issue of the position of Delalic and Mucic in the period of hostilities under enquiry. They shed light on the role played and positions occupied by them. Being part of the entire transaction, they are admissible as evidence in these proceedings.

2. Videotapes

36. In addition to the documents discussed above, the Trial Chamber was also asked to consider the admissibility of five videotapes. Of these five, three tapes had been seized at the premises of the accused Zdravko Mucic in Vienna, and the other two are alleged to have been found at the Inda-Bau premises.

37. The first set of tapes was recovered by the witness Wolfgang Panzer, District Inspector at the Vienna Police Department, who testified before the Trial Chamber and recognised the tapes. The videotapes, exhibits 110 to 112, show different scenes at the Celebici camp. The tapes are relevant since they relate to the accused Mucic and his activities at the Celebici camp. The tapes were found at the apartment of

3207

Mucic, who is easily recognisable on the tapes. The tapes, therefore, demonstrate indicia of reliability and are deemed to have probative value. Exhibits 110, 111 and 112 are admitted into evidence.

38. The two other tapes now presented by the Prosecution for admission are exhibits 115 and 116. The Prosecution submits that both tapes formed part of a larger number of fifty-four tapes recovered from the Inda-Bau premises in Vienna. The Defence points out that in the initial record of the seizure (the "Niederschrift") prepared at the time of the search by the witness Wolfgang Navrat of the Vienna Police Department, the number of tapes seized at Inda-Bau was given as fifty-one. It was only one month after the seizure that the witness Moerbauer, when making an inventory of all the documents and videotapes recovered, counted fifty-four tapes. In the opinion of the Defence this discrepancy makes it impossible to conclude with certainty that the tapes sought to be admitted were in fact found at the premises of Inda-Bau in Vienna.

39. Exhibit 115 is a video of an interview with the witness General Divjak and Delalic, together with another man. The second tape submitted as exhibit 116 consists of two parts of which the Prosecution seeks to admit the first, being a recording of the Zagreb television program "Slikom na Sliku" of May 1992 which contains an interview with Delalic. Both videotapes contain information concerning the general situation in the Konjic area and the activities of the accused Delalic in 1992 and are therefore relevant.

40. The nature of the contents of the two exhibits - that is recordings of recognisable persons conducting interviews - is further such that their probative value is not necessarily excluded by a certain remaining uncertainty concerning the source of these exhibits. The Trial Chamber notes that it has earlier admitted portions of another videotape alleged by the Prosecution to have been seized at Inda-Bau on the same occasion. This is Exhibit 114 which shows an interview with General Pasalic, who testified before the Trial Chamber that he remembered the interview. On this basis portions of the tape were admitted into evidence on 22 October 1997. As concerns the two videotapes now sought to be admitted, the witness General Divjak has testified before the Trial Chamber and recognised the portion of exhibit 115 showing the interview given by himself and Delalic. Although not shown exhibit 116 as such, Delalic has, when asked about it by the Prosecution in the interview conducted in Scheveningen on 23 August 1996, acknowledged that he did participate in such an interview for the television program "Slikom na Sliku" at the relevant time. In this context it should further be noted that parts of this latter tape were shown to the witness Branko Gotovac by Counsel for the accused Esad Landzo on 25 March 1997, upon which it was subsequently admitted as Defence (Landzo) exhibit D5/4. On this occasion Counsel informed the Trial Chamber that this tape, which had been given to the Defence by the Prosecution, was one of the tapes that had been seized from Delalic. An excerpt from the tape has also been used by Counsel for Delalic and has been admitted as Defence exhibit (Delalic) D11 6/1. As the Prosecution correctly has pointed out this would seem to indicate that also members of the Defence are placing some credibility on this exhibit.

41. The Trial Chamber is accordingly satisfied that sufficient indicia of reliability have been shown for the tapes to be deemed both relevant and of probative value. Exhibits 115 and 116 are therefore admissible. The portions of exhibit 114 earlier admitted remains admitted into evidence.

III. DISPOSITION

For the foregoing reasons, **THE TRIAL CHAMBER**, being seized of the motion of the Prosecution and

3258

PURSUANT TO RULE 54,

IN ACCORDANCE WITH RULE 89,

HEREBY ADMITS exhibits 110, 111, 112, 115, 116, 117, 118, 119, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 135, 143, 144, 145, 146 and

147A - C into evidence.

Done in both English and French, the English text being authoritative.

_____

Adolphus Godwin Karibi-Whyte

Presiding Judge

Dated this nineteenth day of January 1998

At The Hague,

The Netherlands.

[Seal of the Tribunal]

---

1. Henry C. Black, Black's Law Dictionary 1203 (6th ed. 1991).

2. Charles T. McCormick, McCormick on Evidence, pp. 338-339 (4th ed. 1992).

3. Cross on Evidence, p. 16 (4th ed. 1974).

4. Cf. Halsbury's Laws of England, Volume 17, para 5 (4th ed. 1976).

PROSECUTION INDEX OF AUTHORITIES

14. ICTR Press Release ICTR/INFO-9-13-22.EN dated 8 July 2002.

3210

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

United Nations
Nations Unies

PRESS BRIEFING *(non official - for media information only)*

ICTR/INFO-9-13-22.EN
Arusha, 8 July 2002

PRESS BRIEFING BY THE SPOKESMAN OF THE ICTR

Kingsley Chiedu Moghalu, Legal Advisor and Spokesman for the International Tribunal, today gave the following briefing to the media.

Twelfth Plenary Session of the Tribunal

The 12th Plenary Session of the Judges of the International Criminal Tribunal for Rwanda (ICTR) was held last weekend from 5-6 July 2002 at the seat of the Tribunal at Arusha, Tanzania. The Judges of the Tribunal's Trial Chambers and Appeals Chamber, the Prosecutor, and the Registrar participated in the Plenary. A number of important amendments and additions to the Rules were adopted by the Judges and will be posted on the ICTR Website as soon as the definitive texts are available. They include but are not limited to:

New Rule 11 bis

This new rule provides for the transfer of cases from before the Tribunal to national courts for prosecution. The circumstances in which this can happen are: where, on application by the Prosecutor, or by its own decision, it appears to a Trial Chamber that:

(i) The authorities of the country in which the accused was arrested (the arresting State) are prepared to prosecute the accused in their own courts; or (ii) the authorities of another country (the receiving State) are prepared to do so, and the authorities of the arresting State do not object; and (iii) It is appropriate in the circumstances for the courts of the arresting or receiving State to exercise jurisdiction over the accused.

However, the Trial Chamber may rescind an order made under this Rule at any time after making the order, and before the accused is convicted or acquitted by a national court, upon the Prosecutor's application and after affording an opportunity to the authorities of the State concerned to be heard. The Chamber would then issue a formal request for the case to be deferred to the ICTR in exercise of the primacy of the jurisdiction of the Tribunal.

The purpose of this new Rule is to enable the International Tribunal to concentrate on a limited number of important cases in order to accomplish its completion strategy that seeks to finish trials at first instance by 2008. The new Rule, which is inspired by the notion of universal

3211

jurisdiction, will allow the exercise of concurrent jurisdiction for crimes of genocide, crimes against humanity and war crimes committed in Rwanda in 1994 between national courts and the International Tribunal, while retaining the primacy of the latter's jurisdiction.

You will recall that, under the previous state of things, judicial cooperation to prosecute accused persons of suspects for these crimes was a "one-way street" in which national jurisdictions must transfer such persons to the ICTR if the Tribunal wished to try them. But the Tribunal was not empowered to hand over persons it had indicted to a national jurisdiction. Perhaps the classic demonstration of this scenario was the *Ntuyahaga* case in 1999, in which Trial Chamber I granted the Prosecutor's request to drop charges against the accused, but denied the request that he be handed over to the Tribunal's Host Country (Tanzania) or Belgium.

Another important aspect of the new Rule 11 *bis* is that it is the first time that any international criminal tribunal of the United Nations has been judicially empowered to transfer its cases to a national jurisdiction other than the State in which the accused was arrested, where it is deemed appropriate, under the notion of universal jurisdiction. Rule 11 *bis* of the Rules of Procedure and Evidence of the International Criminal Tribunal for the Former Yugoslavia at The Hague provides for the possibility of that Tribunal transferring an accused person to the arresting State.

New Rule 45 quater

This new Rule provides that a Trial Chamber may, if it decides that it is in the interest of justice, instruct the Registrar to assign a counsel to represent the interests of the accused. The Rule formalizes a power that the Tribunal has previously exercised under its "inherent powers" in cases where an accused person has either declined to engage a lawyer to defend him or her, or is indigent and has declined counsel assigned by the Tribunal.

You will recall that, in the ongoing "Media Trial " of three former senior Rwandan media executives at the ICTR, Trial Chamber I instructed the Registrar to assign a counsel to represent the interests of one of the three defendants, Mr. Jean Bosco Barayagwiza, in these circumstances. By way of comparative illustration also, you are aware that, at the ICTY, Mr Slobodan Milosevic declined to formally appoint a lawyer or accept the assignment of a lawyer by that Tribunal to represent his interests, hence the appointment by that Tribunal of a number of lawyers as a*micus curiae* (Friend of the Court) to perform similar roles. The New Rule 45 *quater* of the ICTR is the first such provision in the Rules of Procedure and Evidence of an international criminal tribunal.

New Rule 92 bis

This New Rule provides for proof of facts other then by oral evidence. It provides that a Trial Chamber may admit, wholly or partially, the evidence of a witness in the form of a written statement in place of oral testimony where such a statement seeks to prove a matter other than the acts and conduct of the accused as charged in the indictment.

Factors that would favour the admission of such a written statement include, but are not limited to, circumstances in which oral testimony of facts similar to the evidence in question has already been admitted, where the evidence relates to revelant historical, political or military background, or consists of a general or statistical analysis of the ethnic composition of the

3212

population in the places to which the charges relate. Other factors that would favour admission of such written statements include where it concerns the impact of crimes upon victims, relates to the character of the accused or to factors to be taken into account in determining sentence.

Factors against the admission of evidence in such a form include the existence of an overriding public interest in the evidence in question being presented orally and where a party objects that its nature or source make it unreliable. If the prejudicial effect of such evidence outweighs it probative value, this would also be a factor against its admission.

New Rule 92 *bis* is an important judicial reform measure. It has the potential to further speed up proceedings before the ICTR by significantly reducing as much as possible the consideration of time-consuming evidence inside the courtroom. A similar rule already exists in the Rules of Procedure and Evidence of the ICTY.

New Article 5 bis of the Code of Professional Conduct for Defence Counsel: Fee splitting.

The new provision in the Code of Conduct for Defence Counsel at the ICTR expressly prohibits fee-splitting in its various forms, between defence counsel remunerated by the Tribunal under its legal aid programme, and their clients (any detainee of the Tribunal). Where defence counsel are being requested, induced or encouraged by their clients to enter into fee splitting arrangements, they are required by this new provision to advise their clients on the unlawfulness of such practice and report the incident to the Registrar. The new provision recognizes that fee-splitting is not limited to financial arrangements. Where a counsel is found to have engaged in fee-splitting, the Registrar will take action in accordance with the Tribunal's Directive on Assignment of Defence Counsel. It will be recalled that the Registrar has already taken strong disciplinary action in a case where a defence counsel at the Tribunal, Mr. Andrew McCartan of the Bar of Scotland, was found to have engaged in financial malfeasance. Mr. McCartan was discharged from the case in which he was defence counsel and the Bar Association of which he was a member was notified of the measure and the reasons for it. He appealed against the decision to the President of the Tribunal but the latter upheld the Registrar's decision.

Current Status of detainees

There are currently 22 persons on trial at the ICTR. Twenty-nine persons are awaiting trial. The Tribunal has convicted eight persons and acquitted one. Six of the eight convicts including former Rwandan Prime Minister Jean Kambanda are serving their prison sentences in Mali

For further information please consult our website: http://www.ictr.org or contact the Press & Public Affairs Unit, ICTR Arusha International Conference Centre, PO Box 6016, Arusha, Tanzania
Telephone: 1 (212) 963 2850 or 255 27 250 4367-72;
Fax: 1 (212) 963 2848 or 255 27 250 4000/250 4373;
e-mail: ictr-press@un.org

BLANK PAGE